



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 30, 2019

Mr. Brian O'Reilly  
Counsel for the North East Texas Regional Mobility Authority  
Locke Lord LLP  
600 Congress, Suite 2200  
Austin, Texas 78701

OR2019-20934

Dear Mr. O'Reilly:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 778035.

The North East Texas Regional Mobility Authority (the "authority"), which you represent, received a request for information pertaining to draw requests and bank statements regarding a specified authority project.<sup>1</sup> You state the authority will redact access device numbers under section 552.136 of the Government Code.<sup>2</sup> Although you take no position regarding whether the submitted information is excepted from disclosure, you state its release may implicate the proprietary interests of Webber, LLC ("Webber"). Accordingly, you state, and provide documentation showing, you notified Webber of the request and of its right to submit arguments to this office. *See Gov't Code* § 552.305(d); *see also* Open Records Decision

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<sup>1</sup>We note the authority sought and received clarification of the information requested. *See Gov't Code* § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

<sup>2</sup>Section 552.136 of the Government Code permits a governmental body to withhold the information described in section 552.136(b) without the necessity of seeking a decision from this office. *See Gov't Code* § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e).

No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

Initially, we note you have redacted a portion of the submitted information which is not responsive to the instant request for information. This ruling does not address the public availability of non-responsive information, and the authority need not release non-responsive information to the requestor.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this ruling, we have not received comments from Webber. Thus, we have no basis to conclude Webber has a protected proprietary interest in the responsive information. *See id.* § 552.110(a)-(b); Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the authority may not withhold any of the responsive information on the basis of any proprietary interest Webber may have in the information. The authority must release the responsive information.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "D. Michelle Case" followed by a long, horizontal flourish.

D. Michelle Case  
Assistant Attorney General  
Open Records Division

DMC/gw

Ref: ID# 778035

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

c: Third Party  
(w/o enclosures)