



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 25, 2022

Ms. Sarah Parker  
Associate General Counsel  
Texas Department of Transportation  
125 East Eleventh Street  
Austin, Texas 78701-2483

OR2022-11754

Dear Ms. Parker:

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# 944280 (#ORR R011368-021422).

The Texas Department of Transportation (the "department") received a request for information related to a specified request for proposals. You state the department will release some information to the requestor. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Sherry Matthews, Inc. ("Sherry Matthews"). Accordingly, you state, and provide documentation showing, you notified Sherry Matthews of the request for information and of the right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision 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.

We note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Sherry Matthews explaining why the submitted information should not be released. Therefore, we have no basis to conclude Sherry Matthews has a protected proprietary interest in the submitted information. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception). Accordingly,

the department may not withhold the submitted information on the basis of any proprietary interest Sherry Matthews may have in the information. As no exceptions to disclosure have been raised, the department must release the submitted 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Deborah Southerland  
Assistant Attorney General  
Open Records Division

DS/mo

Ref: ID# 944280

Enc. Submitted documents

c: Requestor  
(w/o enclosures)