



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 29, 2022

Mr. Jacob LaBorde  
Public Information Coordinator  
Capital Metropolitan Transportation Authority  
2910 East Fifth Street  
Austin, Texas 78702

OR2022-12281

Dear Mr. LaBorde:

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# 942070 (CMTA PIR 2022-02-1245).

The Capital Metropolitan Transportation Authority (the "authority") received a request for information pertaining to a specified solicitation. Although the authority takes no position as to whether the submitted information is excepted under the Act, the authority states release of the submitted information may implicate the proprietary interests of Kimley-Horn and Associates, Inc. ("Kimley"). Accordingly, the authority states, and provides documentation showing, it notified Kimley of the request for information and of its 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.

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 Kimley explaining why the submitted information should not be released. Accordingly, we have no basis to conclude Kimley has a protected proprietary interest in the submitted information, and the authority may not withhold any portion of it on that basis. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence

demonstrating the applicability of the exception). Accordingly, the authority 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,

Gerald A. Arismendez  
Assistant Attorney General  
Open Records Division

GAA/eb

Ref: ID# 942070

c: Requestor

Third Party