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ATTORNEY GENERAL OF TEXAS

April 29, 2022

Ms. Aliceson Cotton
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Abernathy, Roeder, Boyd & Hullett
1700 Redbud Boulevard, Suite 300
McKinney, Texas 75070-1210

OR2022-12278

Dear Ms. Cotton:

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# 944818 (Gov't QA# G055566).

The City of Frisco (the "city"), which you represent, received a request for site plans related to a specified development. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information that is made confidential by other statutes. Sections 418.176 through 418.182 were added to chapter 418 of the Government Code as part of the HSA. Section 418.181 provides as follows:

Those documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism.

Id. § 418.181. Section 418.182 provides, in relevant part,

(a) [I]nformation, including access codes and passwords, in the possession of a governmental entity that relates to the specifications, operating procedures, or location of a security system used to protect public or private property from an act of terrorism or related criminal activity is confidential.

Id. § 418.182(a). The fact that information may relate to a governmental body's security concerns does not make the information *per se* confidential under the HSA. *See* Open

Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). Furthermore, the mere recitation by a governmental body of a statute's key terms is not sufficient to demonstrate the applicability of a claimed provision. As with any exception to disclosure, a governmental body asserting one of the confidentiality provisions of the HSA must adequately explain how the responsive records fall within the scope of the claimed provision. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

You claim the submitted information is confidential under sections 418.181 and 418.182 of the Government Code. Some of the submitted information identifies the technical details of particular vulnerabilities of a particular development and city utility systems to an act of terrorism. You indicate, and we agree the development and utility systems at issue are critical infrastructure for purposes of section 418.181 of the Government Code. *See id.* § 421.001(2). Based upon these representations and our review, we find you have demonstrated release of some of the information at issue would identify the technical details of particular vulnerabilities of the city to an act of terrorism. Accordingly, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code.¹ However, upon review, we find you have failed to demonstrate the remaining information consists of information that is confidential under section 418.181 or section 418.182 of the Government Code. Therefore, the city may not withhold any portion of the remaining information under section 552.101 of the Government Code in conjunction with section 418.181 or section 418.182 of the Government Code. As you raise no further exceptions to disclosure, the city must release the remaining 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,

Tim Neal
Assistant Attorney General
Open Records Division

TN/eb

¹ As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

Ms. Aliceson Cotton - Page 3

Ref: ID# 944818

Enc. Submitted documents

c: Requestor
(w/o enclosures)