



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 13, 2022

Ms. Aliceson Cotton  
Counsel for the City of Frisco  
Abernathy, Roeder, Boyd & Hullett  
1700 Redbud Boulevard, Suite 300  
McKinney, Texas 75069

OR2022-13871

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# 947546 (Gov't QA# G055934).

The City of Frisco (the "city"), which you represent, received a request for maps related to the city's water and sewer systems. 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, such as the Homeland Security Act (the "HSA"). Sections 418.176 through 418.182 were added to chapter 418 of the Government Code as part of the HSA. Section 418.181 states:

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

*Id.* § 418.181. 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 assert the submitted information is made confidential under section 418.181 of the Government Code. We understand the city's water and sanitary sewer systems constitute critical infrastructure for purposes of section 418.181. *See id.* § 421.001 (defining "critical infrastructure" to include all public or private assets, systems, and functions vital to security, governance, public health and safety, economy, or morale of state or nation). You state the submitted information "identifies particular vulnerabilities as well as strong and weak points in design" of the systems at issue. You assert release of the information at issue "contains detailed descriptions of the water and sewer lines." You explain the information at issue "is vital to [the city's] security and operations" and the city "has an obligation to maintain [the information] as confidential to aid in [its] duties to protect and defend [the city's] citizens[.]" Based on your representations and our review, we find you have demonstrated the release the submitted information would identify the technical details of particular vulnerabilities of the city to an act of terrorism. Accordingly, the city must withhold the submitted information under section 552.101 of the Government Code under section 418.181 of the Government Code.<sup>1</sup>

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/mo

Ref: ID# 947546

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup> As our ruling is dispositive, we need not address your remaining argument against disclosure.