



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 11, 2016

Mr. Ryan D. Pittman
Counsel for City of Frisco
Abernathy, Roeder, Boyd & Hullett, P.C.
P.O. Box 1210
McKinney, Texas 75070-1210

OR2016-00723

Dear Mr. Pittman:

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# 595451.

The City of Frisco (the "city"), which you represent, received a request for construction plans for specified permit numbers. You claim the submitted information is excepted from disclosure under section 552.101 the Government Code. Additionally, you state release of this information may implicate the proprietary interests of AG&E Associates; Corgan Associates, Inc.; Howard F. Kane Plumbing Company; Hurst Electrical; Pacheco Koch; Venture Mechanical, Inc.. Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their rights to submit arguments to this office as to why the information at issue 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 considered your argument 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 the Texas Homeland Security Act

(the “HSA”). As part of the HSA, sections 418.176 through 418.182 were added to chapter 418 of the Government Code. These provisions make certain information related to terrorism confidential. Section 418.181 provides “[t]hose 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. The fact information may generally be related to a governmental body’s security concerns or to a security system 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 confidentiality provision, a governmental body asserting one of the confidentiality provisions of the HSA must adequately explain how the responsive information falls 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 construction plans for a commercial building identify specifications and locations of critical infrastructure in the city. You state the submitted information “identifies particular vulnerabilities as well as strong and weak points” in the design and operation of the critical infrastructure. You argue the submitted information must remain confidential to “protect and defend [the city’s] citizens and others located near the critical infrastructure.” We agree the commercial building is critical infrastructure. *See generally id.* § 421.001 (defining “critical infrastructure” to include “all public or private assets, systems, and functions vital to the security, governance, public health and safety, economy, or morale of the state or the nation”). Based on your representations and our review, we find the city has demonstrated that release of the information at issue would identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Thus, the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code.¹

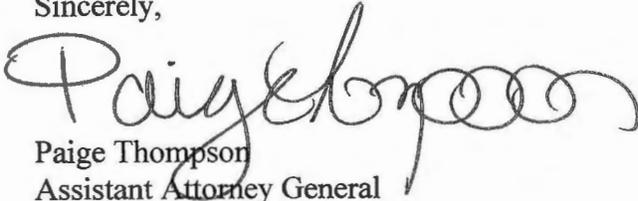
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

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

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

Ref: ID# 595451

Enc. Submitted documents

c: Requestor
(w/o enclosures)

AG&E Associates
15280 Addison Road, Suite 310
Addison, Texas 75001
(w/o enclosures)

Corgan Associates, Inc.
401 North Houston Street
Dallas, Texas 75202
(w/o enclosures)

Howard F. Kane Plumbing Company
5928 Posey Lane
Haltom City, Texas 76117
(w/o enclosures)

Hurst Electrical
229 West Hurst Boulevard
Hurst, Texas 76053
(w/o enclosures)

Pacheco Koch
8350 North Central Expressway
Dallas, Texas 75206
(w/o enclosures)

Venture Mechanical, Inc.
2222 Century Circle
Irving, Texas 75062
(w/o enclosures)