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March 1, 2021

***VIA CMRRR***

Office of the Attorney General  
Open Records Division  
State of Texas  
P.O. Box 12548  
Austin, Texas 78711-2548

***In Re: Requests for Public Information from Terry Lantrip received by the City of Lake Dallas, Texas on February 10, 2021 (Our File Reference #120900)***

Dear Open Records Division:

The undersigned represents the City of Lake Dallas (“City”), and in that capacity submits this letter as a request for an opinion to except from public disclosure certain information held by the City. On February 10, 2021, the City received an emailed request for information from Terry Lantrip (“Requestor”). A true and correct copy of the request is attached hereto as **EXHIBIT A**. Please note that the City’s administrative offices were closed the week of February 15-19, 2021 due to severe inclement weather.

A copy of the responsive information is attached hereto and incorporated herein as **EXHIBIT B**. Pursuant to Chapter 552 of the TEXAS GOVERNMENT CODE, the City wishes to withhold portions of the responsive information shown in **EXHIBIT B**, as it falls within exceptions listed under Subchapter C of Chapter 552 of the TEXAS GOVERNMENT CODE, and is requesting a decision from your Office about whether the information falls under the exceptions cited below.

**I.**

It is the City’s position that the responsive information marked “§552.111” attached in **EXHIBIT B** is exempt from disclosure according to the following relevant portions of law:

**Gov’t Code, Section 552.111: Exception: Agency Memoranda**

**“An interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency is excepted from the requirements of Section 552.021.”**

Section 552.111 of the Government Code excepts from disclosure "[a]n interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency[.]" Gov't Code § 552.111. This exception encompasses the deliberative process privilege. See Open Records Decision No. 615 at 2 (1993). The purpose of section 552.111 is to protect advice, opinion, and recommendation in the decisional process and to encourage open and frank discussion in the deliberative process. See *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.-San Antonio 1982, writ ref'd n.r.e.); Open Records Decision No. 538 at 1-2 (1990).

Section 552.111 encompasses communications between a governmental body and a third-party, including a consultant or other party with a privity of interest. See Open Records Decision No. 561 at 9 (1990) (section 552.111 encompasses communications with party with which governmental body has privity of interest or common deliberative process). Section 552.111 also applies to information created for a governmental body by an outside consultant when the outside consultant is acting at the request of the governmental body and performing a task within the authority of the governmental body. Tex. Atty. Gen. Op. ORD 631 (Tex.A.G.).

The City has entered a contract with Lion Strategy Group LLC (hereinafter, "Consultant") so that the Consultant can conduct an organizational assessment of the City and submit a report of its findings and recommendations to the City. Such an assessment is within the purview of the City Council's authority, but it has chosen to delegate this function to the Consultant. The City Council will be using the assessment to determine if any policies need to be enacted regarding employee relations or ethical requirements, or if a reorganization of the City departments and/or leadership structure of employees within the City departments is warranted. The Consultant has compiled its findings to create a final report that constitutes an assessment of existing or non-existent policies and procedures on leadership, teamwork, communications and ethical issues within the City workplace and the Consultant's opinions on how said policies are or should be implemented (or are failing to be implemented). The City Council will be using the report to assess future policy needs. Therefore, the City asserts that the Consultant and the City have a privity of interest and common deliberative process. The information marked in the attached report in **EXHIBIT B** constitutes communications between the City and Consultant and includes advice, opinions and recommendations on leadership, teamwork, communications, and ethical issues within the City workplace. In the marked portion of the report, the Consultant is giving advice, opinions, and recommendations on broad personnel and administrative and matters that are related to the City's mission to provide quality municipal services to its residents.

[REDACTED]

[REDACTED]

[REDACTED]

The City asserts that this marked information should be withheld from the public to maintain the integrity of the organizational assessment process and to encourage open discussion between City staff and Consultant so that the City Council can make whatever policy decisions that it may deem necessary.


**II.**

The Requestor is receiving a copy of this letter notifying him of this City's intent to seek this ruling from your office.

Thank you for your attention in this matter. If you have any questions, please feel free to contact me at your convenience.

Respectfully submitted,

NICHOLS, JACKSON, DILLARD,  
HAGER & SMITH, L.L.P.

By:   
Julie Pandya Dasher, Contract Attorney

JPD

Enclosures

cc w/o enc.: **BY EMAIL TO TERRYLANTRIP@HOTMAIL.COM**

Terry Lantrip

**BY EMAIL**  
City of Lake Dallas