



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 25, 2019

Mr. James Santangelo
Assistant City Attorney
City of Missouri City
1522 Texas Parkway
Missouri City, Texas 77489

OR2019-10964

Dear Mr. Santangelo:

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# 761837 (MCAG 19-05).

The City of Missouri (the "city") received a request for plans and profile drawings that show existing underground facilities in particular areas. 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.

Initially, we note some of the submitted information is not responsive to the present request because it does not pertain to underground facilities. This ruling does not address the public availability of the non-responsive information, a representative sample of which we have marked, and the city need not release it in response to this request.¹

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

¹As we are able to make this determination, we need not address your argument against disclosure of this information.

Gov't Code § 552.101. Section 552.101 of the Government Code encompasses information protected by other statutes. As part of the Texas Homeland Security Act (the "HSA"), sections 418.176 through 418.182 were added to chapter 418 of the Government Code. These provisions make confidential certain information related to terrorism. The city asserts the responsive information is made confidential by section 418.182 of the Government Code. Section 418.181 provides,

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. 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 state the responsive information identifies technical details of layouts including sanitary sewer, water, and drainage infrastructures. You assert, and we agree, the city's water and sewer system is critical infrastructure for purposes of section 418.181. *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"). You explain release of the information at issue would divulge vulnerabilities of the critical infrastructure to an act of terrorism. Based on your arguments and our review, we find you have demonstrated release of the responsive information would identify the technical details of particular vulnerabilities of the city's water and sewer system to an act of terrorism. Thus, the city must withhold the responsive information under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code.

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

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

Sincerely,

A handwritten signature in black ink that reads "Erin Groff". The signature is written in a cursive, flowing style.

Erin Groff
Assistant Attorney General
Open Records Division

EMG/jxd

Ref: ID# 761837

Enc. Submitted documents

c: Requestor
(w/o enclosures)