



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 21, 2019

Mr. Rahat Huq  
Assistant City Attorney  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

OR2019-23255

Dear Mr. Huq:

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# 782209 (GC No. 25983).

The City of Houston (the "city") received a request for two specified bid tabulations. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. Additionally, you state release of the submitted information may implicate the proprietary interests of Evoqua Water Technologies, LLC ("Evoqua"). Accordingly, you state, and provide documentation showing, you notified Evoqua of the request for information and of the right to submit arguments to this office as to why the submitted information should not be released. We have considered the exception you claim and reviewed the submitted information.

We note the submitted information was the subject of previous requests for information, as a result of which this office issued Open Records Letter Nos. 2019-19169 (2019) and 2019-21978 (2019). In Open Records Letter No. 2019-19169, we determined the city may withhold the submitted information under section 552.104 of the Government Code. In Open Records Letter No. 2019-21978, we determined the city must release the submitted information. We assume the city did so. Section 552.007 provides if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure unless its public release is expressly prohibited by law or the information is confidential by law. *See* Gov't Code § 552.007; Open Records Decision No. 518 at 3 (1989); *see also* Open Records Decision No. 400

(1983) (governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). Accordingly, pursuant to section 552.007, the city may not now withhold the previously released information in Open Records Letter Ruling No. 2019-21978 unless its release is expressly prohibited by law or the information is confidential by law. Although the city now raises section 552.104 of the Government Code for the information at issue, this section does not prohibit the release of information or make information confidential. *See* Open Records Decision Nos. 592 (1991) (governmental body may waive statutory predecessor to section 552.104), 665 at 2 n.5 (2000) (discretionary exceptions generally). Thus, the city may not now withhold the information at issue under section 552.104 of the Government Code. We have no indication there has been any change in the law, facts, or circumstances on which the previous rulings were based. Accordingly, the city must rely on Open Records Letter Nos. 2019-19169 and 2019-21978 as previous determinations and withhold or release the submitted information in accordance with those rulings.

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,



D. Michelle Case  
Assistant Attorney General  
Open Records Division

DMC/be

Ref: ID# 782209

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

1 Third Party  
(w/o enclosures)