



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 15, 2020

Ms. Angelie Thomas
Assistant City Attorney
City of Sugar Land
P.O. Box 110
Sugar Land, Texas 77479-0110

OR2020-11026

Dear Ms. Thomas:

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# 822376 (ORR# W008725).

The City of Sugar Land (the "city") received a request for information pertaining to a specified property. 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. You raise section 552.101 in conjunction with section 418.181 of 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 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 that information may relate to a governmental body's security measures 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 of a statute's key terms is not sufficient to demonstrate the applicability of the claimed provision. As with any exception to disclosure, a claim under section 418.181 must be accompanied by an adequate explanation of 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, and we agree, the city's water, sanitary, and drainage systems are 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"). You state the submitted information "contains technical drawings and details of inlets, water lines, storm sewer lines and manholes, sanitary sewer lines and manholes, backflow preventors, and drainage pipes that are part of the [c]ity's water, sanitary, and drainage systems." You explain release of this information "could provide criminals or terrorists with critical information on how to debilitate these systems." You also assert release of this information "could reveal the strong and weak points of these systems and identify locations at which injection of contaminants could cause the most destruction." You argue "[d]amage or interruption to these systems could cause public health issues, . . . financial impacts to the [c]ity[,] . . . and prevent emergency personnel from navigating down a public right-of-way that has suffered damage below the surface." Based on your representations and our review, we find you have demonstrated some of the submitted information identifies the technical details of particular vulnerabilities of the city's water, sanitary, and drainage systems to an act of terrorism. Thus, the information we marked must be withheld under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code. However, we find no portion of the remaining information identifies the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Thus, the city may not withhold any of the remaining information under section 552.101 of the Government Code on that basis. As you raise no further exceptions to disclosure, the city must release the remaining information.

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,

Emily Kunst
Assistant Attorney General
Open Records Division

EK/jxd

Ref: ID# 822376

Enc. Submitted documents

c: Requestor
(w/o enclosures)