



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 20, 2020

Ms. T. Trisha Dang  
Senior Assistant City Attorney  
City of Sugar Land  
P.O. Box 110  
Sugar Land, Texas 77487-0110

OR2020-17932

Dear Ms. Dang:

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# 836084 (ORR# W009361-043020).

The City of Sugar Land (the "city") received a request for construction plans pertaining to a specified property. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. In addition, you state release of the submitted information may implicate the proprietary interests of Brown & Gay Engineers, Inc.; Kerry R. Gilbert & Associates, Inc.; and R.P. Associates, L.P. Accordingly, the city states, and provides documentation showing, it notified these third parties 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. *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 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. Section 552.101 encompasses information that is made confidential by other statutes. You claim section 552.101 of the Government Code 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:

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 submitted information identifies the physical locations and technical details of the city's water, sanitary, and drainage systems, including water lines, wastewater lines, sanitary sewer lines, storm sewer lines, irrigation, wastewater treatment plant, manholes and inlets. You assert, and we agree, the city's water, sanitary, and drainage systems are critical infrastructure for purposes of section 418.181. *See generally id.* § 421.001(2) (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 also state that public release of the submitted information could provide criminals or terrorists with critical information on how to debilitate these systems. Based upon your representations and our review of the information at issue, we find that you have demonstrated the applicability of section 418.181 to the information at issue. Accordingly, 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.

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,

Kimbell Kesling  
Assistant Attorney General  
Open Records Division

KK/rm

Ref: ID# 836084

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

3 Third Parties  
(w/o enclosures)