



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 4, 2020

Mr. David T. Ritter
Counsel for the City of McKinney
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2020-19412

Dear Mr. Ritter:

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# 840268 (ORR# G15160).

The City of McKinney (the "city"), which you represent, received a request for construction plans for a specified project. The city states it has released some of the requested information, but claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception 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 section 418.181 of the Government Code, which 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 generally be related to emergency preparedness does not make the information per se confidential under section 418.181. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provisions controls scope of its protection). As with any confidentiality statute, a governmental body asserting section 418.181 must adequately explain how the responsive information falls within the scope of the provisions. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

The city asserts release of the submitted information would compromise the safety and security measures related to its water and sewer systems. Upon review, we find the city's water and sewer systems consist of critical infrastructure. *See 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"). We also determine the submitted information identifies particular vulnerabilities of the systems to an act of terrorism. 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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/jm

Ref: ID# 840268

Enc. Submitted documents

c: Requestor
(w/o enclosures)