



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 13, 2022

Ms. Rachel Saucier
Executive Assistant
City of Georgetown
P.O. Box 409
Georgetown, Texas 78627

OR2022-38538

Dear Ms. Saucier:

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# 989149 (Ref. No. G019125-091622).

The City of Georgetown (the "city") received a request for as-built plans pertaining to a specified component of the city's wastewater system. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code and protected by copyright law. Additionally, you state release of the information at issue may implicate the proprietary interests of Pape Dawson Engineers ("PDE"). Accordingly, you state, and provide documentation demonstrating, the city notified PDE of the request for information and of its 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 submitted arguments 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, such as section 418.181 of the Government Code, which was added to chapter 418 of the Government Code as part of the Texas Homeland Security Act (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; *see also 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”). 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 confidentiality provision, a governmental body asserting one of the confidentiality provisions of the HSA must adequately explain how the responsive information falls 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 consists of “technical drawings and details of . . . water lines, storm sewer lines, [and] sanitary sewer lines[.]” You state, and we agree, the city’s water and sanitary sewer systems constitute critical infrastructure for purposes of section 418.181. *See generally id.* § 421.001(2). You assert release of the information at issue “could risk compromising the safety of . . . water and wastewater facilities[,] which would . . . endanger the public.” Furthermore, the city asserts release “could provide criminals or terrorists with critical information on how to debilitate the . . . water, sanitary, and drainage systems that would cause public health issues and financial impacts to the [c]ity and its citizens.” Based on your representations and our review, we find you have demonstrated the release of the information at issue would identify the technical details of particular vulnerabilities of the city 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.¹

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,

Blake Brennan
Assistant Attorney General
Open Records Division

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¹ As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

Ref: ID# 989149

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: Third Party
(w/o enclosures)