



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 26, 2016

Mr. Evaristo Garcia, Jr.  
Assistant City Attorney  
City of McAllen  
P.O. Box 220  
McAllen, Texas 78505-0220

OR2016-19401

Dear Mr. Garcia:

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# 624978 (PIR No. W022008-061316).

The City of McAllen (the "city") received a request for the GIS shape files of existing storm sewer lines and drainage areas of a specified intersection. 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.

Initially, you inform us some of the responsive information may have been the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2016-09740 (2016). In that ruling, we determined the city must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, to the extent the responsive information is identical to the information previously requested and ruled upon by this office, we conclude the city must rely on Open Records Letter No. 2016-09740 as a previous determination and withhold the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that

information is or is not excepted from disclosure). To the extent the responsive information was not previously ruled on, we will address your submitted arguments.

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 the Texas Homeland Security Act (the “HSA”). As part of the HSA, sections 418.176 through 418.182 were added to chapter 418 of the Government Code. These provisions make certain information related to terrorism confidential. 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 the 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 assert, and we agree, the city’s water and sanitary sewer line 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 “shows technical details of the city’s water supply and sanitary sewer systems.” You explain the release of the submitted information could provide a potential terrorist with details regarding the locations and dimensions of the city’s water and sanitary sewer lines. You assert a terrorist could use the submitted information to determine which pipes to rupture to cause the greatest amount of damage. You explain the rupturing of pipes could cause widespread flooding, damage to buildings, disruption of commerce, obstruction of emergency vehicles, and disruption of ingress and egress from the affected areas. Based on your representations and our review, we find the city has demonstrated the release of the submitted information would identify the technical details of particular vulnerabilities critical infrastructure to an act of terrorism. Thus, 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.<sup>1</sup>

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

In summary, to the extent the responsive information is identical to the information previously requested and ruled upon by this office in Open Records Letter No. 2016-09740, the city must withhold the identical information in accordance with that ruling. 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 [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Britni Ramirez  
Assistant Attorney General  
Open Records Division

BR/bhf

Ref: ID# 624978

Enc. Submitted documents

c: Requestor  
(w/o enclosures)