Cause No. D-1-GN-26-008509

Space Exploration Technologies Corp., *Plaintiff*,	§	In the District Court
v.	§	
Ken Paxton, *in his official capacity as Attorney General of Texas*; and Grimes County, Texas, *Defendants*, and	§	of the 126th Judicial District of
Marie Egyed, on behalf of Grimes County Citizens for Responsible Development, *Intervenor.*	§	Travis County, Texas

PLAINTIFF'S FIRST AMENDED PETITION UNDER THE TEXAS PUBLIC INFORMATION ACT AND APPLICATION FOR TEMPORARY RESTRAINING ORDER, TEMPORARY INJUNCTION, AND PERMANENT INJUNCTION

Plaintiff Space Exploration Technologies Corp. ("SpaceX") files this First Amended Petition Under the Texas Public Information Act and Application for Temporary Restraining Order, Temporary Injunction, and Permanent Injunction to challenge Open Records Letter Ruling No. OR2026-032116 (the "First Ruling") and Open Records Letter Ruling No. OR2026-037351 (the "Second Ruling," and together with the First Ruling, the "Rulings"), each issued by Defendant Ken Paxton, the Attorney General of Texas (the "Attorney General"); to obtain a judgment under Texas Government Code § 552.325 declaring that certain confidential information submitted by SpaceX to, or exchanged in confidential negotiations with, Defendant Grimes County, Texas (the "County") is excepted from required public disclosure under the Texas Public Information Act (the "TPIA"); and to prevent the County from releasing such information.

DISCOVERY CONTROL PLAN

1. SpaceX intends to conduct discovery, if necessary, under Level 2 of Texas Rule of Civil Procedure 190.

STATEMENT OF RELIEF SOUGHT

2. Pursuant to Texas Rule of Civil Procedure 47(c)(5), SpaceX seeks only non-monetary relief. The relief sought is within the jurisdictional limits of the Court.

PARTIES

3. Plaintiff Space Exploration Technologies Corp. is a Texas corporation with its principal place of business at 1 Rocket Road, Starbase, Texas 78521.

4. Defendant Ken Paxton is the Attorney General of the State of Texas and is sued in his official capacity. The Attorney General may be served with process via U.S. Mail at P.O. Box 12548, Austin, Texas 78711-2548, or by personal delivery to the Price Daniel Building, 209 West 14th Street, Austin, Texas 78701. The main phone number for the Attorney General is (512) 463-2100. The phone number for the Attorney General's Open Government Hotline is (877) 673-6839.

5. Defendant Grimes County, Texas is a political subdivision of the State of Texas and is the governmental body that received the TPIA requests at issue. The County may be served with process by serving the Grimes County Judge, the Honorable Joe Fauth III, at 270 FM 149 West, Anderson, Texas 77830. *See* TEX. CIV. PRAC. & REM. CODE § 17.024(a).

6. Intervenor Marie Egyed, on behalf of Grimes County Citizens for Responsible Development (the "Intervenor"), has intervened in this suit and appeared through counsel. The Intervenor may be served through her counsel of record via the Court's electronic filing system.

JURISDICTION AND VENUE

7. Jurisdiction and venue are proper under: (i) Texas Civil Practice & Remedies Code § 65.021, which provides that the "judge of a district . . . court shall hear and determine applications for writs of injunction"; and (ii) Texas Government Code § 552.325, which provides that a suit seeking to withhold information from a requestor must be filed "against the attorney general in Travis County district court."

NOTICE TO REQUESTORS

8. The Rulings challenged in this suit address five TPIA requests. The First Ruling addresses four of them. One of those four requests, Request No. PIA2026.0604.23, was withdrawn before the First Ruling issued, and the County has confirmed that the records responsive to another, Request No. PIA2026.0624.36, do not include any documents regarding SpaceX. The Second Ruling addresses a single request. The requests implicating SpaceX's confidential information were submitted by three requestors: Vanessa Burzynski; Marie Egyed, on behalf of Grimes County Citizens for Responsible Development; and Josh Gorbutt (together, the "Requestors").

9. The Requestors are entitled to intervene in this suit. As required by § 552.325 of the TPIA, SpaceX will make a timely, good-faith effort to provide each Requestor with a copy of this First Amended Petition, informing them of:

- the existence of this suit, including the subject matter and cause number of the suit and the court in which the suit is filed;
- the Requestor's right to intervene in the suit or to choose not to participate in the suit;
- the fact that the suit is against the Attorney General in Travis County district court; and
- the address and phone number of the office of the Attorney General.

10. Section 552.325 requires that notice be made to the Requestor "by certified mail or by another written method of notice that requires the return of a receipt."

11. SpaceX will provide a copy of this First Amended Petition to Requestor Vanessa Burzynski (i) by email to vaburzynski@gmail.com, with delivery and read receipts requested, and (ii) by certified mail, return receipt requested, to 10933 Hwy 90N, Bedias, Texas 77831.

12. SpaceX will provide a copy of this First Amended Petition to Requestor Marie Egyed, who submitted her request on behalf of Grimes County Citizens for Responsible Development, and who has intervened in this suit, through her counsel of record via the Court's electronic filing system. *See* TEX. R. CIV. P. 21a(a)(1).

13. SpaceX will provide a copy of this First Amended Petition to Requestor Josh Gorbutt (i) by email to gorbutt@kbtx.com and josh.gorbutt@kbtx.com, with delivery and read receipts requested, and (ii) by certified mail, return receipt requested, to 4141 E. 29th Street, Bryan, Texas 77802. Because the Requestor is represented by counsel in connection with his request, SpaceX will also provide a copy of this First Amended Petition to his counsel, Patrick Compton and Matthew Kelley of Ballard Spahr LLP, by email to comptonp@ballardspahr.com and kelleym@ballardspahr.com.

FACTUAL BACKGROUND

14. SpaceX is a leader in space exploration and satellite technology with a headquarters of Starbase, Texas. In furtherance of its mission, SpaceX develops, designs, manufactures, tests, and launches spacecraft, rockets, and related technology and operates Starlink, an internet business that provides connectivity in over 165 markets around the globe using a constellation of thousands of satellites and a global network of ground infrastructure. SpaceX has also announced its future plans to deploy artificial intelligence (AI) data centers into space. These activities have

led SpaceX to expand into advanced semiconductor and AI-hardware manufacturing. In connection with that expansion, SpaceX, in collaboration with Tesla, has proposed its "TERAFAB" semiconductor and AI-hardware manufacturing facility (the "Project") at a site in Grimes County, Texas.

15. SpaceX competes in many markets, against other companies, and among jurisdictions courting those companies, including for sites and finite economic development funding. The terms on which SpaceX pursues, negotiates, and structures such deals are competitively sensitive: their disclosure would reveal SpaceX's costs, plans, and negotiating strategies to competitors and to every other jurisdiction with which SpaceX negotiates.

16. On or about May 4, 2026, SpaceX submitted to the County an application for a tax abatement in connection with the Project (the "Application"). SpaceX submitted the Application—and exchanged confidential term proposals and negotiating correspondence with the County and its counsel and consultants, portions of which were conspicuously marked "CONFIDENTIAL under Tex. Gov. Code § 552.110 and § 552.131"—in the course of confidential economic development negotiations and with the expectation that the County would protect information designated as confidential, assert applicable exceptions to its release, and notify SpaceX of any public-information request so that SpaceX could assert its own exceptions.

17. On May 7, 2026, Vanessa Burzynski submitted a TPIA request to the County seeking copies of tax abatement applications received by the County, and specifically any tax abatement application submitted by SpaceX (Grimes County Request No. PIA2026.0507.07).

18. On June 3, 2026, Marie Egyed, on behalf of Grimes County Citizens for Responsible Development, submitted a TPIA request to the County seeking, among other things, any

application submitted by SpaceX, records concerning the proposed reinvestment zone, and communications among the County, its counsel and consultants, and SpaceX (Grimes County Request No. PIA2026.0604.22) (together with Request No. PIA2026.0507.07, the "Original Requests").

19. Also on June 3, 2026, Josh Gorbutt, News Director of KBTX-TV, submitted a TPIA request to the County seeking, among other things, records concerning the proposed reinvestment zone and any tax abatement or other incentive agreement between the County and SpaceX, related economic and fiscal analyses, and correspondence between County officials and SpaceX concerning the Project (Grimes County Request No. PIA2026.0603.26) (the "Gorbutt Request," and together with the Original Requests, the "Requests").

20. The County requested rulings from the Attorney General on the Original Requests, and the Attorney General assigned the County's requests for a ruling ID No. 26-026774, which the Attorney General described as encompassing four requests: PIA2026.0507.07, PIA2026.0604.22, PIA2026.0604.23, and PIA2026.0624.36.

21. On June 18, 2026, the requestor who submitted Request No. PIA2026.0604.23 formally withdrew that request in writing.

22. The County has confirmed in writing that there are no responsive documents regarding SpaceX related to Request No. PIA2026.0624.36.

23. To the extent the First Ruling orders the release of any of SpaceX's confidential information responsive to Request No. PIA2026.0624.36 or to the withdrawn Request No. PIA2026.0604.23, SpaceX objects to that release, and the declarations and relief sought herein extend to that information.

24. On June 25, 2026, the County requested a ruling from the Attorney General on the Gorbutt Request, which the Attorney General assigned ID No. 26-032576.

25. The County did not notify SpaceX of the Requests until July 2, 2026, well past the County's 10-business-day notice requirement. *See* TEX. GOV'T CODE § 552.305(d).

26. On July 17, 2026, SpaceX timely—within 10 business days of receiving the County's notice of the Requests—submitted written objections to the Attorney General pursuant to § 552.305(d)(2)(B) of the TPIA, objecting to the release of its confidential information responsive to each of the Requests, demonstrating with specific factual evidence that the information is excepted from disclosure under Texas Government Code §§ 552.131, 552.110, 552.137, and 552.101, and providing marked copies of the responsive records identifying the specific information to be withheld.

27. On July 28, 2026, the Attorney General issued the First Ruling ("Exhibit A").

28. The First Ruling concludes that the County must release a public meeting agenda pursuant to the Open Meetings Act; that the County may generally withhold information the Attorney General marked under § 552.107(1) of the TPIA; and that the County "must release the remaining information."

29. The First Ruling rejects the County's arguments under §§ 552.103, 552.111, 552.131(b), and 552.153 of the Government Code, and orders the release of information notwithstanding that one of the requests it addresses had been withdrawn.

30. The First Ruling expressly declines to consider the exceptions in §§ 552.110 and 552.1101 of the Government Code because those sections "protect the interests of private parties

that provide information to governmental bodies, not the interests of governmental bodies themselves," and the County therefore could not assert them.

31. Yet the First Ruling nowhere acknowledges, addresses, or rules on the objections that SpaceX—the private party whose interests §§ 552.110 and 552.131 protect—timely submitted under § 552.305(d). The First Ruling considers only the County's arguments.

32. Having declined to consider third-party exceptions when raised by the County precisely because they belong to third parties, the Attorney General failed to consider those same exceptions when raised by the third party itself. The First Ruling thus orders the release of SpaceX's confidential information without considering SpaceX's demonstrated bases for withholding it.

33. The "remaining information" the First Ruling orders released includes SpaceX's confidential and proprietary information contained in the responsive records, including information in the Application and in other records responsive to the Original Requests.

34. On August 24, 2026, the Attorney General issued the Second Ruling ("Exhibit B"), in response to the County's request for a ruling on the Gorbutt Request.

35. The Second Ruling concludes that the County submitted the requested information to the Attorney General one business day after the 15-business-day deadline in § 552.301(e), and that the requested information is therefore presumed public and must be released "unless there is a compelling reason to withhold the information." TEX. GOV'T CODE § 552.302.

36. On that basis, the Second Ruling declines to address the County's arguments under §§ 552.103, 552.111, and 552.131. It also declines to address the County's argument under

§ 552.1101 because that exception protects only the interests of a vendor or contractor that has provided information to a governmental body, not the interests of the governmental body itself.

37. The Second Ruling concludes that the County may generally withhold information the Attorney General marked under § 552.107(1); that the County may rely on the First Ruling as a previous determination for information identical to the information the First Ruling addressed; and that the County "must release the remaining information."

38. Like the First Ruling, the Second Ruling nowhere acknowledges, addresses, or rules on SpaceX's objections, which SpaceX timely submitted to the Attorney General on July 17, 2026, more than five weeks before the Second Ruling issued.

39. The omission matters even more in the Second Ruling than in the First. Once the Attorney General concluded that the County had missed its deadline, SpaceX's interests as a third party, and the provisions of law that make SpaceX's information confidential, became the principal grounds for withholding that information. A compelling reason to withhold information exists when third-party interests are at stake or when the information is confidential under other law. *See* Open Records Decision No. 150 at 2 (1977). SpaceX's interests under §§ 552.110 and 552.131(a), and the confidentiality of its information under § 552.101, are such compelling reasons. The Second Ruling, however, does not acknowledge these interests.

40. The County's procedural default cannot forfeit SpaceX's rights. SpaceX had no control over the timing of the County's submission to the Attorney General, and SpaceX met its own deadline to submit objections. *See* TEX. GOV'T CODE § 552.305(d)(2)(B). The TPIA entitled SpaceX to submit its reasons for withholding directly to the Attorney General, and it required the

Attorney General to decide, "consistent with the standards of due process," whether the information is excepted. *Id.* § 552.306(a).

41. To the extent the Second Ruling relies on the First Ruling as a previous determination, it rests on a ruling that SpaceX challenges in this suit and cannot independently support the release of SpaceX's information.

42. The "remaining information" the Second Ruling orders released includes SpaceX's confidential and proprietary information contained in the responsive records, including information in the Application and in other records responsive to the Gorbutt Request.

43. When the Attorney General concludes that a third party's information must be released, § 552.325 authorizes the third party to file suit against the Attorney General to prevent the requested information from being released. Whether the information is subject to required public disclosure is determined by this Court anew. TEX. GOV'T CODE § 552.325.

44. SpaceX seeks to prevent the release of the following information (together, the "Confidential Information"):

(i) **Economic Development Negotiation Information**—term proposals, negotiating correspondence, and drafts exchanged between SpaceX and the County in the course of the parties' confidential economic development negotiations;

(ii) **Cost and Financial Information**—SpaceX's cost, investment, and financial information concerning the Project; and

(iii) **Personnel Information**—certain identifying information of SpaceX employees appearing in the responsive records.

45. SpaceX will identify the specific Confidential Information in marked copies of the responsive records, which it will submit to the Court for in camera inspection.

46. As set forth below, the Confidential Information is excepted from public disclosure under §§ 552.131(a), 552.110(b), 552.110(c), and 552.101 of the TPIA.

CAUSE OF ACTION—SUIT UNDER TEXAS GOVERNMENT CODE § 552.325

47. SpaceX incorporates by reference the foregoing paragraphs as if fully set forth herein.

48. The TPIA recognizes the legal interests of third parties and their right to sue the Attorney General to challenge an open-records letter ruling that information must be released. TEX. GOV'T CODE § 552.325.

49. SpaceX brings this suit under § 552.325 of the TPIA.

50. Pursuant to Texas Government Code § 552.325, SpaceX seeks a judgment from this Court declaring that the Confidential Information is excepted from required public disclosure under the TPIA. Specifically, SpaceX seeks declarations that:

(i) the Economic Development Negotiation Information is excepted from disclosure under TEX. GOV'T CODE §§ 552.131(a) and/or 552.110;

(ii) the Cost and Financial Information is excepted from disclosure under TEX. GOV'T CODE §§ 552.131(a) and/or 552.110; and

(iii) the Personnel Information is excepted from disclosure under TEX. GOV'T CODE §§ 552.110 and/or 552.101.

I. The Confidential Information is excepted from disclosure under Texas Government Code § 552.131(a) because it relates to economic development negotiations and contains SpaceX's trade secrets and commercial and financial information, the disclosure of which would cause substantial competitive harm.

51. SpaceX incorporates by reference the foregoing paragraphs as if fully set forth herein.

52. Section 552.131(a) of the TPIA provides that:

> Information is excepted from the requirements of Section 552.021 if the information relates to economic development negotiations involving a governmental body and a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and the information relates to: (1) a trade secret of the business prospect; or (2) commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.

TEX. GOV'T CODE § 552.131(a).

53. Section 552.131(a) is not limited to the period before an agreement is reached; it applies to information relating to economic development negotiations generally.

54. The Confidential Information relates directly to the economic development negotiations between the County and SpaceX—a business prospect the County sought to have locate in its territory.

55. The Confidential Information also relates to SpaceX's trade secrets and to its commercial and financial information. It consists of SpaceX's term proposals, its cost and financial information, its negotiating strategies and positions, and the assessments of SpaceX and its counsel and consultants.

56. SpaceX takes reasonable measures to keep this information secret, and the information derives independent economic value from not being generally known to SpaceX's competitors and counterparties.

57. Disclosure would cause SpaceX substantial competitive harm by revealing its negotiating strategies, concessions, and limits to every jurisdiction, competitor, and counterparty with which SpaceX negotiates in the future, materially weakening SpaceX's position in those negotiations.

58. Based on this specific factual evidence, SpaceX's Confidential Information must be withheld from the Requestors under Texas Government Code § 552.131(a).

II. The Confidential Information is excepted from disclosure under Texas Government Code § 552.110(c) because it is commercial or financial information, the release of which would cause SpaceX substantial competitive harm.

59. SpaceX incorporates by reference the foregoing paragraphs as if fully set forth herein.

60. The TPIA excepts from disclosure "commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained." TEX. GOV'T CODE § 552.110(c).

61. The Confidential Information constitutes highly sensitive commercial and financial information, including SpaceX's term proposals, cost and financial information, and negotiating strategies and positions.

62. SpaceX has expended significant time and money developing this information. It is not disclosed to or known by the public or SpaceX's competitors. SpaceX treats the information as confidential, conspicuously designated materials provided to the County as confidential, limits access to those with a need to know, and submitted the information to the County with the expectation that it would be protected from public disclosure.

63. Disclosure of the Confidential Information would give SpaceX's competitors a window into how SpaceX evaluates, values, and structures economic development incentives for a project of this scale, which they could use to inform competing bids and site-selection strategies.

64. Disclosure would likewise allow competitors and taxing entities to use the Confidential Information against SpaceX in future negotiations.

65. Because the Confidential Information derives its value precisely from not being known to SpaceX's competitors and counterparties, disclosure would cause SpaceX substantial competitive harm.

66. Based on this specific factual evidence, the Confidential Information must be withheld from the Requestors under Texas Government Code § 552.110(c).

III. The Confidential Information is excepted from disclosure under Texas Government Code § 552.110(b) because it meets the TPIA's definition of a trade secret.

67. SpaceX incorporates by reference the foregoing paragraphs as if fully set forth herein.

68. The TPIA provides that "information is excepted from the requirements of Section 552.021 if it is demonstrated based on specific factual evidence that the information is a trade secret." TEX. GOV'T CODE § 552.110(b).

69. A "trade secret" is information for which:

> (1) the owner . . . has taken reasonable measures under the circumstances to keep the information secret; and (2) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, another person who can obtain economic value from the disclosure or use of the information.

TEX. GOV'T CODE § 552.110(a).

70. First, SpaceX has taken reasonable measures to keep the Confidential Information secret. The information is not disclosed to the public or to competitors; access is restricted to those with a need to know; materials provided to the County were conspicuously designated confidential; and SpaceX submitted the information with the expectation that the County would protect it, assert applicable exceptions to its release, and notify SpaceX of any public-information request so that SpaceX could assert its own exceptions.

71. Second, the Confidential Information derives independent economic value from not being generally known. It is the product of SpaceX's substantial investment of money, time, and financial and business judgment. If disclosed, the economic value of this information would be substantially diminished, as competitors would gain access to SpaceX's methodologies and negotiating strategies without incurring the development costs.

72. Based on this specific factual evidence, the Confidential Information is a trade secret that must be withheld from the Requestors under Texas Government Code § 552.110(b).

IV. The Personnel Information is excepted from disclosure under Texas Government Code § 552.110(c) and under § 552.101 and the doctrine of common-law privacy.

73. SpaceX incorporates by reference the foregoing paragraphs as if fully set forth herein.

74. SpaceX is a high-profile company whose chief executive is a prominent public figure, and its facilities and personnel have been the targets of threats, harassment, and violence by persons opposed to SpaceX, its leadership, and its affiliated companies.

75. The Personnel Information is unique to the individual employees and is not shared with the public. SpaceX has been subject to numerous attempts by bad actors to compromise its security, including hacking and phishing attempts, and disclosure of the Personnel Information could be exploited for fraud and social-engineering schemes, causing SpaceX harm.

76. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976).

77. For the reasons described above, disclosure of the Personnel Information would expose SpaceX's employees to a substantial risk of fraud and social-engineering and phishing schemes, which a reasonable person would find highly objectionable.

78. That information is of no legitimate concern to the public.

79. Based on this specific factual evidence, the Personnel Information must be withheld from the Requestors under Texas Government Code §§ 552.110(c) and 552.101.

APPLICATION FOR TEMPORARY RESTRAINING ORDER, TEMPORARY INJUNCTION, AND PERMANENT INJUNCTION

80. SpaceX incorporates by reference the foregoing paragraphs as if fully set forth herein.

81. SpaceX seeks a temporary restraining order ("TRO"), followed by a temporary injunction, to enjoin the County and the Attorney General, and their officers, agents, representatives, and employees, from releasing the Confidential Information to the Requestors or any other person or entity.

82. The purpose of a TRO is to preserve the "status quo," which the Texas Supreme Court has defined as "the last, actual, peaceable, non-contested status which preceded the pending controversy." *In re Newton*, 146 S.W.3d 648, 651 (Tex. 2004); *Cannan v. Green Oaks Apts., Ltd.*, 758 S.W.2d 753, 755 (Tex. 1988). Once issued, a TRO preserves the status quo until a hearing can be held on an application for a temporary injunction. *Cannan*, 758 S.W.2d at 755.

83. The purpose of a temporary injunction is to preserve the status quo of the subject matter of the litigation pending adjudication on the merits of the case. *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002). To obtain a temporary injunction, "the applicant must plead and

prove three specific elements: (1) a cause of action against the defendant; (2) a probable right to the relief sought; and (3) a probable, imminent, and irreparable injury in the interim." *Id.*

84. At the hearing, the applicant must put forth some evidence that tends to show a probable right of recovery. *Intercontinental Terminals Co., LLC v. Vopak N. Am., Inc.*, 354 S.W.3d 887, 897 (Tex. App.—Houston [1st Dist.] 2011, no pet.). "[T]he applicant is not required to establish that [it] will prevail on final trial." *Walling v. Metcalfe*, 863 S.W.2d 56, 58 (Tex. 1993).

85. Disclosure of the Confidential Information would cause SpaceX imminent and irreparable injury by revealing its proprietary financial and negotiating information to its competitors and to every jurisdiction with which SpaceX negotiates. Once the Confidential Information is disclosed, its confidentiality is irretrievably lost and cannot be restored.

86. SpaceX, therefore, seeks this injunctive relief to preserve the status quo, which is the continued confidentiality of its proprietary financial and negotiating information.

87. SpaceX has no adequate remedy at law. Money damages cannot adequately compensate SpaceX for the public release of its Confidential Information.

88. SpaceX respectfully asks the Court to set a date and time for hearing its requests for a TRO and temporary injunction.

89. SpaceX is willing to post a bond, if ordered to do so by the Court, but requests that no bond be required because Defendants are acting in a governmental capacity, have no pecuniary interest in the suit, and no monetary damages can be shown. *See* TEX. R. CIV. P. 684. SpaceX will provide Defendants with notice of its application for a temporary injunction and hearing on same.

90. SpaceX further requests that, following adjudication on the merits, the Court enter a permanent injunction prohibiting Defendants from releasing the Confidential Information to the Requestors or any other person or entity.

PRAYER FOR RELIEF

91. For these reasons, SpaceX respectfully requests that the Court enter judgment:

(i) declaring that the Economic Development Negotiation Information is excepted from required public disclosure under TEX. GOV'T CODE §§ 552.131(a) and/or 552.110 and therefore must not be released;

(ii) declaring that the Cost and Financial Information is excepted from required public disclosure under TEX. GOV'T CODE §§ 552.131(a) and/or 552.110 and therefore must not be released;

(iii) declaring that the Personnel Information is excepted from required public disclosure under TEX. GOV'T CODE §§ 552.110 and/or 552.101 and therefore must not be released;

(iv) permanently enjoining Grimes County and the Attorney General, and their officers, agents, representatives, and employees, from releasing all or any portion of the Confidential Information to the Requestors or any other person or entity; and

(v) granting SpaceX all other and further relief, at law or in equity, to which it may be justly entitled.

Dated: November 9, 2026

Respectfully submitted,

/s/ Bill Cobb

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CERTIFICATE OF SERVICE

I certify that on November 9, 2026, a true and correct copy of this First Amended Petition was served on all counsel of record in accordance with Texas Rule of Civil Procedure 21a.

/s/ Bill Cobb

EXHIBIT A
ATTORNEY GENERAL RULING OR2026-032116

KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 28, 2026

Ms. Megan Barcak
County Attorney
Grimes County
P.O. Box 588
Anderson, Texas 77830

OR2026-032116

Dear Ms. Barcak:

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# 26-026774 (Ref. Nos. PIA2026.0507.07; PIA2026.0604.22; PIA2026.0604.23; & PIA2026.0624.36)

Grimes County (the "county") received four requests from two different requestors for certain information regarding tax abatements. We understand the county will redact certain information pursuant to Open Records Decision No. 684 (2009).[1] You claim the submitted information is excepted from disclosure under sections 552.103, 552.107, 552.110, 552.1101, 552.111, and 552.131 of the Government Code.[2] We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information contains an agenda of a public meeting conducted by the county. The minutes and agendas of a governmental body's public meetings are specifically made public under provisions of the Open Meetings Act (the "OMA"), chapter 551 of the Government Code. *See* Gov't Code §§ 551.022 (minutes and tape recordings of open meeting are public records and shall be available for public inspection and copying on request to governmental body's chief administrative officer or officer's designee), .041 (governmental body shall give written notice of date, hour, place,

[1] Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain information without the necessity of requesting an attorney general decision.

[2] Although you raise section 552.101 of the Government Code for the submitted information, you provide no arguments explaining how this exception is applicable to the information at issue. Therefore, we assume you no longer assert this exception. *See* Gov't Code §§ 552.301, .302.

and subject of each meeting), .043 (notice of meeting of governmental body must be posted in place readily accessible to general public for at least 72 hours before scheduled time of meeting). Although you seek to withhold this information under sections 552.103, 552.107, 552.110, 552.1101, and 552.131 of the Government Code, the exceptions to disclosure found in the Act do not apply to information that other statutes make public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Accordingly, the county must release the submitted public meeting agenda pursuant to the OMA.

Next, we note the county has not submitted information responsive to some of the categories of information specified in the requests. To the extent any additional information responsive to the request existed on the date the county received the present request, we assume the county has already released it. If the county has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

The county contends the information at issue is excepted from disclosure under sections 552.110 and 552.1101 of the Government Code. We note sections 552.110 and 552.1101, protect the interests of private parties that provide information to governmental bodies, not the interests of governmental bodies themselves. *See generally* Open Records Decision No. 592 (1991). Accordingly, we do not consider the county's arguments under section 552.110 or section 552.1101 of the Government Code.

Section 552.107(1) of the Government Code protects information coming within the attorney-client privilege. *See* Gov't Code § 552.107(1). When asserting the attorney-client privilege, a governmental body has the burden of providing the necessary facts to demonstrate the elements of the privilege in order to withhold the information at issue. Open Records Decision No. 676 at 6-7 (2002). First, a governmental body must demonstrate that the information constitutes or documents a communication. *Id.* at 7. Second, the communication must have been made "to facilitate the rendition of professional legal services" to the client governmental body. TEX. R. EVID. 503(b)(1). The privilege does not apply when an attorney or representative is involved in some capacity other than that of providing or facilitating professional legal services to the client governmental body. *In re Tex. Farmers Ins. Exch.*, 990 S.W.2d 337, 340 (Tex. App.—Texarkana 1999, orig. proceeding) (attorney-client privilege does not apply if attorney acting in a capacity other than that of attorney). Governmental attorneys often act in capacities other than that of professional legal counsel, such as administrators, investigators, or managers. Thus, the mere fact that a communication involves an attorney for the government does not demonstrate this element. Third, the privilege applies only to communications between or among clients, client representatives, lawyers, and lawyer representatives. TEX. R. EVID. 503(b)(1). Thus, a governmental body must inform this office of the identities and capacities of the individuals to whom each communication at issue has been made. Lastly, the attorney-client privilege applies only to a *confidential* communication, *id.*, meaning it was "not intended to be disclosed to third persons other than those: (A) to whom disclosure is made to further the rendition of professional legal services to the client; or (B) reasonably necessary to transmit the communication." *Id*. 503(a)(5). Whether a communication meets this definition depends on the *intent* of the parties involved at the time the information was

communicated. *Osborne v. Johnson*, 954 S.W.2d 180, 184 (Tex. App.—Waco 1997, orig. proceeding). Moreover, because the client may elect to waive the privilege at any time, a governmental body must explain that the confidentiality of a communication has been maintained. Section 552.107(1) generally excepts an entire communication that is demonstrated to be protected by the attorney-client privilege unless otherwise waived by the governmental body. *See Huie v. Deshazo*, 922 S.W.2d 920, 923 (Tex. 1996) (privilege extends to entire communication, including facts contained therein).

You assert the information at issue consists of privileged communications between county attorneys and county employees in their capacities as clients. You state these communications were made in furtherance of the rendition of professional legal services to the county. Further, you state these communications were intended to be, and have remained, confidential. Based upon your representations and our review, we find you have demonstrated the applicability of the attorney-client privilege to some of the information at issue. Accordingly, the county may generally withhold the information we marked under section 552.107 of the Government Code.[3] We note, however, some of these e-mail strings include e-mails and attachments received from or sent to non-privileged parties. Furthermore, if the e-mails and attachments received from or sent to non-privileged parties are removed from the otherwise privileged e-mail strings and stand alone, they are responsive to the requests for information. Therefore, if these non-privileged e-mails and attachments, which we marked, are maintained by the county separate and apart from the otherwise privileged e-mail strings in which they appear, then the county may not withhold these non-privileged e-mails and attachments under section 552.107(1) of the Government Code. Further, upon review, we find the remaining information at issue has been shared with individuals you have not demonstrated are privileged parties. Therefore, we conclude you have failed to establish the remaining information constitutes communications between or among county employees and attorneys for the purposes of section 552.107(1). Thus, the county may not withhold the remaining information on that basis.

Section 552.103 of the Government Code provides in relevant part as follows:

> (a) Information is excepted from [required public disclosure] if it is information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party.
>
> . . .
>
> (c) Information relating to litigation involving a governmental body or an officer or employee of a governmental body is excepted from disclosure under Subsection (a) only if the litigation is pending or reasonably anticipated on the date that the requestor applies to the officer for public information for access to or duplication of the information.

[3] As our ruling is dispositive, we need not address your remaining arguments against disclosure of the submitted information.

Gov't Code § 552.103(a), (c). A governmental body has the burden of providing relevant facts and documents to show section 552.103(a) is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation was pending or reasonably anticipated on the date the governmental body received the request for information, and (2) the information at issue is related to that litigation. *See Univ. of Tex. Law Sch. v. Tex. Legal Found.*, 958 S.W.2d 479, 481 (Tex. App.—Austin 1997, orig. proceeding); *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.—Houston [1st Dist.] 1984, *writ ref'd n.r.e.*); Open Records Decision No. 551 at 4 (1990). A governmental body must meet both prongs of this test for information to be excepted under section 552.103(a). *See* ORD 551.

To establish litigation is reasonably anticipated, a governmental body must provide this office "concrete evidence showing that the claim that litigation may ensue is more than mere conjecture." *See* Open Records Decision No. 452 at 4 (1986). Concrete evidence to support a claim litigation is reasonably anticipated may include, for example, the governmental body's receipt of a letter containing a specific threat to sue the governmental body from an attorney for a potential opposing party. *See* Open Records Decision No. 555 (1990); *see also* Open Records Decision No. 518 at 5 (1989) (litigation must be "realistically contemplated"). In addition, this office has concluded litigation was reasonably anticipated when the potential opposing party hired an attorney who made a demand for disputed payments and threatened to sue if the payments were not made promptly, or when an individual threatened to sue on several occasions and hired an attorney. *See* Open Records Decision Nos. 346 (1982), 288 (1981). In Open Records Decision No. 638 (1996), this office stated a governmental body has met its burden of showing that litigation is reasonably anticipated when it received a notice of claim letter and the governmental body represents that the notice of claim letter is in compliance with the requirements of the Texas Tort Claims Act ("TTCA"), Civ. Prac. & Rem. Code, ch. 101. On the other hand, this office has determined if an individual publicly threatens to bring suit against a governmental body, but does not actually take objective steps toward filing suit, litigation is not reasonably anticipated. *See* Open Records Decision No. 331 (1982). Further, the fact that a potential opposing party has hired an attorney who makes a request for information does not establish litigation is reasonably anticipated. *See* Open Records Decision No. 361 (1983).

Upon review, we conclude you have failed to demonstrate the applicability of section 552.103 to the remaining information. *See* Gov't Code §§ 552.103(c) (governmental body must demonstrate litigation was pending or reasonably anticipated on or before date it received request for information), .301(e)(1) (requiring governmental body to explain applicability of raise exception). Accordingly, the county may not withhold any of the remaining information under section 552.103 of the Government Code.

Section 552.111 of the Government Code excepts from disclosure "[a]n interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency[.]" *Id.* § 552.111. This exception encompasses the deliberative process privilege. *See* Open Records Decision No. 615 at 2 (1993). The purpose of section 552.111 is to protect advice, opinion, and recommendation in the decisional process and to

encourage open and frank discussion in the deliberative process. *See Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.—San Antonio 1982, writ ref'd n.r.e.); Open Records Decision No. 538 at 1-2 (1990).

In Open Records Decision No. 615, this office re-examined the statutory predecessor to section 552.111 in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.—Austin 1992, no writ). We determined section 552.111 excepts from disclosure only those internal communications that consist of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. *See* ORD 615 at 5. A governmental body's policymaking functions do not encompass routine internal administrative or personnel matters, and disclosure of information about such matters will not inhibit free discussion of policy issues among agency personnel. *Id.*; *see also City of Garland v. Dallas Morning News*, 22 S.W.3d 351 (Tex. 2000) (section 552.111 not applicable to personnel-related communications that did not involve policymaking). A governmental body's policymaking functions do include administrative and personnel matters of broad scope that affect the governmental body's policy mission. *See* Open Records Decision No. 631 at 3 (1995). Further, section 552.111 does not protect facts and written observations of facts and events that are severable from advice, opinions, and recommendations. *Arlington Indep. Sch. Dist. v. Tex. Attorney Gen.*, 37 S.W.3d 152 (Tex. App.—Austin 2001, no pet.); *see* ORD 615 at 5. But if factual information is so inextricably intertwined with material involving advice, opinion, or recommendation as to make severance of the factual data impractical, the factual information also may be withheld under section 552.111. *See* Open Records Decision No. 313 at 3 (1982).

Section 552.111 can also encompass communications between a governmental body and a third party, including a consultant or other party with a privity of interest. *See* Open Records Decision No. 561 at 9 (1990) (section 552.111 encompasses communications with party with which governmental body has privity of interest or common deliberative process). For section 552.111 to apply, the governmental body must identify the third party and explain the nature of its relationship with the governmental body. Section 552.111 is not applicable to a communication between the governmental body and a third party unless the governmental body establishes it has a privity of interest or common deliberative process with the third party. *See* ORD 561. We note a governmental body does not share a privity of interest with a third party when the governmental body and the third party are involved in contract negotiations, as the parties' interests are adverse.

Upon review, we find the information at issue is general administrative and purely factual information or has been shared with an individual with whom you have not demonstrated the department shares a privity of interest. Thus, we find you have failed to show how the information at issue consists of advice, opinions, or recommendations on the policymaking matters of the county. Accordingly, the remaining information at issue may not be withheld under section 552.111 of the Government Code.

Section 552.131 of the Government Code relates to economic development information and provides, in part:

> (b) Unless and until an agreement is made with the business prospect, information about a financial or other incentive being offered to the business prospect by the governmental body or by another person is excepted from [required public disclosure].

Gov't Code § 552.131(b). Section 552.131(b) of the Government Code protects information about a financial or other incentive that is being offered to a business prospect by a governmental body or another person. *See id*. Section 552.131(b) protects the interests of governmental bodies, not third parties. We note the applicability of section 552.131 ends once the governmental body completes an agreement with the business prospect. *Id*. § 552.131(c). You assert some of the remaining information relates to confidential economic development negotiations that did not result in a final agreement with the business prospect. However, we find you have failed to demonstrate the remaining information at issue reveals financial or other incentives that are being offered to a business prospect. Therefore, we conclude the county may not withhold any portion of the remaining information under section 552.131(b) of the Government Code.

Section 552.153 of the Government Code reads, in relevant part, as follows:

> (a) In this section, "affected jurisdiction," "comprehensive agreement," "contracting person," "interim agreement," "qualifying project," and "responsible governmental entity" have the meanings assigned those terms by Section 2267.001.
>
> (b) Information in the custody of a responsible governmental entity that relates to a proposal for a qualifying project authorized under Chapter 2267 is excepted from the requirements of Section 552.021 if:
>
> > (1) the information consists of memoranda, staff evaluations, or other records prepared by the responsible governmental entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under [c]hapter 2267 for which:
> >
> > > (A) disclosure to the public before or after the execution of an interim or comprehensive agreement would adversely affect the financial interest or bargaining position of the responsible governmental entity; and
> > >
> > > (B) the basis for the determination under Paragraph (A) is documented in writing by the responsible governmental entity[.]

Gov't Code § 552.153(a), (b)(1). Section 2267.001(11) defines a "responsible governmental entity" as "a governmental entity that has the power to develop or operate an applicable qualifying project." *Id*. § 2267.001(11). Additionally, section 2267.001(5) defines "governmental entity," in relevant part, as "a political subdivision of this state that elects to operate under this chapter by the adoption of a resolution by the governing body

of the political subdivision." *Id.* § 2267.001(5)(B). Upon review, we find the county has failed to demonstrate it constitutes a "responsible governmental entity" for purposes of section 552.153. Accordingly, the county may not withhold the remaining information under section 552.153 of the Government Code and must release it.

In summary, the county must release the submitted public meeting agenda pursuant to the OMA. The county may generally withhold the information we marked under section 552.107 of the Government Code; however if the non-privileged e-mails and attachments we marked are maintained by the county separate and apart from the otherwise privileged e-mail strings in which they appear, then the county may not withhold these non-privileged e-mails and attachments under section 552.107(1) of the Government Code. The county 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,

Jason Stevens
Assistant Attorney General
Open Records Division

JS/jxd

Ref: ID# 26-026774

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

EXHIBIT B
ATTORNEY GENERAL RULING OR2026-037351

KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 24, 2026

Ms. Megan Barcak
County Attorney
Grimes County
P.O. Box 588
Anderson, Texas 77830

OR2026-037351

Dear Ms. Barcak:

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# 26-032576 (Ref. No. PIA2026.0603.26).

The Grimes County (the "county") received a request for seven categories of information pertaining to a specified economic development initiative. You state the county will release some information to the requestor. We note some of the submitted information is excepted from disclosure under section 552.137 of the Government Code.[1] We understand the county will dispose of this information pursuant to sections Open Records Decision No. 684 (2009). You claim the submitted information is excepted from disclosure under section 552.103, 552.107, 552.1101, 552.111, 552.131, and 552.153 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note although the county argues some of the submitted information is excepted under section 552.1101, this section protects only the interests of a vendor, contractor, potential vendor, or potential contractor that has provided information to a governmental body, not those of the governmental body itself. *See id*. § 552.1101(c). Thus, we do not address the county's arguments under section 552.1101 of the Government Code.

Next, we note some of the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2026-032116 (2026). In that ruling, we determined, in relevant part, the county may withhold certain

[1] Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold specific categories of information without the necessity of requesting an attorney general decision, including personal e-mail addresses under section 552.137 of the Government Code. ORD 684.

information under section 552.107(1) of the Government Code and must release any remaining information. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, we conclude the county may rely on Open Records Letter No. 2026-032116 as a previous determination and withhold or release 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 the same information as was addressed in prior attorney general ruling, ruling is address to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

Next, we must address the county's obligations under section 552.301 of the Government Code, which prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. *See* Gov't Code § 552.301. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. *See id.* § 552.301(b). Pursuant to section 552.301(e), a governmental body is required to submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the claimed exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *Id*. § 552.301(e). The county received the request for information on June 3, 2026. This office only counts business days as provided by section 552.0031 of the Government Code. *Id*. §§ 552.0031 (defining "business day" for purposes of the Act). Consequently, the county's fifteen-business-day deadlines was June 25, 2026. However, the county provided a copy of the specific information requested by electronic submission on June 26, 2026. *See id.* § 552.309(a) (requirement to submit information within specified time period under the Act is met in timely fashion if it is submitted through attorney general's designated electronic filing system within that period). Consequently, we conclude the county failed to comply with the procedural requirements mandated by section 552.301 of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id*. § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins*., 797 S. W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ). The county claims sections 552.103, 552.107, 552.111, 552.131, and 552.153 of the Government Code. Upon review, we find you have failed to establish a compelling reason to address your arguments under sections 552.103, 552.111, and 552.131 of the Government Code. However, because your remaining arguments under sections 552.107 and 552.153 of the Government Code can provide compelling reasons to overcome the presumption of openness, we will address the applicability of these arguments to the submitted information.

Section 552.107(1) of the Government Code protects information falling within the attorney-client privilege. *See* Gov't Code § 552.107(1). When asserting the attorney-client privilege, a governmental body has the burden of providing the necessary facts to demonstrate the elements of the privilege in order to withhold the information at issue. *See* Open Records Decision No. 676 at 6-7. First, a governmental body must demonstrate that the information constitutes or documents a communication. *Id*. at 7. Second, the communication must have been made "to facilitate the rendition of professional legal services" to the client governmental body. TEX. R. EVID. 503(b)(1). The privilege does not apply when an attorney or representative is involved in some capacity other than that of providing or facilitating professional legal services to the client governmental body. *In re Tex. Farmers Ins. Exch.*, 990 S.W.2d 337, 340 (Tex. App.—Texarkana 1999, orig. proceeding) (attorney-client privilege does not apply if attorney acting in a capacity other than that of attorney). Governmental attorneys often act in capacities other than that of professional legal counsel, such as administrators, investigators, or managers. Thus, the mere fact that a communication involves an attorney for the government does not demonstrate this element. TEX. R. EVID. 503(b)(1). Thus, a governmental body must inform this office of the identities and capacities of the individuals to whom each communication at issue has been made. Lastly, the attorney-client privilege applies only to a *confidential* communication, *id*., meaning it was "not intended to be disclosed to third persons other than those: (A) to whom disclosure is made to further the rendition of professional legal services to the client; or (B) reasonably necessary to transmit the communication." *Id*. 503(a)(5). Whether a communication meets this definition depends on the *intent* of the parties involved at the time the information was communicated. *Osborne v. Johnson*, 954 S.W.2d 180, 184 (Tex. App.—Waco 1997, orig. proceeding). Moreover, because the client may elect to waive the privilege at any time, a governmental body must explain that the confidentiality of a communication has been maintained. Section 552.107(1) generally excepts an entire communication that is demonstrated to be protected by the attorney-client privilege unless otherwise waived by the governmental body. *See Huie v. DeShazo*, 922 S.W.2d 920, 923 (Tex. 1996) (privilege extends to entire communication, including facts contained therein).

You state remaining information consists of communications between an attorney for the county and county employees and officials that were made for the purpose of facilitating the rendition of professional legal services to the county. You also state these communications were intended to be, and have remained, confidential. Based upon your representations and our review, we find you have demonstrated the applicability of the attorney-client privilege to the information at issue. Accordingly, the county may generally withhold the information we marked under section 552.107(1) of the Government Code.

We note, however, some of these e-mail strings include e-mails received from or sent to non-privileged parties. Furthermore, if the e-mails received from or sent to non-privileged parties are removed from the otherwise privileged e-mail strings and stand alone, they are responsive to the requests for information. Therefore, if these non-privileged e-mails which we marked, are maintained by the county separate and apart from the otherwise privileged e-mail strings in which they appear, then the county may not withhold these non-privileged e-mails under section 552.107(1) of the Government Code. Further, upon review, we find the remaining information at issue has been shared with individuals you have not

demonstrated are privileged parties. Therefore, we conclude you have failed to establish the remaining information constitutes communications between or among county employees and attorneys for the purposes of section 552.107(1). Thus, the county may not withhold the remaining information on that basis.

Section 552.153 of the Government Code reads, in relevant part, as follows:

> (a) In this section, "affected jurisdiction," "comprehensive agreement," "contracting person," "interim agreement," "qualifying project," and "responsible governmental entity" have the meanings assigned those terms by Section 2267.001.
>
> (b) Information in the custody of a responsible governmental entity that relates to a proposal for a qualifying project authorized under Chapter 2267 is excepted from the requirements of Section 552.021 if:
>
> > (1) the information consists of memoranda, staff evaluations, or other records prepared by the responsible governmental entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under [c]hapter 2267 for which:
> >
> > > (A) disclosure to the public before or after the execution of an interim or comprehensive agreement would adversely affect the financial interest or bargaining position of the responsible governmental entity; and
> > >
> > > (B) the basis for the determination under Paragraph (A) is documented in writing by the responsible governmental entity[.]

Gov't Code § 552.153(a), (b)(1). Section 2267.001(11) defines a "responsible governmental entity" as "a governmental entity that has the power to develop or operate an applicable qualifying project." *Id*. § 2267.001(11). Additionally, section 2267.001(5) defines "governmental entity," in relevant part, as "a political subdivision of this state that elects to operate under this chapter by the adoption of a resolution by the governing body of the political subdivision." *Id*. § 2267.001(5)(B). Upon review, we find the county has failed to demonstrate it constitutes a "responsible governmental entity" for purposes of section 552.153. Accordingly, the county may not withhold the remaining information under section 552.153 of the Government Code.

In summary, county may generally withhold the information we marked under section 552.107 of the Government Code; however if the non-privileged e-mails we marked are maintained by the county separate and apart from the otherwise privileged e-mail strings in which they appear, then the county may not withhold these non-privileged e-mails under section 552.107(1) of the Government Code. The county 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,

Simone L. Nisbett
Assistant Attorney General
Open Records Division

SLN/tb

Ref: ID# 26-032576

Enc. Submitted documents

c: Requestor
(w/o enclosures)