9/8/2026 12:00 AM
D-1-GN-26-008509
Velva L. Price
District Clerk
Travis County
Ruben Tamez

D-1-GN-26-008509

Cause No. _____

Space Exploration Technologies Corp., *Plaintiff,*	§	In the District Court
v.	§	126th District Court
	§	of the ___ District of
Ken Paxton, *in his official capacity as Attorney General of Texas*; and Grimes County, Texas,	§	
Defendants.	§	Travis County, Texas

PLAINTIFF'S ORIGINAL PETITION FOR DECLARATORY JUDGMENT AND APPLICATION FOR TEMPORARY RESTRAINING ORDER, TEMPORARY INJUNCTION, AND PERMANENT INJUNCTION

Plaintiff Space Exploration Technologies Corp. ("SpaceX") files this Original Petition for Declaratory Judgment and Application for Temporary Restraining Order, Temporary Injunction, and Permanent Injunction to challenge Open Records Letter Ruling No. OR2026-032116, issued by Defendant Ken Paxton, the Attorney General of Texas (the "Attorney General"); to obtain a declaratory judgment 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 3 of Texas Rule of Civil Procedure 190.

STATEMENT OF RELIEF SOUGHT

2. Pursuant to Texas Rule of Civil Procedure 47, SpaceX seeks only prospective relief, in the form of declaratory and injunctive relief, together with attorneys' fees and costs. 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, TX 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).

JURISDICTION AND VENUE

6. Jurisdiction and venue are proper under: (i) Texas Civil Practice & Remedies Code § 37.003, which provides that a "court of record within its jurisdiction has power to declare rights, status, and other legal relations whether or not further relief is or could be claimed"; (ii) 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 (iii) 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

7. The Ruling challenged in this suit addresses four TPIA requests. One of those requests was withdrawn before the 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 requests implicating SpaceX's confidential information were submitted by two requestors, Vanessa Burzynski and Marie Egyed on behalf of Grimes County Citizens for Responsible Development (together, the "Requestors").

8. 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 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.

9. 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."

10. SpaceX will provide a copy of this 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.

11. SpaceX will provide a copy of this Petition to Requestor Marie Egyed, who submitted her request on behalf of Grimes County Citizens for Responsible Development, (i) by email to marie@gccrd.org, with delivery and read receipts requested, and (ii) by certified mail, return receipt requested, to P.O. Box 131, Iola, Texas 77861.

FACTUAL BACKGROUND

12. 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.

13. 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 strategy to competitors and to every other jurisdiction with which SpaceX negotiates.

14. 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 Texas Government 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.

15. 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).

16. 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, the "Requests").

17. The County requested rulings from the Attorney General on the 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.

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

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

20. To the extent the 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.

21. The County did not notify SpaceX of the Requests until July 2, 2026. *See* TEX. GOV'T CODE § 552.305(d).

22. 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.

23. On July 28, 2026, the Attorney General issued Open Records Letter Ruling No. OR2026-032116 (the "Ruling"), attached as Exhibit A.

24. The 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 section 552.107(1) of the TPIA; and that the County "must release the remaining information."

25. The Ruling rejects the County's arguments under sections 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.

26. The Ruling expressly declines to consider the exceptions in sections 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.

27. Yet the 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 Ruling considers only the County's arguments.

28. 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 Ruling thus orders the release of SpaceX's confidential information without considering SpaceX's demonstrated bases for withholding it.

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

30. 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.

31. By this Petition, SpaceX seeks to prevent the release of the following information (together, the "Confidential Information"):

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

(ii) **Technical and Project Information**—information concerning the Project's design, scope, and development;

(iii) **Site-Location and Land-Acquisition Information**—information concerning the candidate project site and SpaceX's land negotiations;

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

(v) **Personnel Information**—identifying and contact information of individual SpaceX employees and representatives appearing in the responsive records.

32. As set forth below, the Confidential Information is excepted from public disclosure under §§ 552.131(b), 552.131(a), 552.110(b), 552.110(c), 552.137, and 552.101 of the TPIA.

CAUSE OF ACTION—DECLARATORY JUDGMENT

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

34. "A person interested under a deed, will, written contract, or other writings constituting a contract or whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract, or franchise may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights, status, or other legal relations thereunder." TEX. CIV. PRAC. & REM. CODE § 37.004. "A court of record within its jurisdiction has power to declare rights, status, and other legal relations whether or not further relief is or could be claimed." *Id.* § 37.003.

35. 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.

36. Pursuant to Texas Civil Practices & Remedies Code §§ 37.003–37.004 and Texas Government Code § 552.325, SpaceX seeks a declaratory 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—including the Application in its entirety—is excepted from disclosure under TEX. GOV'T CODE §§ 552.131(b), 552.131(a), and/or 552.110;

(ii) the Technical and Project Information is excepted from disclosure under TEX. GOV'T CODE §§ 552.101 and/or 552.110;

(iii) the Site-Location and Land-Acquisition Information is excepted from disclosure under TEX. GOV'T CODE §§ 552.131(a) and/or 552.110;

(iv) the Cost and Financial Information is excepted from disclosure under TEX. GOV'T CODE § 552.110; and

(v) the Personnel Information is excepted from disclosure under TEX. GOV'T CODE §§ 552.137, 552.110, and/or 552.101.

I. The Economic Development Negotiation Information is excepted from disclosure under Texas Government Code § 552.131(b) because it is "information about a financial or other incentive being offered to the business prospect" before any agreement was made.

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

38. Section 552.131(b) of the TPIA provides that:

> 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 the requirements of Section 552.021.

TEX. GOV'T CODE § 552.131(b).

39. No tax abatement agreement—or any other agreement—had been executed between SpaceX and the County as of the dates of the Application, the Requests, or the County's requests for a ruling.

40. The Application, SpaceX's term proposal, and the parties' negotiating correspondence are precisely the sort of pre-decisional information § 552.131(b) protects: they disclose the substance of the terms SpaceX proposed at a stage when the County had not yet decided whether, or on what terms, to proceed.

41. Requiring disclosure of this information would expose SpaceX's opening negotiating positions to competing manufacturers and competing taxing jurisdictions alike. Based on this specific factual evidence, the Economic Development Negotiation Information—including the Application in its entirety—must be withheld from the Requestors under Texas Government Code § 552.131(b).

II. The Economic Development Negotiation Information and the Site-Location and Land-Acquisition Information are excepted from disclosure under Texas Government Code § 552.131(a) because they relate to economic development negotiations and contain SpaceX's trade secrets and commercial and financial information, the disclosure of which would cause substantial competitive harm.

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

43. 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).

44. Unlike § 552.131(b), § 552.131(a) is not limited to the period before an agreement is reached; it applies to information relating to economic development negotiations generally.

45. The Economic Development Negotiation Information and the Site-Location and Land-Acquisition Information relate directly to the economic development negotiations between the County and SpaceX—a business prospect the County sought to have locate in its territory.

46. This Confidential Information reveals the positions SpaceX took—and did not take—during negotiations; the terms SpaceX proposed, rejected, and revised; and the assessments of SpaceX and its counsel and consultants.

47. Disclosure would reveal SpaceX's negotiating strategy, concessions, and limits to every jurisdiction, competitor, and counterparty with which SpaceX negotiates in the future, materially weakening SpaceX's position in those negotiations.

48. Based on this specific factual evidence, the Economic Development Negotiation Information and the Site-Location and Land-Acquisition Information must be withheld from the Requestors under Texas Government Code § 552.131(a).

III. 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.

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

50. 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).

51. The Confidential Information constitutes highly sensitive commercial and financial information, including SpaceX's individual approach to the design and development of the Project, its cost and financial information, and its negotiating strategy and positions.

52. 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.

53. Disclosure of the Confidential Information would give SpaceX's competitors a window into SpaceX's approach to a unique production facility, which they could use to inform competing facilities, bids, and site-selection strategies.

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

55. 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.

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

IV. 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.

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

58. 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).

59. 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).

60. 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.

61. 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 engineering and business judgment. If disclosed, the economic value of this information would be substantially diminished, as competitors would gain access to SpaceX's methodologies, engineering approach, and negotiating strategy without incurring the development costs.

62. 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).

V. The Technical and Project Information is excepted from disclosure under Texas Government Code § 552.101, in conjunction with § 418.181, because it identifies the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism.

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

64. Section 552.101 of the TPIA excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." TEX. GOV'T CODE § 552.101.

65. Section 552.101 encompasses Texas Government Code § 418.181, part of the Texas Homeland Security Act, which provides that "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."

66. "Critical infrastructure" includes "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." *Id.* § 421.001(2).

67. The Project is critical infrastructure: it is a large-scale, domestically controlled semiconductor manufacturing and advanced-computing facility, which is a private asset vital to the security and economy of the State and the nation.

68. SpaceX is a defense contractor whose technology is heavily controlled under U.S. export-control laws, and it treats the Project's technical details as security-sensitive and restricts their release for that reason. SpaceX has been subject to attempts by bad actors to compromise its security, including hacking and phishing attempts.

69. Disclosure of the technical details of the facility would identify particular vulnerabilities of the facility to an act of terrorism, particularly in the current climate of heightened international conflict and hostile targeting of critical technology assets.

70. Likewise, disclosure of the identities and contact information of the SpaceX personnel who represent SpaceX in connection with the Project would provide bad actors with

particularly vulnerable avenues of attack, including social engineering and phishing schemes designed to exploit weaknesses in security.

71. Based on this specific factual evidence, the Technical and Project Information must be withheld from the Requestors under Texas Government Code § 552.101.

VI. The email addresses within the Personnel Information are confidential under Texas Government Code § 552.137.

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

73. Section 552.137(a) of the TPIA protects from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body." The email addresses of SpaceX employees and representatives appear throughout the responsive records and were provided to the County for the purpose of communicating electronically with the County. The owners of these email addresses have not affirmatively consented to their release. *See* TEX. GOV'T CODE § 552.137(b).

74. None of the enumerated exceptions to confidentiality in § 552.137(c) applies. The email addresses were not provided by a person who has a contractual relationship with the County or by such a contractor's agent, *see id.* § 552.137(c)(1); SpaceX is not a vendor seeking to contract with the County, and the addresses were not provided by a vendor or a vendor's agent, *see id.* § 552.137(c)(2); the addresses are not contained in a response to a request for bids or proposals or to a similar invitation soliciting offers or information relating to a potential contract, and were not provided in the course of negotiating the terms of a contract or potential contract within the meaning of § 552.137(c)(3)—SpaceX is not a vendor or contractor of the County, no procurement of goods or services is involved, and the addresses were provided as points of contact on an

application, not as part of contract negotiations, *see id.* § 552.137(c)(3); the addresses were not provided on a letterhead, coversheet, printed document, or other document made available to the public, *see id.* § 552.137(c)(4); and the addresses were not provided in connection with public comment on, or notices or orders related to, a license application, *see id.* § 552.137(c)(5).

75. Because the email addresses are confidential under § 552.137(a) and no exception in § 552.137(c) applies, the email addresses must be redacted before any disclosure.

VII. The Personnel Information is excepted from disclosure under Texas Government Code § 552.101 under the doctrine of common-law privacy.

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

77. 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).

78. The responsive records include individuals' personal telephone numbers and signatures, which reflect the individuals' highly personal information and are not of legitimate concern to the public.

79. SpaceX is a high-profile company whose personnel have been targeted for harassment by persons opposed to SpaceX's operations or leadership. Public disclosure of the direct and cellular telephone numbers and signatures of the individual employees and representatives who represent SpaceX before government officials would increase the likelihood that those individuals are targeted for harassment and for social-engineering and phishing schemes, and disclosed signatures could be exploited for forgery.

80. The responsive records should therefore be redacted to remove this information before any disclosure.

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

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

82. 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.

83. 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.

84. 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.*

85. 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).

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

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

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

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

90. 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.

91. 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.

COSTS AND ATTORNEYS' FEES

92. SpaceX requests an award of its costs and reasonable and necessary attorneys' fees incurred in this action, including reasonable fees for the cost of successfully making or responding to an appeal to the court of appeals and/or the Supreme Court of Texas. *See* TEX. CIV. PRAC. & REM. CODE § 37.009.

PRAYER FOR RELIEF

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

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

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

(iii) declaring that the Site-Location and Land-Acquisition 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;

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

(v) declaring that the Personnel Information is excepted from required public disclosure under TEX. GOV'T CODE §§ 552.137, 552.110, and/or 552.101 and therefore must not be released;

(vi) 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;

(vii) awarding SpaceX its reasonable and necessary attorneys' fees and costs of court as permitted by law, including TEX. CIV. PRAC. & REM. CODE § 37.009, and including reasonable fees for the cost of successfully making or responding to an appeal; and

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

Dated: September 7, 2026

Respectfully submitted,

/s/ Bill Cobb

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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)

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Alexa Gervasi on behalf of Alexa Gervasi
Bar No. 24147091
alexa@cobbgervasi.com
Envelope ID: 119595110
Filing Code Description: Petition
Filing Description: PLAINTIFF'S ORIGINAL PETITION FOR DECLARATORY JUDGMENT AND APPLICATION FOR TEMPORARY RESTRAINING ORDER, TEMPORARY INJUNCTION AND PERMANENT INJUNCTION
Status as of 9/9/2026 4:35 PM CST

Associated Case Party: SPACE EXPLORATION TECHNOLOGIES CORP.

Name	BarNumber	Email	TimestampSubmitted	Status
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Alexa Gervasi	24147091	alexa@cobbgervasi.com	9/7/2026 1:41:19 PM	SENT

Associated Case Party: GRIMES COUNTY

Name	BarNumber	Email	TimestampSubmitted	Status
Megan Barcak		megan.barcak@grimescountytexas.gov	9/7/2026 1:41:19 PM	SENT