

From: [REDACTED]
Sent: Thursday, February 6, 2025, 10:57 AM
To: Ariane Marion <ariane.marion@gov.texas.gov>
Subject: RE: Texas CHIPS Office - Vendor Setup Information
Attachments: [REDACTED]

[EXTERNAL SENDER] - Do not click on links or open attachments in unexpected messages.

Hi Ari,
Attached please find our W-9, deposit form, and bank account validation letter.
Note* ACH routing code is referenced on the form, if payment is to be sent via wire please use routing [REDACTED]
Our [REDACTED] for Space Exploration Technologies Corp.
All the best,

[REDACTED]

From: [REDACTED]
Sent: Friday, January 31, 2025 11:01 AM
To: Ariane Marion ; Joseph Behnke
Subject: RE: Texas CHIPS Office - Vendor Setup Information
Thank you, Ari and Joseph! We will get this all filled out and back to you asap.
All the best,

[REDACTED]

From: Ariane Marion <ariane.marion@gov.texas.gov>
Date: Friday, January 31, 2025 at 10:56
To: [REDACTED]
Cc: Joseph Behnke <Joseph.Behnke@gov.texas.gov>, Louie Sanchez <[REDACTED]>
Ariane Marion <ariane.marion@gov.texas.gov>
Subject: Texas CHIPS Office - Vendor Setup Information

Dear [REDACTED]
I hope this email finds you well. I wanted to give you an update on where we are with the grant agreement. It is almost finalized, and I am hoping we will be able to send it to you soon. In the meantime, would you please fill out these forms that will allow us to set you up in our system, so we will be able to process the reimbursement forms after the grant agreement is approved and signed.
Happy to answer any questions you may have.
Best,
Ariane Marion, MA, LL.M | Executive Director

Texas Semiconductor Innovation Consortium
Texas Economic Development & Tourism
Office of Governor Greg Abbott
125 E. 11th Street | Austin TX 78701
512-463-8410 | ariane.marion@gov.texas.gov

Caution: EXTERNAL SENDER: This email originated from OUTSIDE of your organization.
Please take care in opening or clicking anything in this email. Please notify I.T/Mgmt if you
have any questions.

From: Joe Magruder <Joe.Magruder@gov.texas.gov>
Sent: Thursday, September 12, 2024, 12:33 PM
Subject: Aerospace and Aviation Advisory Committee
Attachments: TDAAA Happy Hour Flyer (2).pdf

Dear Members,

I hope this finds you well. I must apologize for not sending this sooner.

To those of you who are newly appointed, congratulations and welcome. To those of you who were re-appointed, congratulations and welcome back. To the rest, we look forward to continuing to work with you.

To Shelly deZevallos, congratulation on being appointed Chair.

For the new members, my name is Joe Magruder. I am the staff person for the Aerospace and Aviation Advisory Committee (AAAC) and staff for the Office of Aerospace and Aviation (OAA), within the Texas Economic Development and Tourism Office (EDT). I have been part of the OAA for 18 years. I received my Federal Aviation Administration (FAA) Airframe and Powerplant (A&P) Licenses after attending Texas State Technical Institute in Waco, Texas. After receiving my A&P, I went on to perform maintenance and inspections on general aviation aircraft with various fixed base operators (FBOs) and later as a shop manager repairing Pratt & Whitney PT6 hot sections and power sections.

I will be working the Shelly deZevallos to schedule a meeting of the AAAC in the upcoming weeks.

Also, if it fits your schedule, please find attached an invitation to attend a reception with the Texas Association of Manufacturers and the Texas Defense, Aerospace, & Aviation Alliance (TDAAA).

We look forward to working with you to advance the aerospace and aviation industry in the Lone Star State.

And, I am available to be of assistance if you should need anything.

Best regards,

Joe Magruder

Industry Specialist

Texas Economic Development & Tourism

Office of Governor Greg Abbott

221 E. 11 St. | Austin, TX 78701

Direct: 512.475.2209 | Cell:

Email: joe.magruder@gov.texas.gov

www.Gov.Texas.Gov/Business

552.117



TEXAS
ASSOCIATION OF
MANUFACTURERS



**THE TEXAS ASSOCIATION OF MANUFACTURERS AND
THE TEXAS DEFENSE, AEROSPACE, & AVIATION ALLIANCE (TDAAA)
INVITE YOU TO OUR**

***Fly Into Fall
Happy Hour***

**TUESDAY, SEPTEMBER 17TH
4:30 - 6:00 PM**

**OFFICES OF LONGBOW PARTNERS
502 W. 13TH ST, AUSTIN, TX 78701**



RSVP TO:

WROE.JACKSON@MANUFACTURETEXAS.ORG

From: Joe Magruder <Joe.Magruder@gov.texas.gov>
Sent: Tuesday, October 15, 2024, 9:04 AM
To: 'Aimee Burnett' <[REDACTED]> 'Arturo Machuca' <arturo.machuca@houstontx.gov>;
'George Moussa' <[REDACTED]> 'Jim Allmon' <[REDACTED]> 'John
D. Guevara' <[REDACTED]> 'John Mulholland' <[REDACTED]>
'Kevin Cox' <[REDACTED]> 'Lauren Dreyer' <[REDACTED]> 'Robert Donnelly' <[REDACTED]>
<[REDACTED]> 'Shelly deZevallos' <[REDACTED]> 'Sonja Clark' <[REDACTED]>
<[REDACTED]> 'Summer Webb' <swebb@blueorigin.com>
Cc: Adriana Cruz <Adriana.Cruz@gov.texas.gov>; Cyndy Hurtado <Cyndy.Hurtado@gov.texas.gov>;
Larry McManus <Larry.McManus@gov.texas.gov>; Shirley Temple <Shirley.Temple@gov.texas.gov>
Subject: [REDACTED]
Attachments: [REDACTED]

552.137

Dear Members,

I hope this finds you well.

As per the request of Shelly deZevallos, Chair of the Aerospace & Aviation Advisory Committee (AAAC), below you will find information about the upcoming meeting:

- Invite to the upcoming AAAC Meeting will be sent shortly:
 - Date: November 7, 2024
 - Time: 10:00 a.m. to 3:00 p.m. CST
 - This is a tentative length of time. We may or may not use full five (5) hours.
 - Location:
 - Office of the Governor (OOG)
Economic Development & Tourism (EDT)
221 E. 11th St.
4th Floor
Austin, TX 78701
(Map attached with location and parking information)
 - In-person is requested.
 - This is the first meeting of the newly appointed and re-appointed members. We wish to meet face-to-face to get to know one another.
 - If absolutely necessary, you can join via Microsoft Teams.
 - There are currently 12 members to the AAAC.
 - The committee needs to have seven (7) members present to have a quorum.
- Agenda to follow..
- [REDACTED]

Please let me know if you should need anything.

Best regards,

Joe Magruder

Industry Specialist

Office of Aerospace & Aviation

Texas Economic Development & Tourism

Office of Governor Greg Abbott

221 E. 11 St. | Austin, TX 78701

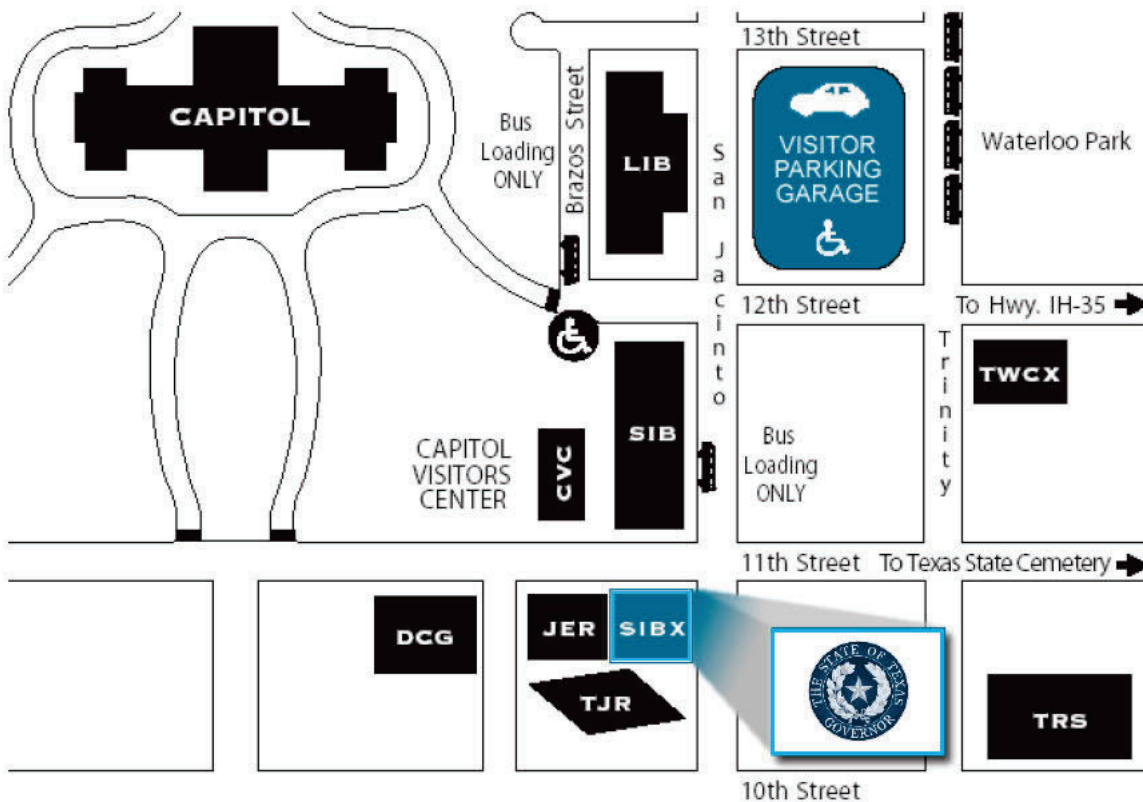
Direct: 512.475.2209 | Cell: 512.436.4482

Email: joe.magruder@gov.texas.gov

www.Gov.Texas.Gov/Business

DIRECTIONS TO ECONOMIC DEVELOPMENT AND TOURISM OFFICE

The building (SIBX) is located across the street from the State Capitol at the corner of 11th Street and San Jacinto. Economic Development and Tourism is located on the 4th floor of the four-story building, and shares the building with the Texas Department of Housing and Community Affairs. Free parking, for two (2) hours, is available at the State Visitor Parking Garage at 12th and San Jacinto.



CVC - Capitol Visitor's Center
 DCG - Dewitt C. Greer
 GM - Governor's Mansion
 JER - James Earl Rudder
 LIB - Lorenzo de Zavala State Archives and Library

SIB - State Insurance Building
 SIBX - State Insurance Building Annex
 TJR - Thomas Jefferson Rusk
 TRS - Teacher Retirement System
 TWCX - Texas Work Force Commission Annex

Physical Address
 221 East 11th Street
 Austin, Texas 78701

Mailing Address
 P.O. Box 12428
 Austin, Texas 78711

From: SpaceX Events <[REDACTED]>
Sent: Friday, February 28, 2025, 2:58 PM
Cc: SpaceX Events <[REDACTED]>
Subject: Starship's Eighth Flight Test | RSVP Required

[EXTERNAL SENDER] - Do not click on links or open attachments in unexpected messages.

Hello,
Starship's Eighth Test Flight is currently targeting no earlier than Monday, March 3rd from Starbase, Texas.
We noticed you have **not** RSVP'd to this event. If you would like to attend, **please RSVP [here](#) by tomorrow, Saturday March 1st.**
Thank you,
SpaceX Events

From: [REDACTED]
Sent: Tuesday, February 25, 2025, 12:17 PM
To: Public Records <publicrecords@gov.texas.gov>
Cc: [REDACTED]
Subject: RE: 036-25 Davila - SpaceX_Third Party Reply
Attachments: SpaceX Objections to OOG ID# 036-25.pdf; Exhibit A (SpaceX Objections to OOG PIR# 036-25) - reduced.pdf

[EXTERNAL SENDER] - Do not click on links or open attachments in unexpected messages.

Dear, Mr. Taylor.
Please find attached copies of SpaceX's objections and redacted records submitted on the Public Information Act Electronic Filing System (request ID: 66281048). Please let us know if you have any questions.

Best,

From: Public Records
Sent: Tuesday, February 11, 2025 3:09 PM
To: [REDACTED]; Public Records
Cc: [REDACTED]
Subject: RE: 036-25 Davila - SpaceX_Third Party Reply

Good afternoon,

Please see the attached records involving SpaceX that are currently before the OAG in connection with OOG ID# 036-25.

Best regards,

Matthew Taylor

Assistant General Counsel and Public Information Coordinator

1100 San Jacinto Boulevard, Fourth Floor

Austin, Texas 78701

From: [REDACTED]
Sent: Tuesday, February 11, 2025 10:06 AM
To: Public Records <publicrecords@gov.texas.gov>
Cc: [REDACTED]

Subject: 036-25 Davila - SpaceX_Third Party Reply

[EXTERNAL SENDER] - Do not click on links or open attachments in unexpected messages.

Hi, Matthew.

I hope that you are well. Please provide the records at issue for our review.

Thank you very much!

Best,

[REDACTED]

SPACEX

From: Public Records <publicrecords@gov.texas.gov>
Date: Monday, February 10, 2025 at 4:02 PM
Subject: 036-25 Davila - Third Party Notice

February 10, 2025

Third Party

VIA EMAIL ONLY

Re: OOG PIR# 036-25

To Whom it May Concern:

The Office of the Governor ("OOG") has received a formal request to inspect or copy some of our files. The requested files include records involving your company. A copy of our request for an OAG decision with included copy of the original request for information is attached.

If you would like to view or discuss the records from your company that are at issue before the OAG, please respond to this email or call me at 512-463-8470.

Generally, the Public Information Act (the "Act") requires the release of requested information, but there are exceptions. As described below, you have the right to object to the release of your records by submitting written arguments to the OAG that one or more exceptions apply to your records. You are not required to submit arguments to OAG but if you decide not to submit arguments, OAG will presume that you have no interest in withholding your records from disclosure. In other words, if you fail to take timely action, the OAG will more than likely rule that your records must be released to the public. If you decide to submit arguments, **you must do so not later than the tenth business day after the date you receive this notice.**

If you submit arguments to the OAG you must:

- a) identify the legal exceptions that apply
- b) identify the specific parts of each document that are covered by each exception, and
- c) explain why each exception applies.

Gov't Code § 552.305(d). A claim that an exception applies without further explanation will not suffice. See Attorney General Opinion H-436 (1974). You may contact this office to review the information at issue in order to make your arguments. We will provide the OAG with a copy of the request for information and a copy of the requested information, along with other material required by the Act. The OAG is generally required to issue a decision within 45 working days.

Please send your written comments to the OAG at the following address:

Open Records Division

Office of the Attorney General

P.O. Box 12548

Austin, Texas 78711-2548

If you wish to submit your written comments electronically, you may only do so via the OAG's eFiling System. An administrative convenience charge will be assessed for use of the eFiling System. No other method of electronic submission is available. Please visit the OAG's website at <http://www.texasattorneygeneral.gov>.

In addition, you are required to provide the requestor with a copy of your communication to the OAG. Gov't Code § 552.305(e). You may redact the requestor's copy of your communication to the extent it contains the substance of the requested information. Gov't Code § 552.305(e).

Commonly Raised Exceptions

In order for a governmental body to withhold requested information, specific tests or factors for the applicability of a claimed exception must be met. Failure to meet these

tests may result in the release of requested information. We have listed the most commonly claimed exceptions in the Government Code concerning proprietary information and the leading cases or decisions discussing them. This listing is not intended to limit any exceptions or statutes you may raise.

Section 552.101: Information Made Confidential by Law

Open Records Decision No. 652 (1997).

Section 552.110: Confidentiality of Trade Secrets and Commercial or Financial Information

Trade Secrets

Commercial or Financial Information:

Birnbaum v. Alliance of Am. Insurers, 994 S.W.2d 766 (Tex. App.—Austin 1999, pet. filed) (construing previous version of section 552.110), *abrogated by In re Bass*, 113 S.W.3d 735 (Tex. 2003).

Open Records Decision No. 639 (1996).

Open Records Decision No. 661 (1999).

Section 552.113: Confidentiality of Geological or Geophysical Information

Open Records Decision No. 627 (1994)

Section 552.1101: Confidentiality of Proprietary Information

Section 552.131: Confidentiality of Certain Economic Development Negotiation Information

Section 552.143: Confidentiality of Certain Investment Information

If you have questions about this notice or release of information under the Act, please refer to the Public Information Handbook published by the OAG, or contact the OAG's Open Government Hotline toll-free at (877) 673-6839 (877-OPEN TEX). To obtain copies of the Public Information Handbook or Attorney General Opinions, including those listed above, please visit the OAG's website at

<http://www.texasattorneygeneral.gov>.

If you have any other questions, you may contact me at 512-463-8470 or publicrecords@gov.texas.gov.

Sincerely,

Matthew Taylor

Public Information Coordinator

Assistant General Counsel

Office of Governor Greg Abbott

Enc: Request for ruling from OAG with attached original request for information



**CAMERON COUNTY SPACEPORT
DEVELOPMENT CORPORATION**

1100 East Monroe
Brownsville, TX 78520
(956) 544-0828

October 14, 2021

Office of the Governor, Texas Economic Development & Tourism Office
Attn: Eric Schneider
Finance Specialist
P.O. Box 12428
Austin, Texas 78711

Subject: FY2021-22 Spaceport Trust Fund Grant Proposal for Cameron County Spaceport

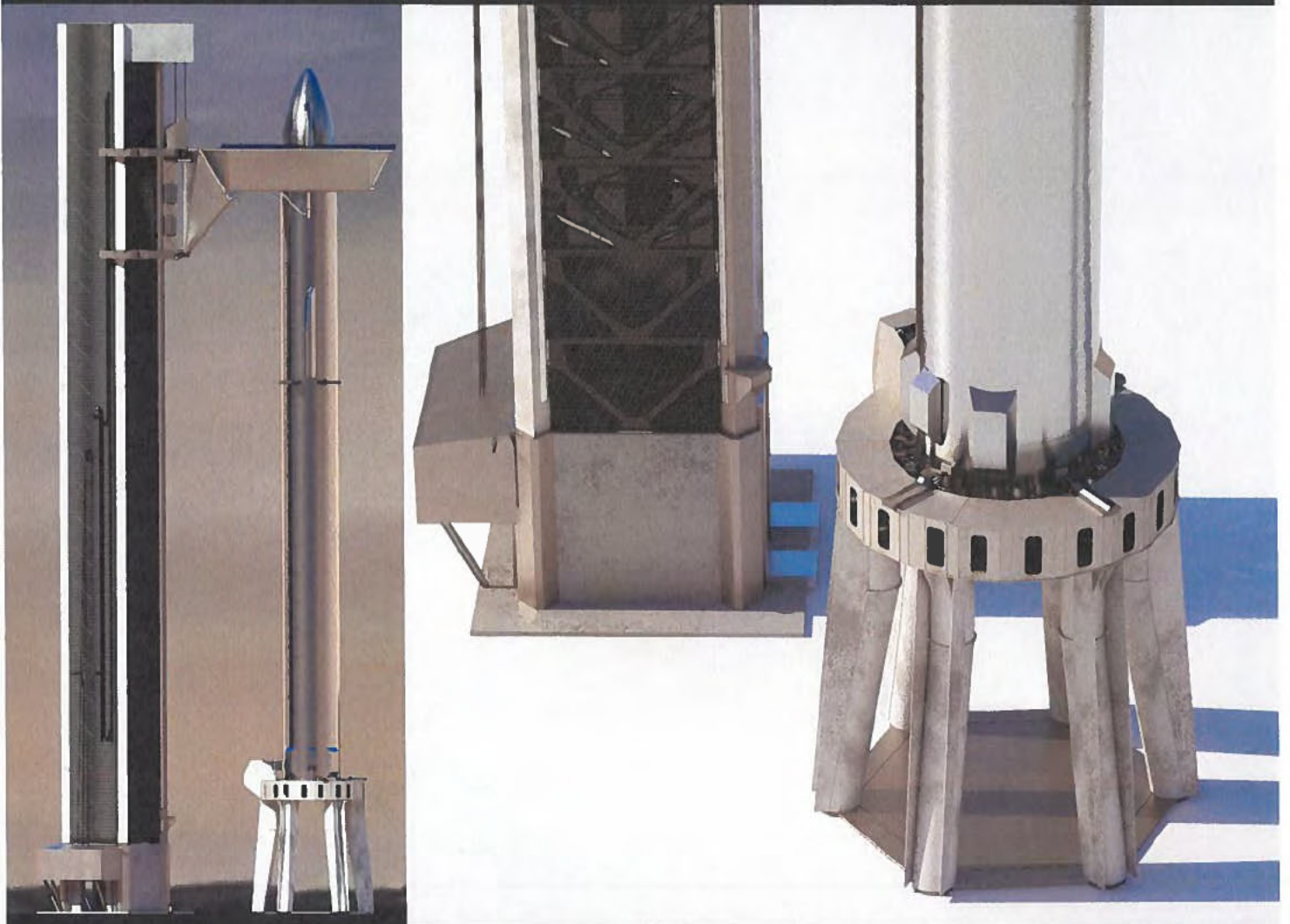
Dear Mr. Schneider:

Thank you for the opportunity to respond to the FY2021-22 Spaceport Trust Fund (STF) Request for Grant Proposal. Cameron County Spaceport Development Corporation (CCSDC), in cooperation with Space Exploration Technologies Corp. (SpaceX), is pleased to submit the attached grant proposal for a spaceport development project in Cameron County.

Best regards,

A handwritten signature in blue ink, appearing to read "Nick Serafy", is written over a blue circular stamp.

Nick Serafy
Chairman, CCSDC
nick@serafy.com
956-982-5414



Proposal for Texas Spaceport Trust Fund

Respectfully submitted to:
Office of the Governor—Texas Economic Development & Tourism
Aviation and Aerospace

By:
Cameron County Spaceport Development Corporation

October 18, 2021

This document contains information that may be confidential and proprietary and not subject to release under the Texas Public Information Act.

ALLISON, BASS & ASSOCIATES, L.L.P.

Attorneys at Law

A. O. WATSON HOUSE
402 WEST 12TH STREET
AUSTIN, TEXAS 78701
law@allison-bass.com
(512) 482-0701
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JAMES P. ALLISON
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JANA CLIFT WILLIAMS
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PHILLIP L. LEDBETTER
p.ledbetter@allison-bass.com

March 6, 2013

VIA OVERNIGHT DELIVERY

MAR - 7 2013

Bruce W. Hodge
Chief Counsel
Commissioners Court Civil Legal Division
1100 E. Monroe, (Historic Dancy Building)
Second Floor, Suite 222
Brownsville, Texas 78520

Re: Certificate of Formation of Cameron County Spaceport Development Corporation

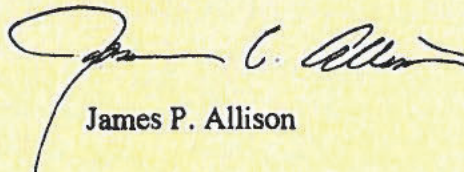
Dear Mr. Hodge:

Enclosed is a confirmation letter from the Office of the Secretary of State regarding the filing of the Certificate of Formation of Cameron County Spaceport Development Corporation, with a Certificate of Filing and an original Certificate of Formation of Cameron County Spaceport Development Corporation.

Please note that nonprofit corporations do not automatically qualify for an exemption from federal and state taxes. Shortly, the Comptroller of Public Accounts will be contacting the corporation at its registered office for information that will assist the Comptroller in setting up the franchise tax account for the corporation. Additionally, the corporation will not be required to file annual reports, but once every four years as requested by the Secretary; therefore, it is important for the Corporation to maintain a registered agent and office in Texas to which the Secretary of State will send a request to file a periodic report. Failure to do so may result in the involuntary termination of the Corporation.

When the Directors are ready to conduct the organizational meeting, we will be available to provide assistance as needed. Please contact me if you have any questions.

Sincerely,



James P. Allison

JPA/afb
Enclosures

cc: Members, Cameron County Commissioners Court
Pete Sepulveda, Jr., Cameron County Administrator



Office of the Secretary of State

March 05, 2013

Attn: James P. Allison

Allison, Bass & Associates, LLP
402 W 12th St
Austin, TX 78701 USA

RE: Cameron County Spaceport Development Corporation
File Number: 801744358

It has been our pleasure to file the certificate of formation and issue the enclosed certificate of filing evidencing the existence of the newly created nonprofit corporation.

Nonprofit corporations do not automatically qualify for an exemption from federal and state taxes. Shortly, the Comptroller of Public Accounts will be contacting the corporation at its registered office for information that will assist the Comptroller in setting up the franchise tax account for the corporation. Information about franchise tax, and contact information for the Comptroller's office, is available on their web site at <http://window.state.tx.us/taxinfo/franchise/index.html>. For information on state tax exemption, including applications and publications, visit the Comptroller's Exempt Organizations web site at <http://window.state.tx.us/taxinfo/exempt/index.html>. Information on exemption from federal taxes is available from the Internal Revenue Service web site at www.irs.gov.

Nonprofit corporations do not file annual reports with the Secretary of State, but do file a report not more often than once every four years as requested by the Secretary. It is important for the corporation to continuously maintain a registered agent and office in Texas as this is the address to which the Secretary of State will send a request to file a periodic report. Failure to maintain a registered agent or office in Texas, failure to file a change to the agent or office information, or failure to file a report when requested may result in the involuntary termination of the corporation. Additionally, a nonprofit corporation will file documents with the Secretary of State if the corporation needs to amend one of the provisions in its certificate of formation. If we can be of further service at any time, please let us know.

Sincerely,

Corporations Section
Business & Public Filings Division
(512) 463-5555
Enclosure

Come visit us on the internet at <http://www.sos.state.tx.us/>



Office of the Secretary of State

CERTIFICATE OF FILING OF

Cameron County Spaceport Development Corporation
File Number: 801744358

The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Nonprofit Corporation has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 03/04/2013

Effective: 03/04/2013



A handwritten signature of John Steen in black ink.

John Steen
Secretary of State



FILED
In the Office of the
Secretary of State of Texas
MAR 04 2013

Corporations Section

**CERTIFICATE OF FORMATION OF
CAMERON COUNTY SPACEPORT DEVELOPMENT CORPORATION**

Pursuant to the provisions of Chapter 22 of the Texas Business Organizations Code, the undersigned Corporation adopts the following Certificate of Formation.

ARTICLE 1

The name of the Corporation is Cameron County Spaceport Development Corporation.

ARTICLE 2

The Corporation is a nonprofit corporation that is organized to exercise the powers and duties granted to a spaceport development corporation under Chapter 507, Texas Local Government Code, and for the transaction of any and all lawful acts for which nonprofit corporations may be incorporated under the Texas Non-Profit Corporation Act.

ARTICLE 3

The period of duration is perpetual.

ARTICLE 4

The purpose of the Corporation is to support the creation and development of a spaceport project in Cameron County, Texas, and for any lawful purpose permitted by the Nonprofit Law of the State of Texas; and exclusively for charitable, religious, scientific, literary, or educational purposes either directly or by contributions to organizations that qualify as exempt under section 501(c)(3) of the Internal Revenue Code and its Regulations as they now exist or as they may hereinafter be amended.

ARTICLE 5

1. No part of the net earnings of the Corporation shall inure to the benefit of any director of the Corporation, officer of the Corporation, or any private individual (except that reasonable compensation may be paid for services rendered to or for the Corporation affecting one or more of its purposes), and no director or officer of the Corporation, or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Corporation.
2. No substantial part of the activities of the Corporation shall be carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation

shall not participate in, or intervene in (including the publication or distribution of statements), any political campaign on behalf of any candidate for public office.

3. If the Corporation is classified as a private foundation under Section 509(a) of the Internal Revenue Code, as amended, or corresponding provisions of any subsequent law, then while so classified the Corporation shall comply with the following provisions:
 - a. the Corporation shall distribute its income for each taxable year at such time and in such manner as not to become subject to a tax on undistributed income imposed by Section 4942 of the Internal Revenue Code, as amended, or corresponding provisions of any subsequent federal laws;
 - b. the Corporation shall not engage in any act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code, as amended, or corresponding provisions of any subsequent federal laws;
 - c. the Corporation shall not retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code, as amended, or corresponding provisions of any subsequent federal laws;
 - d. the Corporation shall not make any investments in such manner as to subject it to tax under Section 4944 of the Internal Revenue Code, as amended, or corresponding provisions of any subsequent federal laws;
 - e. the Corporation shall not make any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code, as amended, or corresponding provisions of any subsequent laws; and
 - f. the Corporation shall comply with all other restrictions applicable to a private foundation under Section 509(a) of the Internal Revenue Code, as amended, or corresponding provisions of any subsequent laws.
4. Upon dissolution, the board of directors shall distribute any assets remaining after paying or providing for the liabilities of the Company, to tax exempt organizations, or as may be required or permitted, under Section 501(c)(3) of the Internal Revenue Code, as amended.

ARTICLE 6

The Corporation may have members whose rights and duties shall be set forth in the bylaws.

ARTICLE 7

The street address of its initial registered office is 1100 E. Monroe St., Brownsville,

Texas, and the name of its initial registered agent as such address is County Judge Carlos H Cascos, CPA.

ARTICLE 8

The Corporation is governed by Chapter 507 of the Texas Local Government Code.

ARTICLE 9

Management of the affairs of the corporation shall be vested in the board of directors. The number of directors constituting the initial board of directors is seven. The names and addresses of the persons who are to serve as initial directors are as follows:

John Guevara
1805 Ruben Torres Blvd., Ste. B 28
Brownsville, Texas 78520

Yolanda De Leon
2313 W. Arbor St.
Harlingen, Texas 78550

Eddie Sikes
55 Cove Circle
Brownsville, Texas 78521

Christian Villarreal
1018 E. Tyler Ave.
Harlingen, Texas 78550

Robert Gracia
1408 Tesoro
Rancho Viejo, Texas 78575

Charlie Cabler
P.O. Box 911
Brownsville, Texas 78522

Nick Serafy, Jr.
205 W. Levee
Brownsville, Texas 78520

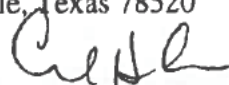
ARTICLE 10

To the fullest extent as is permitted by law, the Corporation shall indemnify any person who was, is, or is threatened to be named a defendant or respondent in any threatened, completed, or pending action, suit, or proceeding, whether civil or criminal, administrative, arbitative, or investigative, including any appeal of such action, suit, or proceeding, or any inquiry or investigation that could lead to such action, while a director or officer is or was serving at the request of the Corporation as a trustee, officer, director, partner, employee, agent, or any functionality of another foreign or domestic organization. The Corporation also may indemnify such person described in the preceding sentence and any other person to the fullest extent as may be permitted by law.

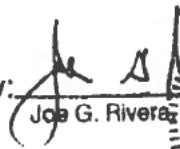
ARTICLE 11

The name and address of the organizer is:
County Judge Carlos H. Cascos, CPA

1100 E. Monroe St.
Brownsville, Texas 78520

By: 
County Judge, Carlos H. Cascos, CPA

Attested by:


Joe G. Rivera, County Clerk



Space Port Development Board Meeting

Thursday, May 21, 2020

Dancy Building- Commissioner's Courtroom

1100 E. Monroe St., Brownsville, TX 78520

Held via Telephone/Zoom- Meeting ID: 842 5924 1872 Password: 382464

Toll Free Number: 1-877-853-5257

12:00pm

Attendance:

Nick Serafy

Robert Gracia

John Guevara

Alma Waltzer

Yolanda De Leon

Mark Yates

Conrad Bodden

Absent:

Cristian Villarreal

Audience:

Teresa Loza

Melissa Elizardi

1. Call Meeting to Order

Mr. Serafy called meeting to order 12:01pm

2. Public Comments.

3. Approval of the Minutes of the regular Meeting of February 13, 2020.

Mr. Bodden motioned to approve minutes for February 13, 2020 meeting with the correction that he abstain on those minutes. Ms. De Leon seconded approval and was carried unanimously.

4. Report on the SPACEPORT TRUST FUND GRANT AGREEMENT with the Office of the Governor, Economic Development and Tourism Division ("OOG") effective January 8, 2015, with original deadline of March 31, 2018, with the OOG issuing a Spaceport Trust Fund Grant Policy Directive to Grantee extending the grant to August 31, 2018

Date: May 21, 2020

Time Start: 12:01

Time End: 12:21

Minutes taken by: Teresa Loza

and First Amendment extending the grant expenditure deadline two years to August 31, 2018.

The total grant awarded was 13 million; today's request is for 10.4 million but they submitted documents for 10.8 million. They submitted 10.8 million in case during an audit by the Office of the Governor (OOG) if they have an issue with an invoice they can remove it the invoice and immediately substitute it. Today's reimbursement request will completely exhaust this grant. The company made an economic investment and a hoping it will help them to lobby for additional incentive funding in January 2021. Since opening Space X has employed 850 employees and in the last 2 years they have expenditures and investments in the area of \$140 million- including their employees and infrastructure. They have plans expand their current facilities and are looking at real estate in the area.

- 5. Authorization to submit to the governor's office a request for reimbursement of funds spent in accordance with Office of the Governor, Economic Development and Tourism Division ("OOG") effective January 8, 2015, as amended.**

Recalling a previous discussion that the Governor's Office wanted us to verify that those expenditure were spent before the application goes to them. During that time County Engineer verified that certain materials were purchased. We are not getting verification by County Engineers like previously done.

As per Ms. Waltzer, the state has sent Nicole, from the Governor's Office, over the past 18-24 months to check the facilities and they have accommodated their request. They spot check them on reimbursement requests and random check on reports. They have undergone extensive audit process with the Governor's Office and were recently assigned a new Auditor, Mary York.

Discussed the board would agree to approve recommendation but not verify that is up to the Governor's office.

Mr. Bodden motioned recommendation to approve the submission of the request for reimbursement to the Office of the Governor. Seconded by Ms. De Leon.

Date: May 21, 2020

Time Start: 12:01

Time End: 12:21

Minutes taken by: Teresa Loza

6. Discussion and authorization to allow the Chairman and Vice-chair to sign the documents to convey funds upon receipt to the Space Exploration Corporation ("Space X") via wire transfer.

Mr. Serafy motioned to authorize Chairman and Vice-chair to sign documents for wire transfer. Motion was seconded by Mr. Gracia and Mr. Guevara.

Mr. Serfay would like to comment that this wire will deplete funds established and unless Commissioners Court opposes the Spaceport Corporation can stay together and meet four-times a year.

Mr. Mark Yates will follow up with the Office of the Governor if they will be required to review Quarterly and Annual reports.

Ms. De Leon motioned to stay together and review quarterly and annual reports. Seconded by Mr. Bodden.

7. Adjournment.

Date: May 21, 2020

Time Start: 12.01

Time End: 12:21

Minutes taken by: Teresa Loza

Cameron County Spaceport Development Corporation

September 19, 2013

Mr. Keith Graf
Office of the Governor
Aerospace and Aviation Division
Economic Development and Tourism
221 East 11th Street, 4th Floor
Austin, Texas 78701

Dear Mr. Graf:

Cameron County Spaceport Development Corporation (CCSDC) respectfully submits the proposal for the Texas Spaceport Trust Fund. The enclosed binder contains:

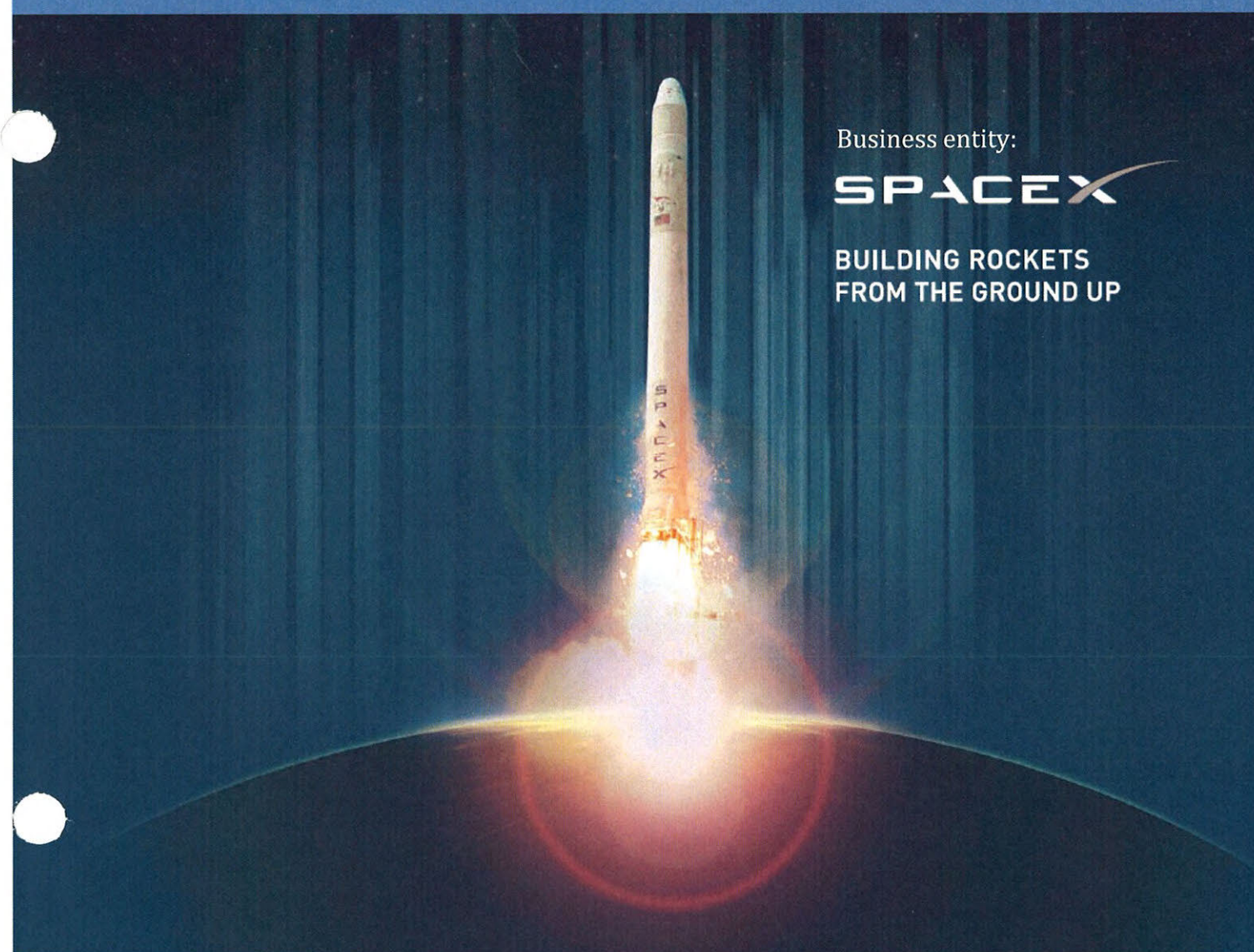
- Proposal demonstrating that the Project submitted herein is eligible to receive Spaceport Trust Fund grant by certifying that criteria of Local Government Code 507 and Government Code Section 481.0069
- CCSDC incorporation documents
- Space Exploration Technologies Corp. (Space X) incorporation documents and verification of good standing
- Status of permit application to Federal Aviation Administration (FAA)

Thank you for your consideration of this application. Please contact me at 956-982-5414 if you have any questions or concerns.

Sincerely,



Nick Serafy, Jr.
Chairman

A photograph of a SpaceX Falcon Heavy rocket launching, viewed from below. The rocket is white with black lettering, and a large, bright orange and yellow flame and smoke plume is visible at the base. The background is a dark blue sky with a thin, curved horizon line.

Business entity:

SPACEX

**BUILDING ROCKETS
FROM THE GROUND UP**

Proposal for Texas Spaceport Trust Fund

Respectfully submitted to:

Office of the Governor – Economic Development and Tourism
Aviation and Aerospace

By:

Cameron County Spaceport Development Corporation

September 19, 2013

Confidential & Proprietary

AUTHORIZED DEVELOPMENT CORPORATION

First Name: Nick

Last Name: Serafy

Title: Chairman, Board of Directors

Organization: Cameron County Spaceport Development Corporation

Street Address: 1100 E. Monroe Street Dancy Building

Mailing Address: 1100 E. Monroe Street Dancy Building, Second Floor

City: Brownsville

State: TX

Zip: 78250

Phone: 956-982-5414

Fax: 956-983-5099

Mobile: 956-571-5314

Website: www.co.cameron.tx.us

Email: nick@serafy.com

Development Corporation Background:

Is the corporation current on all obligations with the State of Texas? ☒ Yes ☐ No

Is there a pending claim of litigation against the corporation? ☐ Yes ☒ No

☒ Formation documents attached

ALLISON, BASS & ASSOCIATES, L.L.P.

Attorneys at Law

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402 WEST 12TH STREET
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JANA CLIFT WILLIAMS
j.williams@allison-bass.com

PHILLIP L. LEDBETTER
p.ledbetter@allison-bass.com

March 6, 2013

VIA OVERNIGHT DELIVERY

MAR - 7 2013

Bruce W. Hodge
Chief Counsel
Commissioners Court Civil Legal Division
1100 E. Monroe, (Historic Dancy Building)
Second Floor, Suite 222
Brownsville, Texas 78520

Re: Certificate of Formation of Cameron County Spaceport Development Corporation

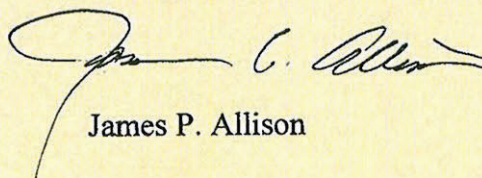
Dear Mr. Hodge:

Enclosed is a confirmation letter from the Office of the Secretary of State regarding the filing of the Certificate of Formation of Cameron County Spaceport Development Corporation, with a Certificate of Filing and an original Certificate of Formation of Cameron County Spaceport Development Corporation.

Please note that nonprofit corporations do not automatically qualify for an exemption from federal and state taxes. Shortly, the Comptroller of Public Accounts will be contacting the corporation at its registered office for information that will assist the Comptroller in setting up the franchise tax account for the corporation. Additionally, the corporation will not be required to file annual reports, but once every four years as requested by the Secretary; therefore, it is important for the Corporation to maintain a registered agent and office in Texas to which the Secretary of State will send a request to file a periodic report. Failure to do so may result in the involuntary termination of the Corporation.

When the Directors are ready to conduct the organizational meeting, we will be available to provide assistance as needed. Please contact me if you have any questions.

Sincerely,



James P. Allison

JPA/afb
Enclosures

cc: Members, Cameron County Commissioners Court
Pete Sepulveda, Jr., Cameron County Administrator



Office of the Secretary of State

March 05, 2013

Attn: James P. Allison

Allison, Bass & Associates, LLP
402 W 12th St
Austin, TX 78701 USA

RE: Cameron County Spaceport Development Corporation
File Number: 801744358

It has been our pleasure to file the certificate of formation and issue the enclosed certificate of filing evidencing the existence of the newly created nonprofit corporation.

Nonprofit corporations do not automatically qualify for an exemption from federal and state taxes. Shortly, the Comptroller of Public Accounts will be contacting the corporation at its registered office for information that will assist the Comptroller in setting up the franchise tax account for the corporation. Information about franchise tax, and contact information for the Comptroller's office, is available on their web site at <http://window.state.tx.us/taxinfo/franchise/index.html>. For information on state tax exemption, including applications and publications, visit the Comptroller's Exempt Organizations web site at <http://window.state.tx.us/taxinfo/exempt/index.html>. Information on exemption from federal taxes is available from the Internal Revenue Service web site at www.irs.gov.

Nonprofit corporations do not file annual reports with the Secretary of State, but do file a report not more often than once every four years as requested by the Secretary. It is important for the corporation to continuously maintain a registered agent and office in Texas as this is the address to which the Secretary of State will send a request to file a periodic report. Failure to maintain a registered agent or office in Texas, failure to file a change to the agent or office information, or failure to file a report when requested may result in the involuntary termination of the corporation. Additionally, a nonprofit corporation will file documents with the Secretary of State if the corporation needs to amend one of the provisions in its certificate of formation. If we can be of further service at any time, please let us know.

Sincerely,

Corporations Section
Business & Public Filings Division
(512) 463-5555
Enclosure



Office of the Secretary of State

CERTIFICATE OF FILING OF

Cameron County Spaceport Development Corporation
File Number: 801744358

The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Nonprofit Corporation has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 03/04/2013

Effective: 03/04/2013



A handwritten signature of John Steen in black ink.

John Steen
Secretary of State



FILED
In the Office of the
Secretary of State of Texas

MAR 04 2013

Corporations Section

**CERTIFICATE OF FORMATION OF
CAMERON COUNTY SPACEPORT DEVELOPMENT CORPORATION**

Pursuant to the provisions of Chapter 22 of the Texas Business Organizations Code, the undersigned Corporation adopts the following Certificate of Formation.

ARTICLE 1

The name of the Corporation is Cameron County Spaceport Development Corporation.

ARTICLE 2

The Corporation is a nonprofit corporation that is organized to exercise the powers and duties granted to a spaceport development corporation under Chapter 507, Texas Local Government Code, and for the transaction of any and all lawful acts for which nonprofit corporations may be incorporated under the Texas Non-Profit Corporation Act.

ARTICLE 3

The period of duration is perpetual.

ARTICLE 4

The purpose of the Corporation is to support the creation and development of a spaceport project in Cameron County, Texas, and for any lawful purpose permitted by the Nonprofit Law of the State of Texas; and exclusively for charitable, religious, scientific, literary, or educational purposes either directly or by contributions to organizations that qualify as exempt under section 501(c)(3) of the Internal Revenue Code and its Regulations as they now exist or as they may hereinafter be amended.

ARTICLE 5

1. No part of the net earnings of the Corporation shall inure to the benefit of any director of the Corporation, officer of the Corporation, or any private individual (except that reasonable compensation may be paid for services rendered to or for the Corporation affecting one or more of its purposes), and no director or officer of the Corporation, or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Corporation.
2. No substantial part of the activities of the Corporation shall be carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation

shall not participate in, or intervene in (including the publication or distribution of statements), any political campaign on behalf of any candidate for public office.

3. If the Corporation is classified as a private foundation under Section 509(a) of the Internal Revenue Code, as amended, or corresponding provisions of any subsequent law, then while so classified the Corporation shall comply with the following provisions:
 - a. the Corporation shall distribute its income for each taxable year at such time and in such manner as not to become subject to a tax on undistributed income imposed by Section 4942 of the Internal Revenue Code, as amended, or corresponding provisions of any subsequent federal laws;
 - b. the Corporation shall not engage in any act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code, as amended, or corresponding provisions of any subsequent federal laws;
 - c. the Corporation shall not retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code, as amended, or corresponding provisions of any subsequent federal laws;
 - d. the Corporation shall not make any investments in such manner as to subject it to tax under Section 4944 of the Internal Revenue Code, as amended, or corresponding provisions of any subsequent federal laws;
 - e. the Corporation shall not make any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code, as amended, or corresponding provisions of any subsequent laws; and
 - f. the Corporation shall comply with all other restrictions applicable to a private foundation under Section 509(a) of the Internal Revenue Code, as amended, or corresponding provisions of any subsequent laws.
4. Upon dissolution, the board of directors shall distribute any assets remaining after paying or providing for the liabilities of the Company, to tax exempt organizations, or as may be required or permitted, under Section 501(c)(3) of the Internal Revenue Code, as amended.

ARTICLE 6

The Corporation may have members whose rights and duties shall be set forth in the bylaws.

ARTICLE 7

The street address of its initial registered office is 1100 E. Monroe St., Brownsville,

Texas, and the name of its initial registered agent as such address is County Judge Carlos H Cascos, CPA.

ARTICLE 8

The Corporation is governed by Chapter 507 of the Texas Local Government Code.

ARTICLE 9

Management of the affairs of the corporation shall be vested in the board of directors. The number of directors constituting the initial board of directors is seven. The names and addresses of the persons who are to serve as initial directors are as follows:

John Guevara
1805 Ruben Torres Blvd., Ste. B 28
Brownsville, Texas 78520

Yolanda De Leon
2313 W. Arbor St.
Harlingen, Texas 78550

Eddie Sikes
55 Cove Circle
Brownsville, Texas 78521

Christian Villarreal
1018 E. Tyler Ave.
Harlingen, Texas 78550

Robert Gracia
1408 Tesoro
Rancho Viejo, Texas 78575

Charlie Cabler
P.O. Box 911
Brownsville, Texas 78522

Nick Serafy, Jr.
205 W. Levee
Brownsville, Texas 78520

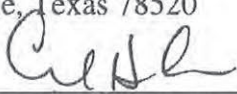
ARTICLE 10

To the fullest extent as is permitted by law, the Corporation shall indemnify any person who was, is, or is threatened to be named a defendant or respondent in any threatened, completed, or pending action, suit, or proceeding, whether civil or criminal, administrative, arbitrative, or investigative, including any appeal of such action, suit, or proceeding, or any inquiry or investigation that could lead to such action, while a director or officer is or was serving at the request of the Corporation as a trustee, officer, director, partner, employee, agent, or any functionality of another foreign or domestic organization. The Corporation also may indemnify such person described in the preceding sentence and any other person to the fullest extent as may be permitted by law.

ARTICLE 11

The name and address of the organizer is:
County Judge Carlos H. Cascos, CPA

1100 E. Monroe St.
Brownsville, Texas 78520

By: 
County Judge, Carlos H. Cascos, CPA

Attested by:



BASIS OF ELIGIBILITY

Cameron County Spaceport Development Corporation, in collaboration with the eligible Business Entity, Space Exploration Technologies Corp., presents the following proposal demonstrating that the Project submitted herein is eligible to receive Spaceport Trust Fund grant by certifying that all of the following criteria have been met:

- I. ☒ Documentation of viability of Business Entity
- II. ☒ Business Plan demonstrating Business Entity's financial, managerial, and technical capability necessary to launch and land a reusable launch vehicle (page 5)
- III. ☒ Certification by Texas Economic Development and Tourism office that the Business Entity has committed to locating its facilities at a spaceport in Texas
 - a. Application submitted: July 18, 2013
- IV. ☒ Development plan for spaceport facilities as defined under Local Government Code 507 (page 10):
 - a. Approved by Cameron County Spaceport Development Corporation: July 22, 2013
- V. ☒ 75% of the funding required for the project is secured (page 13)
- VI. ☒ Federal Aviation Administration permit or license, or other appropriate authorization:
 - a. ☐ permit; or
 - b. ☒ application by Spaceport or Launch Operator (status enclosed)

Delaware

PAGE 1

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE RESTATED CERTIFICATE OF "SPACE EXPLORATION TECHNOLOGIES CORP.", FILED IN THIS OFFICE ON THE TWENTY-SEVENTH DAY OF MARCH, A.D. 2012, AT 2:22 O'CLOCK P.M.

3500808 8100

121017830

You may verify this certificate online
at corp.delaware.gov/authver.shtml




Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 9838049

DATE: 09-11-12

AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION

OF

SPACE EXPLORATION TECHNOLOGIES CORP.

The undersigned, Elon Musk, hereby certifies that:

1. The undersigned is the duly elected Chief Executive Officer of Space Exploration Technologies Corp., a Delaware corporation.
2. The Certificate of Incorporation of this corporation was originally filed with the Secretary of State of Delaware on March 14, 2002.
3. The Certificate of Incorporation of this corporation shall be amended and restated to read in full as follows:

ARTICLE I.

The name of this corporation is Space Exploration Technologies Corp. (the "Corporation").

ARTICLE II.

The address of the Corporation's registered office in the State of Delaware is 2711 Centerville Road, Suite 400, Wilmington, County of New Castle. The name of its registered agent at such address is Corporation Service Company.

ARTICLE III.

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

ARTICLE IV.

(A) Classes of Stock. The Corporation is authorized to issue four classes of stock to be designated, respectively, "*Class A Common Stock*," "*Class B Common Stock*," "*Class C Common Stock*" and "*Preferred Stock*." The total number of shares which the Corporation is authorized to issue is four hundred seventy-six million seven hundred fifty thousand (476,750,000) shares, each with a par value of \$0.001 per share. One hundred seventy-five million (175,000,000) shares shall be Class A Common Stock, one hundred fifty million (150,000,000) shares shall be Class B Common Stock, fifty million (50,000,000) shares shall be Class C Common Stock and one hundred and one million seven hundred fifty thousand (101,750,000) shares shall be Preferred Stock. As used in this Amended and Restated Certificate of Incorporation, "*Common Stock*" shall refer collectively to the Class A Common Stock, the Class B Common Stock and the Class C Common Stock, each as applicable.

Upon the acceptance of this Amended and Restated Certificate of Incorporation for filing with the Secretary of State of the State of Delaware (the "*Effective Time*"), each share of Common Stock of the Company outstanding immediately prior to the Effective Time shall, without any further action by any stockholder, be redesignated as, and shall become, one share of Class B Common Stock. Any stock certificate that immediately prior to the Effective Time represented shares of the Corporation's Common Stock shall from and after the Effective Time be deemed to represent shares of Class B Common Stock, without the need for surrender or exchange thereof.

(B) **Rights, Preferences and Restrictions of Preferred Stock.** The Preferred Stock authorized by this Amended and Restated Certificate of Incorporation may be issued from time to time in one or more series. Of the authorized Preferred Stock, sixty-one million (61,000,000) shares shall be designated "*Series A Preferred Stock*", five million five hundred thousand (5,500,000) shares shall be designated "*Series B Preferred Stock*", ten million five hundred thousand (10,500,000) shares shall be designated "*Series C Preferred Stock*", seven million five hundred thousand (7,500,000) shares shall be designated "*Series D Preferred Stock*", ten million five hundred thousand (10,500,000) shares shall be designated "*Series E Preferred Stock*", and six million seven hundred fifty thousand (6,750,000) shares shall be designated "*Series F Preferred Stock*" (individually and collectively, the Series A Preferred Stock, the Series B Preferred Stock, the Series C Preferred Stock, the Series D Preferred Stock, the Series E Preferred Stock, and the Series F Preferred Stock are referred to as the "*Series Preferred Stock*"). The rights, preferences, privileges, and restrictions granted to and imposed on the Series Preferred Stock are as set forth below in this Article IV(B). Any shares of Preferred Stock that may be redeemed, purchased or acquired by the Corporation may be reissued except as otherwise provided by law or by the terms of any series of Preferred Stock.

1. **Dividend Provisions.** Subject to the rights of series of Preferred Stock which may from time to time come into existence, the holders of shares of Series Preferred Stock shall be entitled to receive dividends, out of any assets legally available therefor, prior and in preference to any declaration or payment of any dividend (payable other than in a class of Common Stock or other securities and rights convertible into or entitling the holder thereof to receive, directly or indirectly, additional shares of a class of Common Stock of the Corporation) on any class of Common Stock of the Corporation, at the following rates:

(a) Holders of shares of Series A Preferred Stock shall be entitled to receive \$0.05 per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series A Preferred Stock.

(b) Holders of shares of Series B Preferred Stock shall be entitled to receive \$0.10 per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series B Preferred Stock.

(c) Holders of shares of Series C Preferred Stock shall be entitled to receive \$0.15 per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series C Preferred Stock.

(d) Holders of shares of Series D Preferred Stock shall be entitled to receive \$0.194 per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series D Preferred Stock.

(e) Holders of shares of Series E Preferred Stock shall be entitled to receive \$0.225 per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series E Preferred Stock.

(f) Holders of shares of Series F Preferred Stock shall be entitled to receive \$0.375 per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Series F Preferred Stock.

Any such dividends shall be payable when, as and if declared by the Board of Directors. Such dividends shall not be cumulative. Subject to the rights of series of Preferred Stock that may from time to time come into existence, any dividends paid to the holders of shares of Series Preferred Stock shall be paid pro rata, on an equal priority, pari passu basis (according to the aggregate amount of all declared and unpaid dividends on all Series Preferred Stock) in accordance with the provisions set forth in this Article IV(B)1.

2. Liquidation.

(a) Preference.

(i) Series E and F Preferred Stock. In the event of any liquidation, dissolution or winding up of the Corporation, either voluntary or involuntary, subject to the rights of series of Preferred Stock that may from time to time come into existence and prior and in preference to any distribution of any of the assets of the Corporation to the holders of the Series A Preferred Stock, the Series B Preferred Stock, the Series C Preferred Stock, the Series D Preferred Stock, or any class of Common Stock by reason of their ownership thereof: (y) the holders of the Series E Preferred Stock by reason of their ownership thereof shall be entitled to receive an amount per share equal to \$4.50 per share (as adjusted for stock splits, stock dividends, reclassification and the like) for each share of Series E Preferred Stock then held by them, plus declared but unpaid dividends (the "*Series E Preferred Stock Liquidation Preference*"); and (z) the holders of the Series F Preferred Stock by reason of their ownership thereof shall be entitled to receive an amount per share equal to the greater of (A) \$7.50 per share (as adjusted for stock splits, stock dividends, reclassification and the like) for each share of Series F Preferred Stock then held by them, plus declared but unpaid dividends and (B) the amount to which such holders would be entitled to receive upon such liquidation, dissolution or winding up of the Corporation (including, without limitation, any such deemed liquidation events as provided in Section 2(c)(i)) if all outstanding shares of Series F Preferred Stock were converted into shares of Class B Common Stock and all outstanding shares of Class C Common Stock were converted into Class A Common Stock, in each case, immediately prior to such liquidation, dissolution or winding up of the Corporation. If, upon the occurrence of such event, the assets and funds thus distributed among the holders of the Series E and F Preferred Stock by reason of their ownership thereof shall be insufficient to permit the payment to such holders of the full aforesaid preferential amounts, then, subject to the rights of series of Preferred Stock that may from time to time come into existence, the entire assets and funds of the Corporation legally

available for distribution shall be distributed among the holders of the Series E and F Preferred Stock ratably, on an equal priority, pari passu basis, in proportion to the preferential amount each such holder is otherwise entitled to receive.

(ii) **Series D Preferred Stock.** In the event of any liquidation, dissolution or winding up of the Corporation, either voluntary or involuntary, subject to the rights of series of Preferred Stock that may from time to time come into existence, after full payment of the Series E and F Preferred Stock liquidation preference described in Section 2(a)(i) above, and prior and in preference to any distribution of any of the assets of the Corporation to the holders of the Series A Preferred Stock, the Series B Preferred Stock, the Series C Preferred Stock or any class of Common Stock by reason of their ownership thereof, the holders of the Series D Preferred Stock by reason of their ownership thereof shall be entitled to receive an amount per share equal to the greater of (A) \$7.76 per share (as adjusted for stock splits, stock dividends, reclassification and the like) for each share of Series D Preferred Stock then held by them, plus declared but unpaid dividends and (B) the amount to which such holders would be entitled to receive upon such liquidation, dissolution or winding up of the Corporation (including, without limitation, any such deemed liquidation events as provided in Section 2(c)(i)) if all outstanding shares of Series D Preferred Stock were converted into shares of Class B Common Stock and all outstanding shares of Class C Common Stock were converted into Class A Common Stock, in each case, immediately prior to such liquidation, dissolution or winding up of the Corporation. If, upon the occurrence of such event, the assets and funds thus distributed among the holders of the Series D Preferred Stock by reason of their ownership thereof shall be insufficient to permit the payment to such holders of the full aforesaid preferential amounts, then, subject to the rights of series of Preferred Stock that may from time to time come into existence, the entire assets and funds of the Corporation legally available for distribution shall be distributed among the holders of the Series D Preferred Stock ratably, on an equal priority, pari passu basis, in proportion to the preferential amount each such holder is otherwise entitled to receive.

(iii) **Series A, B and C Preferred Stock.** In the event of any liquidation, dissolution or winding up of the Corporation, either voluntary or involuntary, subject to the rights of series of Preferred Stock that may from time to time come into existence and after full payment of the Series E and F Preferred Stock liquidation preference described in Section 2(a)(i) above and the Series D Preferred Stock liquidation preference described in Section 2(a)(ii) above, prior and in preference to any distribution of any of the assets of the Corporation to the holders of any class of Common Stock by reason of their ownership thereof, (x) the holders of the Series A Preferred Stock by reason of their ownership thereof shall be entitled to receive an amount per share equal to the greater of (A) \$1.00 per share (as adjusted for stock splits, stock dividends, reclassification and the like) for each share of Series A Preferred Stock then held by them, plus declared but unpaid dividends and (B) the amount to which such holders would be entitled to receive upon such liquidation, dissolution or winding up of the Corporation (including, without limitation, any such deemed liquidation events as provided in Section 2(c)(i)) if all outstanding shares of Series A Preferred Stock were converted into shares of Class B Common Stock and all outstanding shares of Class C Common Stock were converted into Class A Common Stock, in each case, immediately prior to such liquidation, dissolution or winding up of the Corporation, (y) the holders of the Series B Preferred Stock by reason of their ownership thereof shall be entitled to receive an amount per share equal to the greater of (A) \$2.00 per share

(as adjusted for stock splits, stock dividends, reclassification and the like) for each share of Series B Preferred Stock then held by them, plus declared but unpaid dividends and (B) the amount to which such holders would be entitled to receive upon such liquidation, dissolution or winding up of the Corporation (including, without limitation, any such deemed liquidation events as provided in Section 2(c)(i)) if all outstanding shares of Series B Preferred Stock were converted into shares of Class B Common Stock and all outstanding shares of Class C Common Stock were converted into Class A Common Stock, in each case, immediately prior to such liquidation, dissolution or winding up of the Corporation, and (z) the holders of the Series C Preferred Stock by reason of their ownership thereof shall be entitled to receive an amount per share equal to the greater of (A) \$3.00 per share (as adjusted for stock splits, stock dividends, reclassification and the like) for each share of Series C Preferred Stock then held by them, plus declared but unpaid dividends and (B) the amount to which such holders would be entitled to receive upon such liquidation, dissolution or winding up of the Corporation (including, without limitation, any such deemed liquidation events as provided in Section 2(c)(i)) if all outstanding shares of Series C Preferred Stock were converted into shares of Class B Common Stock and all outstanding shares of Class C Common Stock were converted into Class A Common Stock, in each case, immediately prior to such liquidation, dissolution or winding up of the Corporation. If, upon the occurrence of such event, the assets and funds thus distributed among the holders of the Series A Preferred Stock, the Series B Preferred Stock and the Series C Preferred Stock by reason of their ownership thereof shall be insufficient to permit the payment to such holders of the full aforesaid preferential amounts, then, subject to the rights of series of Preferred Stock that may from time to time come into existence, the entire assets and funds of the Corporation legally available for distribution shall be distributed among the holders of the Series A Preferred Stock, the Series B Preferred Stock and the Series C Preferred Stock ratably, on an equal priority, *pari passu* basis, in proportion to the preferential amount each such holder is otherwise entitled to receive.

(b) Remaining Assets. Upon the completion of the distributions required by Section 2(a) above and any other distribution that may be required with respect to series of Preferred Stock that may from time to time come into existence, if assets remain in the Corporation, the holders of the Series E Preferred Stock shall receive, prior and in preference to any distribution of any of the assets of the Corporation to the holders of any class of Common Stock by reason of their ownership thereof, an additional distribution of such assets (the "*Series E Participation Amount*") equal to the Series E Participation Percentage multiplied by the amount of such remaining assets. "*Series E Participation Percentage*" shall equal the proportion of the total number of outstanding shares of any class of Common Stock represented by the outstanding shares of Series E Preferred Stock, with the shares of Series E Preferred Stock being treated for this purpose as if they had been converted to shares of Class B Common Stock at the then applicable Conversion Rate.

(c) Certain Acquisitions.

(i) Deemed Liquidation. Without the consent of the holders of a majority of the Preferred Stock, the Corporation shall not (A) sell, convey, or otherwise dispose of all or substantially all of its property or business (determined on a consolidated basis with all of the Corporation's Subsidiaries), (B) merge with or into or consolidate with any other corporation, limited liability company or other entity (other than a merger with a wholly-owned

subsidiary corporation in which the Corporation is the surviving corporation, the terms of the Series Preferred Stock are not changed and the Series Preferred Stock is not exchanged for other securities, cash or other property) or (C) effect any other transaction or series of related transactions in which more than fifty percent (50%) of the voting power of the Corporation is disposed of, unless the holders of Preferred Stock receive in connection therewith consideration in an amount equal to the amount they would receive pursuant to Section 2(a) if such event constituted a liquidation of the Corporation; provided however, that, subject to the rights of series of Preferred Stock that may from time to time come into existence, (x) without the consent of the holders of at least two-thirds (2/3) of the then outstanding shares of Series F Preferred Stock, the holders of the Series F Preferred Stock by reason of their ownership thereof shall not receive consideration in connection with such event in an amount less than the amount they would receive pursuant to Section 2(a) if such event constituted a liquidation of the Corporation, (y) without the consent of the holders of a majority of the then outstanding shares of Series E Preferred Stock, the holders of the Series E Preferred Stock by reason of their ownership thereof shall not receive consideration in connection with such event in an amount less than the amount they would receive pursuant to Section 2(a) if such event constituted a liquidation of the Corporation, and (z) without the consent of the holders of a majority of the then outstanding shares of Series D Preferred Stock, the holders of the Series D Preferred Stock by reason of their ownership thereof shall not receive consideration in connection with such event in an amount less than the amount they would receive pursuant to Section 2(a) if such event constituted a liquidation of the Corporation; provided further, that this Section 2(c)(i) shall not apply to (i) a merger effected exclusively for the purpose of changing the domicile of the Corporation, (ii) an equity financing in which the Corporation is the surviving corporation, or (iii) a transaction in which the stockholders of the Corporation immediately prior to the transaction continue to own 50% or more of the voting power of the surviving corporation following the transaction. For purposes of this Amended and Restated Certificate of Incorporation, "*Subsidiary*" shall mean with respect to the Corporation, any corporation, limited liability company, partnership, association or other business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by the Corporation or one or more other Subsidiaries or a combination thereof, or (ii) if a limited liability company, partnership, association or other business entity, a majority of the partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by the Corporation or one or more other Subsidiaries or a combination thereof.

(ii) Valuation of Consideration. In the event of a deemed liquidation as described in Section 2(c)(i) above, if the consideration received by the Corporation is other than cash, its value will be deemed its fair market value. Any securities shall be valued as follows:

(A) Securities not subject to investment letter or other similar restrictions on free marketability;

(1) If traded on a securities exchange, the value shall be deemed to be the average of the closing prices of the securities on such exchange over the thirty-day period ending three (3) days prior to the closing;

(2) If actively traded over-the-counter, the value shall be deemed to be the average of the closing bid or sale prices (whichever is applicable) over the thirty-day period ending three (3) days prior to the closing; and

(3) If there is no active public market, the value shall be the fair market value thereof, as mutually determined by the Board of Directors of the Corporation and the holders of at least a majority of the voting power of all then outstanding shares of Preferred Stock.

(B) The method of valuation of securities subject to investment letter or other restrictions on free marketability (other than restrictions arising solely by virtue of a stockholder's status as an affiliate or former affiliate) shall be to make an appropriate discount from the market value determined as above in Section 2(c)(ii)(A) to reflect the approximate fair market value thereof, as mutually determined by the Corporation and the holders of at least a majority of the voting power of all then outstanding shares of Preferred Stock.

(iii) **Notice of Transaction.** The Corporation shall give each holder of record of Preferred Stock written notice of such impending transaction not later than ten (10) days prior to the stockholders' meeting called to approve such transaction, or ten (10) days prior to the closing of such transaction, whichever is earlier, and shall also notify such holders in writing of the final approval of such transaction. The first of such notices shall describe the material terms and conditions of the impending transaction and the provisions of this Section 2, and the Corporation shall thereafter give such holders prompt notice of any material changes. The transaction shall in no event take place sooner than ten (10) days after the Corporation has given the first notice provided for herein or sooner than ten (10) days after the Corporation has given notice of any material changes provided for herein; provided, however, that such periods may be shortened upon the written consent of the holders of Preferred Stock that are entitled to such notice rights or similar notice rights and that represent at least a majority of the voting power of all then outstanding shares of such Preferred Stock.

(iv) **Effect of Noncompliance.** In the event the requirements of this Section 2(c) are not complied with, the Corporation shall forthwith either cause the closing of the transaction to be postponed until such requirements have been complied with, or cancel such transaction, in which event the rights, preferences and privileges of the holders of Preferred Stock shall revert to and be the same as such rights, preferences and privileges existing immediately prior to the date of the first notice referred to in Section 2(c)(iii) hereof.

3. **Redemption.**

(a) **General Restriction.** The Preferred Stock (other than the Series E Preferred Stock) is not redeemable.

(b) **Series E Preferred Stock.**

(i) At any time, and from time to time, on or after March 18, 2014, upon the written election of the holders of at least twenty percent (20%) of the then outstanding Series E Preferred Stock (the "*Redemption Election*"), the Corporation shall

redeem, out of funds legally available therefor, all (but not less than all, except to the extent provided below) outstanding shares of Series E Preferred Stock of such holders. The Corporation shall redeem the shares of Series E Preferred Stock on the forty-fifth (45th) day following receipt of such written election (the date of such redemption, the "*Redemption Date*") by paying in cash an amount per share equal to the greater of (i) 200% of the Series E Preferred Stock Liquidation Preference, or (ii) the Fair Market Value (as defined below) of a share of Series E Preferred Stock (the "*Redemption Price*").

(ii) "*Fair Market Value*" for purposes of a redemption pursuant to subsection (i) of this Section 3(b), is (y) the amount agreed upon in good faith by the Board of Directors of the Corporation and the representative of the holders participating in such redemption (the "*Representative*"), not less than thirty (30) days prior to the Redemption Date for such redemption, or (z) if such agreement is not reached, the amount determined by an independent appraiser (the "*Appraiser*") selected by the Corporation and the Representative not less than twenty-five (25) days prior to such Redemption Date. The "*Representative*" shall be a holder participating in such redemption selected by the holders of a majority-in-interest of the shares to be redeemed in such redemption. The Corporation and the Representative or the Appraiser, as applicable, shall take into account, in determining the Fair Market Value, all relevant facts and circumstances; provided, however, that there shall be no discount to reflect the fact that the shares represent a minority interest in the Corporation or that the shares are not freely tradable.

(iii) Within five (5) days of determination of the Fair Market Value in connection with a Redemption Election, the Corporation shall provide each holder of record (at the close of business on the business day next preceding the day on which notice is given) of the Series E Preferred Stock (other than the holders that provided the Redemption Election), with a notice notifying such holder of (i) the Redemption Election, and the Redemption Date, the Redemption Price and the number of shares subject to the Redemption Election, and (ii) such holder's right to participate in the redemption pursuant to the Redemption Election (the "*Redemption Notification*"). Each such holder shall have the right, during the ten (10) day period commencing on the date of the Redemption Notification, to elect by written notice to the Corporation to require the Corporation to redeem, out of funds legally available therefore, all (but not less than all, except to the extent provided below) outstanding shares of Series E Preferred Stock of such holder, as part of the redemption pursuant to the Redemption Election.

(iv) At least ten (10) days prior to the Redemption Date, notice shall be provided to each holder of record (at the close of business on the business day next preceding the day on which notice is given) of the Series E Preferred Stock to be redeemed pursuant to the Redemption Election, including holders participating in the redemption pursuant to Section 3(b)(iii), at the address last shown on the records of the Corporation for such holder, notifying such holder of the redemption to be effected, specifying the number of shares to be redeemed from such holder, the Redemption Date, the Redemption Price and the place at which payment may be obtained and calling upon such holder to surrender to the Corporation, in the manner and at the place designated, such holder's certificate or certificates representing the shares to be redeemed (the "*Redemption Notice*"). Except as provided herein, on or after the Redemption Date, each holder of Series E Preferred Stock to be redeemed shall surrender to the

Corporation the certificate or certificates representing such shares, in the manner and at the place designated in the Redemption Notice, and thereupon the Redemption Price of such shares shall be payable to the order of the person whose name appears on such certificate or certificates as the owner thereof and each surrendered certificate shall be cancelled. If less than all the shares represented by any such certificate are redeemed, a new certificate shall be issued representing the unredeemed shares.

(v) From and after the applicable Redemption Date, unless there has been a default in payment of the Redemption Price, all rights of the holders of shares of Series E Preferred Stock designated for redemption in the Redemption Notice (except the right to receive the Redemption Price without interest upon surrender of their certificate or certificates) shall cease with respect to the shares designated for redemption on such date, and such shares shall not thereafter be transferred on the books of the Corporation or be deemed to be outstanding for any purpose whatsoever. If the funds of the Corporation legally available for redemption of shares of Series E Preferred Stock on any Redemption Date are insufficient to redeem the total number of shares of Series E Preferred Stock to be redeemed on such date, those funds which are legally available will be used to redeem the maximum possible number of such shares ratably among the holders of such shares to be redeemed based upon their holdings of Series E Preferred Stock. The shares of Series E Preferred Stock not redeemed shall remain outstanding and entitled to all the rights and preferences provided herein. At any time thereafter when additional funds of the Corporation are legally available for the redemption of shares of Series E Preferred Stock, such funds will immediately be used to redeem the balance of the shares which the Corporation has become obliged to redeem on any Redemption Date, but which it has not redeemed.

4. Conversion. The holders of Preferred Stock shall have conversion rights as follows (the "Conversion Rights");

(a) Right to Convert. Subject to and in compliance with the provisions of this Section 4, any shares of Preferred Stock may, at the option of the holder, be converted at any time into fully-paid and nonassessable shares of Class B Common Stock. The number of shares of Class B Common Stock to which a holder of Preferred Stock shall be entitled upon conversion shall be the product obtained by multiplying the Conversion Rate (as defined below) that is applicable to each series of Preferred Stock that is then in effect by the number of shares of the applicable series of Preferred Stock being so converted. The conversion rate in effect at any time for conversion of any series of the Preferred Stock (as used herein, the "Conversion Rate") shall be the quotient obtained by dividing the Initial Price (as defined below) of the applicable series of Preferred Stock being converted by the Conversion Price (as defined below and subject to the adjustments described below) in effect on the date of such conversion that is applicable to such series of Preferred Stock being converted. The Initial Price and Conversion Price per share for each series of Series Preferred Stock shall initially be as follows: (i) an Initial Price of \$1.00 per share and an initial Conversion Price of \$1.00 per share for the Series A Preferred Stock, (ii) an Initial Price of \$2.00 per share and an initial Conversion Price of \$2.00 per share for the Series B Preferred Stock, (iii) an Initial Price of \$3.00 per share and an initial Conversion Price of \$3.00 per share for the Series C Preferred Stock, (iv) an Initial Price of \$3.88 per share and an initial Conversion Price of \$3.88 per share for the Series D Preferred Stock, (v) an Initial Price of \$4.50 per share and an initial Conversion Price of \$4.50

per share for the Series E Preferred Stock, and (vi) an Initial Price of \$7.50 per share and an initial Conversion Price of \$7.50 per share for the Series F Preferred Stock. The initial Conversion Price of each series of Preferred Stock shall be subject to any adjustments pursuant to the terms of Section 4(d) below.

(b) Automatic Conversion.

(i) Election of Holders of Preferred. Each share of Preferred Stock (other than Series E Preferred Stock) shall automatically be converted into shares of Class B Common Stock at the Conversion Rate at the time in effect for such share immediately upon the date specified by written consent or agreement of the holders of a majority of the then outstanding shares of Preferred Stock (excluding the Series E Preferred Stock). Each share of Series E Preferred Stock shall automatically be converted into shares of Class B Common Stock at the Conversion Rate at the time in effect for such share immediately upon the date specified by written consent or agreement of the holders of at least 80% of the then outstanding shares of Series E Preferred Stock.

(ii) IPO.

(A) Each share of Preferred Stock (other than Series E Preferred Stock) shall automatically be converted into shares of Class B Common Stock at the Conversion Rate at the time in effect for such share immediately upon the Corporation's sale of its shares of any class of Common Stock in a firm commitment underwritten public offering pursuant to a registration statement under the Securities Act of 1933, as amended (the "*Securities Act*") (A) in which the pre-public offering market capitalization of the Corporation is at least \$200,000,000 (as determined by multiplying all capital stock of the Corporation on a fully diluted basis (including options and warrants and convertible instruments then exercisable or convertible, as applicable, for capital stock of the Corporation) prior to the public offering by the price per share offered to the public as of the closing date of the public offering (the "*Offering Price*"), and (B) which results in aggregate cash proceeds to the Corporation of not less than \$25,000,000 (net of underwriting discounts and commissions) (the "*Qualified IPO*").

(B) Each share of Series E Preferred Stock shall automatically be converted into shares of Class B Common Stock at the rate equal to the IPO Conversion Rate immediately upon the effectiveness of the Qualified IPO. The "*IPO Conversion Rate*" is the rate equal to the greater of (i) the Conversion Rate for the Series E Preferred Stock and (ii) the rate determined by dividing (A) 200% of the Series E Preferred Stock Liquidation Preference by (B) the Offering Price.

(c) Mechanics of Conversion. Before any holder of Preferred Stock shall be entitled to convert the same into shares of Class B Common Stock, he shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or of any transfer agent for such Preferred Stock, and shall give written notice to the Corporation at its principal corporate office, of the election to convert the same and shall state therein the name or names in which the certificate or certificates for shares of Class B Common Stock are to be issued. The Corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Preferred Stock, or to the nominee or nominees of such holder, a certificate or

certificates for the number of shares of Class B Common Stock to which such holder shall be entitled as aforesaid. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of such Preferred Stock to be converted, and the person or persons entitled to receive the shares of Class B Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Class B Common Stock as of such date. If the conversion is in connection with an underwritten offering of securities registered pursuant to the Securities Act the conversion may, at the option of any holder tendering such Preferred Stock for conversion, be conditioned upon the closing with the underwriters of the sale of securities pursuant to such offering, in which event the person(s) entitled to receive Class B Common Stock upon conversion of such Preferred Stock shall not be deemed to have converted such Preferred Stock until immediately prior to the closing of such sale of securities.

(d) **Conversion Price Adjustments of Preferred Stock for Certain Dilutive Issuances, Splits and Combinations.** The Conversion Price of the Preferred Stock shall be subject to adjustment from time to time as follows:

(i) **Issuance of Additional Stock below Conversion Price.** If the Corporation shall issue, after the date upon which any shares of one or more series of Preferred Stock were first issued (the "**Purchase Date**" with respect to any such series), any Additional Stock (as defined below) without consideration or for a consideration per share less than the Conversion Price for any such series in effect immediately prior to the issuance of such Additional Stock, the Conversion Price for any such series in effect immediately prior to each such issuance shall automatically be adjusted as set forth in this Section 4(d)(i), unless otherwise provided in this Section 4(d)(i).

(A) **Adjustment Formula.** Whenever the Conversion Price of a series of Preferred Stock is adjusted pursuant to this Section 4(d)(i), the new Conversion Price for such series of Preferred Stock shall be determined by multiplying the Conversion Price then in effect for such series by a fraction, (x) the numerator of which shall be the aggregate number of shares of all classes of Common Stock outstanding immediately prior to such issuance (the "**Outstanding Common**") plus the number of shares of the applicable class of Common Stock that the aggregate consideration received by the Corporation for such issuance would purchase at such Conversion Price; and (y) the denominator of which shall be the number of shares of Outstanding Common plus the number of shares of such Additional Stock. For the purposes of the foregoing calculation, the term "Outstanding Common" shall include shares of any class of Common Stock deemed issued pursuant to Section 4(d)(i)(E) below.

(B) **Definition of "Additional Stock"**. For purposes of this Section 4(d)(i), "**Additional Stock**" shall mean any shares of any class of Common Stock issued (or deemed to have been issued pursuant to Section 4(d)(i)(E)) by the Corporation after the applicable Purchase Date other than:

(1) Common Stock issued pursuant to a transaction described in Section 4(d)(ii) hereof,

(2) Shares of any class of Common Stock issuable or issued to employees, consultants or directors of the Corporation and its Subsidiaries directly or pursuant to stock option plans, restricted stock plans, options or other agreements or arrangements approved by the Board of Directors of the Corporation; provided, however, that such shares of Common Stock shall not exceed (y) such number of shares of Common Stock issued or deemed issued prior to the Effective Time plus (z) an aggregate of 10,200,000 shares of Common Stock (as adjusted for any stock splits, stock dividends, combinations, recapitalizations or the like effected subsequent to the Effective Time); provided, further, that the sum of such numbers of shares in clauses (y) and (z) above shall be increased to reflect any shares of any class of Common Stock that (i) were not actually issued pursuant to options issued under such plans, options, agreements or arrangements as a result of the cancellation, termination or forfeiture of such options prior to exercise, or (ii) were repurchased or reacquired by the Corporation from employees, consultants or directors pursuant to plans, options, agreements or arrangements which permit the Corporation to repurchase or reacquire such shares,

(3) Capital stock, or options or warrants to purchase capital stock, issued to financial institutions, vendors, lenders, purchasers of the Corporation's debt securities, or lessors in connection with commercial credit arrangements, equipment financings, loans and other debt financing transactions, commercial property lease transactions or similar transactions, the terms of which are approved by the Board of Directors of the Corporation,

(4) Shares of any class of Common Stock or Preferred Stock issuable upon exercise of options, warrants, notes or other rights to acquire securities of the Corporation outstanding as of the date of this Amended and Restated Certificate of Incorporation,

(5) Capital stock or warrants or options to purchase capital stock issued in connection with bona fide acquisitions, mergers, acquisitions of assets, joint venture agreements or similar transactions, the terms of which are approved by the Board of Directors of the Corporation,

(6) Shares of Class A Common Stock issued or issuable upon conversion of shares of Senior Common Stock that are currently outstanding or issued hereafter,

(7) Shares of Class B Common Stock issued or issuable upon conversion of Series Preferred Stock after taking into account the operation of Section 4(d)(i)(E)(3), below,

(8) Shares of Class C Common Stock issued or issuable upon conversion or exchange of shares of any other class of Common Stock that are currently outstanding or issued hereafter,

(9) Shares of Class A Common Stock issued or issuable upon conversion of shares of any other class of Common Stock that are currently outstanding or issued hereafter,

(10) Capital stock or warrants or options to purchase capital stock issued in connection with joint ventures, development projects, strategic alliances or other partnering arrangements, or in connection with sponsored research, collaboration, technology license, development, OEM, marketing or other similar agreements, the terms of which are approved by the Board of Directors of the Corporation, and

(11) Shares of any class of Common Stock issued or issuable in a public offering prior to or in connection with which all outstanding shares of Preferred Stock will be converted to Class B Common Stock.

(C) No Fractional Adjustments. No adjustment of the Conversion Price for a series of Preferred Stock shall be made in an amount less than one cent per share, provided that any adjustments which are not required to be made by reason of this sentence shall be carried forward and shall be either taken into account in any subsequent adjustment made prior to three years from the date of the event giving rise to the adjustment being carried forward, or shall be made at the end of three years from the date of the event giving rise to the adjustment being carried forward.

(D) Determination of Consideration. In the case of the issuance of shares of any class of Common Stock for cash, the consideration shall be deemed to be the amount of cash paid therefor before deducting any reasonable discounts, commissions or other expenses allowed, paid or incurred by the Corporation for any underwriting or otherwise in connection with the issuance and sale thereof. In the case of the issuance of shares of a class of Common Stock for a consideration in whole or in part other than cash, the consideration other than cash shall be deemed to be the fair value thereof as determined by the Board of Directors of the Corporation in its reasonable good faith judgment irrespective of any accounting treatment.

(E) Deemed Issuance of Common Stock. In the case of the issuance (whether before, on or after the applicable Purchase Date) of options to purchase or rights to subscribe for shares of any class of Common Stock, securities by their terms convertible into or exchangeable for shares of any class of Common Stock or options to purchase or rights to subscribe for such convertible or exchangeable securities, the following provisions shall apply for all purposes of this Section 4(d)(i):

(1) The aggregate maximum number of shares of all classes of Common Stock deliverable upon exercise (assuming the satisfaction of any conditions to exercisability, including without limitation, the passage of time, but without taking into account potential antidilution adjustments) of such options to purchase or rights to subscribe for shares of any class of Common Stock shall be deemed to have been issued at the time such options or rights were issued and for a consideration equal to the consideration (determined in the manner provided in Section 4(d)(i)(D)), if any, received by the Corporation upon the issuance of such options or rights plus the minimum exercise price provided in such options or rights (without taking into account potential antidilution adjustments) for the class of Common Stock covered thereby.

(2) The aggregate maximum number of shares of all classes of Common Stock deliverable upon conversion of or in exchange (assuming the

satisfaction of any conditions to convertibility or exchangeability, including, without limitation, the passage of time, but without taking into account potential antidilution adjustments) for any such convertible or exchangeable securities or upon the exercise of options to purchase or rights to subscribe for such convertible or exchangeable securities and subsequent conversion or exchange thereof shall be deemed to have been issued at the time such securities were issued or such options or rights were issued and for a consideration equal to the consideration, if any, received by the Corporation for any such securities and related options or rights (excluding any cash received on account of accrued interest or accrued dividends), plus the minimum additional consideration, if any, to be received by the Corporation (without taking into account potential antidilution adjustments) upon the conversion or exchange of such securities or the exercise of any related options or rights (the consideration in each case to be determined in the manner provided in Section 4(d)(i)(D)).

(3) In the event of any change in the number of shares of a class of Common Stock deliverable or in the consideration payable to the Corporation upon exercise of such option or rights or upon conversion of or in exchange for such convertible or exchangeable securities, including, but not limited to, a change resulting from the antidilution provisions thereof, the Conversion Price of each series of Preferred Stock, to the extent in any way affected by or computed using such options, rights or securities, shall be recomputed to reflect such change, but no further adjustment shall be made for the actual issuance of Common Stock or any payment of such consideration upon the exercise of any such options or rights or the conversion or exchange of such securities.

(4) Upon the expiration of any such options or rights, the termination of any such rights to convert or exchange or the expiration of any options or rights related to such convertible or exchangeable securities, the Conversion Price of each series of Preferred Stock, to the extent in any way affected by or computed using such options, rights or securities or options or rights related to such securities, shall be recomputed to reflect the issuance of only the number of shares of Common Stock (and the convertible or exchangeable securities which remain in effect) actually issued upon the exercise of such options or rights, upon the conversion or exchange of such securities or upon the exercise of the options or rights related to such securities.

(5) The number of shares of Common Stock deemed issued and the consideration deemed paid therefor pursuant to Sections 4(d)(i)(E)(1) and 4(d)(i)(E)(2) shall be appropriately adjusted to reflect any change, termination or expiration of the type described in either Section 4(d)(i)(E)(3) or 4(d)(i)(E)(4).

(F) **No Increased Conversion Price.** Notwithstanding any other provisions of this Section 4(d)(i), except to the limited extent provided for in Sections 4(d)(i)(E)(3) and 4(d)(i)(E)(4), no adjustment of the Conversion Price of a series of Preferred Stock pursuant to this Section 4(d)(i) shall have the effect of increasing such Conversion Price above the Conversion Price of such series of Preferred Stock in effect immediately prior to such adjustment.

(ii) **Stock Splits and Dividends.** In the event the Corporation should at any time or from time to time after a Purchase Date fix a record date for the

effectuation of a split or subdivision of the outstanding shares of any class of Common Stock or the determination of holders of shares of any class of Common Stock entitled to receive a dividend or other distribution payable in additional shares of Common Stock or other securities or rights convertible into, or entitling the holder thereof to receive directly or indirectly, additional shares of any class of Common Stock (hereinafter referred to as "*Common Stock Equivalents*") without payment of any consideration by such holder for the additional shares of Common Stock or the Common Stock Equivalents (including the additional shares of Common Stock issuable upon conversion or exercise thereof), then, as of such record date (or the date of such dividend distribution, split or subdivision if no record date is fixed), the Conversion Price of each series of Preferred Stock shall be appropriately decreased so that the number of shares of Class B Common Stock issuable on conversion of each share of each such series shall be increased in proportion to such increase of the aggregate of shares of all classes of Common Stock outstanding and those issuable with respect to such Common Stock Equivalents with the number of shares issuable with respect to Common Stock Equivalents determined from time to time in the manner provided for deemed issuances in Section 4(d)(i)(E).

(iii) **Reverse Stock Splits.** If the number of shares of any class of Common Stock outstanding at any time after a Purchase Date is decreased by a combination of the outstanding shares of any class of Common Stock, then, following the record date of such combination, the Conversion Price for each series of Preferred Stock shall be appropriately increased so that the number of shares of Class B Common Stock issuable on conversion of each share of each such series shall be decreased in proportion to such decrease in outstanding shares.

(e) **Other Distributions.** In the event the Corporation shall declare a distribution to holders of any class of Common Stock of the Corporation payable in securities of other persons, evidences of indebtedness issued by the Corporation or other persons, assets (excluding cash dividends) or options or rights not referred to in Section 4(d)(ii), then, in each such case for the purpose of this Section 4(e), the holders of each series of Preferred Stock shall be entitled to receive, simultaneously with the distribution to the holders of such class of Common Stock of the Corporation, a proportionate share of any such distribution as though they were the holders of the number of shares of Class B Common Stock of the Corporation into which their shares of Preferred Stock are convertible as of the record date fixed for the determination of the holders of such class of Common Stock of the Corporation entitled to receive such distribution.

(f) **Adjustment for Merger or Reorganization, etc.** If at any time after the Effective Time there shall be a recapitalization, reorganization, reclassification, consolidation or merger involving the Corporation in which any class of Common Stock (but not the Preferred Stock) is converted into or exchanged for securities, cash or other property (other than pursuant to a subdivision, combination or merger or sale of assets transaction provided for in Section 4(d)(ii) or Section 2(c)(i)), then following any such recapitalization, reorganization, reclassification, consolidation or merger, each share of Preferred Stock that was convertible into Class B Common Stock prior to such event shall thereafter be convertible in lieu of the Class B Common Stock into the kind and amount of securities, cash or other property which a holder of the number of shares of Class B Common Stock of the Corporation issuable upon conversion of one share of such Preferred Stock immediately prior to such reorganization, recapitalization, reclassification, consolidation or merger would have been entitled to receive pursuant to such

transaction. In any such case, appropriate adjustment (as determined in good faith by the Board of Directors of the Corporation) shall be made in the application of the provisions of this Section 4 with respect to the rights of the holders of each series of Preferred Stock after such recapitalization, reorganization, reclassification, consolidation or merger to the end that the provisions of this Section 4 (including adjustment of the Conversion Price then in effect for each series of Preferred Stock and the number of shares purchasable upon conversion of shares of each such series of Preferred Stock) shall be applicable after that event and be as nearly equivalent as practicable in relation to any securities or other property thereafter deliverable upon the conversion of such series of Preferred Stock.

(g) **No Fractional Shares and Certificate as to Adjustments.**

(i) No fractional shares shall be issued upon the conversion of any share or shares of Preferred Stock, and the number of shares of Class B Common Stock to be issued shall be rounded down to the nearest whole share. The number of shares issuable upon such conversion shall be determined on the basis of the total number of shares of Preferred Stock the holder is at the time converting into Class B Common Stock and the number of shares of Class B Common Stock issuable upon such aggregate conversion.

(ii) Upon the occurrence of each adjustment or readjustment of the Conversion Price of a series of Preferred Stock pursuant to this Section 4, the Corporation, at its expense, shall promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to each holder of shares of each such series of Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of shares of any such series of Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (A) the adjustment and readjustment made to the Conversion Price of such series of Preferred Stock, (B) the Conversion Price for such series of Preferred Stock at the time in effect, and (C) the number of shares of Class B Common Stock and the amount, if any, of other property which at the time would be received upon the conversion of a share of such Preferred Stock.

(h) **Notices of Record Date.** In the event of any taking by the Corporation of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend (other than a cash dividend) or other distribution, any right to subscribe for, purchase or otherwise acquire any shares of stock of any class or any other securities or property, or to receive any other right, the Corporation shall mail to each holder of Preferred Stock, at least ten (10) days prior to the date specified therein, a notice specifying the date on which any such record is to be taken for the purpose of such dividend, distribution or right, and the amount and character of such dividend, distribution or right.

(i) **Reservation of Stock Issuable Upon Conversion.** The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Class B Common Stock, solely for the purpose of effecting the conversion of shares of Preferred Stock, such number of its shares of Class B Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of Preferred Stock; and if at any

time the number of authorized but unissued shares of Class B Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of Preferred Stock, in addition to such other remedies as shall be available to the holder of such Preferred Stock, the Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Class B Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to this Restated Certificate of Incorporation.

(j) **Notices.** Any notice required by the provisions of this Section 4 to be given to the holders of shares of Preferred Stock shall be deemed given if (A) deposited in the United States mail, postage prepaid, and addressed to each holder of record at his address appearing on the books of the Corporation or (B) waived by the holders of a majority of the outstanding shares of Preferred Stock.

5. **Voting Rights.** Subject to the rights of series of Preferred Stock that may from time to time come into existence, the holder of each share of Preferred Stock shall have the right to ten votes for each share of Class B Common Stock into which such Preferred Stock could then be converted, and with respect to such vote, such holder shall have full voting rights and powers equal (other than with respect to votes per share) to the voting rights and powers of the holders of any class of Common Stock, and shall be entitled, notwithstanding any provision hereof, to notice of any stockholders' meeting in accordance with the bylaws of the Corporation, and shall be entitled to vote, together with holders of any class of Common Stock, with respect to any question upon which holders of any class of Common Stock have the right to vote, except as required by law. Fractional votes shall not, however, be permitted and any fractional voting rights available on an as-converted basis (after aggregating all shares into which shares of Preferred Stock held by each holder could be converted) shall be rounded to the nearest whole number (with one-half being rounded upward).

6. **Series F Protective Provisions.** Subject to the rights of series of Preferred Stock which may from time to time come into existence, so long as at least 1,000,000 shares of Series F Preferred Stock are outstanding (as adjusted for stock splits, stock dividends, reclassifications, or the like), the Corporation shall not (whether by merger, consolidation or otherwise) without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least two-thirds (2/3) of the then outstanding shares of Series F Preferred Stock, voting together as a class, alter or change the rights, preferences, or privileges of the shares of Series F Preferred Stock so as to affect adversely the shares of such series.

7. **Series E Protective Provisions.** Subject to the rights of series of Preferred Stock which may from time to time come into existence, so long as at least 1,000,000 shares of Series E Preferred Stock are outstanding (as adjusted for stock splits, stock dividends, reclassifications, or the like), the Corporation shall not (whether by merger, consolidation or otherwise) without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least eighty-five percent (85%) of the then outstanding shares of Series E Preferred Stock, voting together as a class:

(a) effect any transaction which pledges, sells, commits to sell or otherwise disposes of any assets of the Corporation (other than assets no longer used or useful in the ordinary course of business) having a dollar value in excess of an aggregate \$75 million over any 12 month period; or

(b) alter or change the rights, preferences, or privileges of the shares of Series E Preferred Stock so as to affect adversely the shares of such series.

8. **Series D Protective Provisions.** Subject to the rights of series of Preferred Stock which may from time to time come into existence, so long as at least 1,000,000 shares of Series D Preferred Stock are outstanding (as adjusted for stock splits, stock dividends, reclassifications, or the like), the Corporation shall not (whether by merger, consolidation or otherwise) without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least a majority of the then outstanding shares of Series D Preferred Stock, voting together as a class:

(a) effect any transaction which pledges, sells, commits to sell or otherwise disposes of any assets of the Corporation (other than assets no longer used or useful in the ordinary course of business) having a dollar value in excess of an aggregate \$75 million over any 12 month period; or

(b) alter or change the rights, preferences, or privileges of the shares of Series D Preferred Stock so as to affect adversely the shares of such series.

9. **Protective Provisions.** So long as at least 1,000,000 shares of Preferred Stock are outstanding (as adjusted for stock splits, stock dividends, reclassifications, or the like), the Corporation shall not (whether by merger, consolidation or otherwise) without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least a majority of the then outstanding shares of Preferred Stock, voting together as a class:

(a) effect a transaction described in Section 2(c)(i) above;

(b) alter or change the rights, preferences or privileges of the shares of any series of Preferred Stock so as to affect adversely the shares of any such series;

(c) increase or decrease (other than by redemption or conversion) the total number of authorized shares of Preferred Stock;

(d) authorize or issue, or obligate itself to issue, any other equity security, including any other security convertible into or exercisable for any equity security, having a preference over, or being on a par with, the existing series of Preferred Stock with respect to dividends, redemptions or upon liquidation; or

(e) effect any transaction which pledges, sells, commits to sell or otherwise disposes of any assets of the Corporation (other than assets no longer used or useful in the ordinary course of business) having a dollar value in excess of an aggregate \$75 million dollars over any 12 month period.

10. **Status of Converted Stock.** In the event any shares of Preferred Stock shall be converted pursuant to Section 4 hereof, the shares so converted shall be cancelled and shall not be issuable by the Corporation. This Restated Certificate of Incorporation of the Corporation shall be appropriately amended to effect the corresponding reduction in the Corporation's authorized capital stock.

(C) **Classes of Common Stock.** The respective rights, preferences, privileges, and restrictions granted to and imposed by this Amended and Restated Certificate of Incorporation on the Class A Common Stock, the Class B Common Stock and the Class C Common Stock are as set forth below in this Article IV(C). Any shares of any class of Common Stock that may be redeemed, purchased or acquired by the Corporation may be reissued except as otherwise provided by law or by the terms of any class of Common Stock.

1. **Definitions.** For purposes of this Article IV(C), the following definitions shall apply:

(a) ***"Family Member"*** shall mean with respect to any natural person who is a Qualified Stockholder, the spouse, parents, grandparents, lineal descendants, siblings and lineal descendants of siblings of such Qualified Stockholder.

(b) ***"Permitted Entity"*** shall mean with respect to a Qualified Stockholder (i) a Permitted Trust (as defined below) solely for the benefit of (A) such Qualified Stockholder, (B) one or more Family Members of such Qualified Stockholder and/or (C) any other Permitted Entity of such Qualified Stockholder, or (ii) any general partnership, limited partnership, limited liability company, corporation or other entity exclusively owned by (A) such Qualified Stockholder, (B) one or more Family Members of such Qualified Stockholder and/or (C) any other Permitted Entity of such Qualified Stockholder.

(c) ***"Permitted Transfer"*** shall mean, and be restricted to, any Transfer of a share of Class B Common Stock:

(i) by a Qualified Stockholder to (A) one or more Family Members of such Qualified Stockholder, or (B) any Permitted Entity of such Qualified Stockholder; or

(ii) by a Permitted Entity of a Qualified Stockholder to (A) such Qualified Stockholder or one or more Family Members of such Qualified Stockholder, or (B) any other Permitted Entity of such Qualified Stockholder.

(d) ***"Permitted Transferee"*** shall mean a transferee of shares of Class B Common Stock received in a Transfer that constitutes a Permitted Transfer.

(e) ***"Permitted Trust"*** shall mean a bona fide trust where each trustee is (i) a Qualified Stockholder, (ii) Family Member or (iii) a professional in the business of providing trustee services, including private professional fiduciaries, trust companies and bank trust departments.

(f) *“Qualified Stockholder”* shall mean (i) the registered holder of a share of Class B Common Stock immediately following the Effective Time; (ii) the initial registered holder of any shares of Class B Common Stock that are originally issued by the Corporation after the Effective Time pursuant to the exercise or conversion of options or warrants that, in each case, are outstanding as of the Effective Time; (iii) each natural person who Transferred shares of or equity awards for Class B Common Stock (including any option or warrant exercisable or convertible into shares of Class B Common Stock) to a Permitted Entity that is or becomes a Qualified Stockholder pursuant to subclauses (i) or (ii) of this Section 1(f); and (iv) a Permitted Transferee.

(g) *“Senior Common Stock”* means Class B Common Stock and Class C Common Stock, each as applicable in the context such term is applied.

(h) *“Transfer”* of a share of Class B Common Stock shall mean any sale, assignment, transfer, conveyance, hypothecation or other transfer or disposition of such share or any legal or beneficial interest in such share, whether or not for value and whether voluntary or involuntary or by operation of law, including, without limitation, a transfer of a share of Class B Common Stock to a broker or other nominee (regardless of whether there is a corresponding change in beneficial ownership), or the transfer of, or entering into a binding agreement with respect to, Voting Control (as defined below) over such share by proxy or otherwise; *provided, however*, that the following shall not be considered a “Transfer” within the meaning of this Article IV:

(1) the granting of a revocable proxy to officers or directors of the Corporation at the request of the Board of Directors in connection with actions to be taken at an annual or special meeting of stockholders;

(2) entering into a voting trust, agreement or arrangement (with or without granting a proxy) solely with stockholders who are holders of Class B Common Stock that (A) is disclosed either in a Schedule 13D filed with the Securities and Exchange Commission or in writing to the Secretary of the Corporation, (B) either has a term not exceeding one (1) year or is terminable by the holder of the shares subject thereto at any time and (C) does not involve any payment of cash, securities, property or other consideration to the holder of the shares subject thereto other than the mutual promise to vote shares in a designated manner; or

(3) the pledge of shares of Class B Common Stock by a stockholder that creates a mere security interest in such shares pursuant to a bona fide loan or indebtedness transaction for so long as such stockholder continues to exercise Voting Control over such pledged shares; provided, however, that a foreclosure on such shares or other similar action by the pledgee shall constitute a “Transfer” unless such foreclosure or similar action qualifies as a “Permitted Transfer”.

A “Transfer” shall also be deemed to have occurred with respect to a share of Class B Common Stock beneficially held by (i) an entity that is a Permitted Entity, if there occurs any act or circumstance that causes such entity to no longer be a Permitted Entity or (ii) an entity that is a Qualified Stockholder, if there occurs a Transfer on a cumulative basis, from and after the

Effective Time, of a majority of the voting power of the voting securities of such entity or any direct or indirect Parent of such entity, other than a Transfer to parties that are, as of the Effective Time, holders of voting securities of any such entity or Parent of such entity. "Parent" of an entity shall mean any entity that directly or indirectly owns or controls a majority of the voting power of the voting securities of such entity.

(i) **"Voting Control"** shall mean, with respect to a share of Class B Common Stock, the power (whether exclusive or shared) to vote or direct the voting of such share by proxy, voting agreement or otherwise.

2. **Dividend Rights.**

(a) **Class C Common Stock.** Subject to the prior rights of holders of all classes and series of stock at the time outstanding having prior rights as to dividends, the holders of the Class C Common Stock shall be entitled to receive dividends, out of any assets legally available therefor, prior and in preference to any declaration or payment of any dividend on the Class A Common Stock or Class B Common Stock of the Corporation, in the amount of \$0.02 per share (as adjusted for stock splits, stock dividends, reclassification and the like) per annum on each outstanding share of Class C Common Stock. Any such dividends shall be payable when, as and if declared by the Board of Directors. Such dividends shall not be cumulative.

(b) **Class A Common Stock and Class B Common Stock.** Subject to the prior rights of holders of all classes and series of stock at the time outstanding having prior rights as to dividends, the holders of the Class A Common Stock and Class B Common Stock shall be entitled to receive, when, as and if declared by the Board of Directors, out of any assets of the Corporation legally available therefor, such dividends as may be declared from time to time by the Board of Directors. Any dividends paid to the holders of shares of Class A Common Stock and Class B Common Stock shall be paid pro rata, on an equal priority, pari passu basis.

3. **Liquidation Rights.**

(a) **Class C Common Stock Liquidation Preference.** In the event of any liquidation, dissolution or winding up of the Corporation, either voluntary or involuntary, subject to the rights of series of Preferred Stock that may from time to time come into existence and after full payment of the liquidation preference owed to any outstanding series of Series Preferred Stock described in Section 2(a) of Article IV(B) above and the Series E Participation Amount as described in Section 2(b) of Article IV(B) above, and prior and in preference to any distribution of any of the assets of the Corporation to the holders of Class A Common Stock and Class B Common Stock by reason of their ownership thereof, the holders of the Class C Common Stock by reason of their ownership thereof shall be entitled to receive an amount per share equal to \$0.50 per share (as adjusted for stock splits, stock dividends, reclassification and the like) for each share of Class C Common Stock then held by them, plus declared but unpaid dividends (the **"Class C Common Stock Liquidation Preference"**). If, upon the occurrence of such event, the assets and funds thus distributed among the holders of the Class C Common Stock by reason of their ownership thereof shall be insufficient to permit the payment to such holders of the full Class C Common Stock Liquidation Preference, then, subject to the rights of

series of Preferred Stock that may from time to time come into existence, the entire remaining assets and funds of the Corporation legally available for distribution shall be distributed among the holders of the Class C Common Stock ratably.

(b) **Remaining Assets.** Upon the completion of the distributions required by Section 3(a) above and any other distribution that may be required with respect to series of Preferred Stock that may from time to time come into existence, if assets remain in the Corporation, the remaining assets of the Company legally available for distribution shall be distributed on an equal priority, pro rata basis to the holders of the Class A Common Stock, Class B Common Stock and Class C Common Stock (on an as-if-converted to Class A Common Stock basis).

4. **Redemption.** The classes of Common Stock are not redeemable.

5. **Voting Rights.**

(a) **Class A Common Stock.** Each holder of shares of Class A Common Stock shall be entitled to one vote for each share thereof held.

(b) **Class B Common Stock.** Each holder of shares of Class B Common Stock shall be entitled to ten votes for each share thereof held.

(c) **Class C Common Stock.** Each holder of shares of Class C Common Stock shall be entitled to one vote for each share thereof held.

(d) **General.** Subject to the other provisions of this Amended and Restated Certificate of Incorporation, each holder of Preferred Stock, Class B Common Stock or Class C Common Stock shall have full voting rights and powers equal to the voting rights and powers of the holders of Class A Common Stock, and shall be entitled to notice of any stockholders' meeting in accordance with the bylaws of the Corporation (as in effect at the time in question) and applicable law, and shall be entitled to vote, together with the holders of Class A Common Stock, with respect to any question upon which holders of Class A Common Stock have the right to vote, except as may be otherwise required by applicable law. Except as otherwise expressly provided herein or as required by law, the holders of Preferred Stock, Class A Common Stock, Class B Common Stock and Class C Common Stock shall vote together and not as separate series or classes.

(e) **No Class Vote on Change in Authorized Shares of Common Stock.** The number of authorized shares of Class A Common Stock, Class B Common Stock and Class C Common Stock may be increased or decreased (but not below the number of shares then outstanding) by (in addition to any vote of the holders of one or more series of Preferred Stock that may be required by the terms of this Amended and Restated Certificate of Incorporation) the affirmative vote of the holders of a majority of the voting power of the classes of Common Stock and Preferred Stock entitled to vote, voting together as a single class, irrespective of Section 242(b)(2) of the General Corporation Law of Delaware.

6. Optional Conversion.

(a) Optional Conversion of the Class B Common Stock.

(i) At the option of the holder thereof, each share of Class B Common Stock shall be convertible, at any time or from time to time following the closing of a Qualified IPO, into one fully paid and nonassessable share of Class A Common Stock as provided herein.

(ii) Each holder of Class B Common Stock who elects to convert the same into shares of Class A Common Stock shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Corporation or any transfer agent for the Class A Common Stock or Class B Common Stock, and shall give written notice to the Corporation at such office that such holder elects to convert the same and shall state therein the number of shares of Class B Common Stock being converted. Thereupon the Corporation shall promptly issue and deliver at such office to such holder a certificate or certificates for the number of shares of Class A Common Stock to which such holder is entitled upon such conversion. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the certificate or certificates representing the shares of Class B Common Stock to be converted, and the person entitled to receive the shares of Class A Common Stock issuable upon such conversion shall be treated for all purposes as the record holder of such shares of Class A Common Stock on such date. If a conversion election under this Section 6(a)(ii) is made in connection with an underwritten offering of the Corporation's securities pursuant to the Securities Act of 1933, as amended, the conversion may, at the option of the holder tendering shares of Class B Common Stock for conversion, be conditioned upon the closing with the underwriters of the sale of the Corporation's securities pursuant to such offering, in which event the holders making such elections who are entitled to receive Class A Common Stock upon conversion of their Class B Common Stock shall not be deemed to have converted such shares of Class B Common Stock until immediately prior to the closing of such sale of the Corporation's securities in the offering.

7. Automatic Conversion.

(a) Automatic Conversion of the Class B Common Stock. In the event of a Transfer, other than a Permitted Transfer, of a share of Class B Common Stock that occurs prior to the closing of a Qualified IPO, such share of Class B Common Stock shall automatically convert to one fully paid and nonassessable share of Class A Common Stock immediately prior to the closing of a Qualified IPO. At any time following the closing of a Qualified IPO, each share of Class B Common Stock shall automatically be converted into one fully paid and nonassessable share of Class A Common Stock upon a Transfer, other than a Permitted Transfer, of such share of Class B Common Stock. Such conversion shall occur automatically without the need for any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Corporation or its transfer agent; provided, however, that the Corporation shall not be obligated to issue certificates evidencing the shares of Class A Common Stock issuable upon such conversion unless the certificates evidencing such shares of Class B Common Stock are either delivered to the Corporation or its transfer agent as provided below, or the holder notifies the Corporation or its

transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such certificates. Upon the occurrence of such automatic conversion of the Class B Common Stock, the holders of Class B Common Stock shall surrender the certificates representing such shares at the office of the Corporation or any transfer agent for the Class A Common Stock. Thereupon, there shall be issued and delivered to such holder promptly at such office and in its name as shown on such surrendered certificate or certificates, a certificate or certificates for the number of shares of Class A Common Stock into which the shares of Class B Common Stock surrendered were convertible on the date on which such automatic conversion occurred.

(b) **Automatic Conversion of the Class C Common Stock.** At the time of the first effectiveness of a registration statement with respect to any class of the Company's equity securities under the Securities Exchange Act of 1934, as amended, each share of Class C Common Stock shall automatically be converted into one fully paid and nonassessable share of Class A Common Stock. Such conversion shall occur automatically without the need for any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Corporation or its transfer agent; provided, however, that the Corporation shall not be obligated to issue certificates evidencing the shares of Class A Common Stock issuable upon such conversion unless the certificates evidencing such shares of Class C Common Stock are either delivered to the Corporation or its transfer agent as provided below, or the holder notifies the Corporation or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such certificates. Upon the occurrence of such automatic conversion of the Class C Common Stock, the holders of Class C Common Stock shall surrender the certificates representing such shares at the office of the Corporation or any transfer agent for the Class A Common Stock. Thereupon, there shall be issued and delivered to such holder promptly at such office and in its name as shown on such surrendered certificate or certificates, a certificate or certificates for the number of shares of Class A Common Stock into which the shares of Class C Common Stock surrendered were convertible on the date on which such automatic conversion occurred.

(c) **Stock Dividends and Distributions.** The Corporation shall not declare or pay any dividend or make any other distribution to the holders of any class of Common Stock payable in securities of the Corporation unless the same dividend or distribution with the same record date and payment date shall be declared and paid on the shares of all other classes of Common Stock; provided, however, that dividends or other distributions payable in shares of a particular class of Common Stock or rights to acquire shares of such class of Common Stock may be declared and paid to the holders of such class of Common Stock without the same dividend or distribution being declared and paid to the holders of the other classes of Common Stock if, and only if, a dividend payable in shares of such other classes of Common Stock, as applicable, or rights to acquire shares of such other classes of Common Stock, as applicable, are declared and paid to the holders of such other classes of Common Stock at the same rate and with the same record date and payment date.

(d) **Common Class Stock Splits or Combinations.** If the Corporation in any manner subdivides or combines the outstanding shares of any class of Common Stock,

then the outstanding shares of all other classes of Common Stock will be subdivided or combined in the same proportion and manner.

8. **Reservation of Stock Issuable Upon Conversion.** The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Class A Common Stock and Class B Common Stock, solely for the purpose of effecting the conversion of the shares of the Preferred Stock and the Senior Common Stock, as applicable, such number of its shares of Class A Common Stock and Class B Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of Preferred Stock and the Senior Common Stock; and if at any time the number of authorized but unissued shares of Class A Common Stock or Class B Common Stock shall not be sufficient to effect the conversion of all then-outstanding shares of Preferred Stock and the Senior Common Stock, as applicable, the Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Class A Common Stock or Class B Common Stock, as applicable, to such numbers of shares as shall be sufficient for such purpose.

9. **Identical Rights.** Except as otherwise expressly provided herein or required by applicable law, shares of Class A Common Stock and Class B Common Stock shall have the same rights and privileges and rank equally, share ratably and be identical in all respects as to all matters, including, without limitation:

(a) **Dividends and Distributions.** Shares of Class A Common Stock and Class B Common Stock shall be treated equally, identically and ratably, on a per-share basis, with respect to any cash distribution paid or distributed by the Corporation, unless different treatment of the shares of each such class is approved by the affirmative vote of the holders of a majority of the outstanding shares of the applicable class of Common Stock treated adversely, voting separately as a class.

(b) **Equal Treatment in a Combination Transaction.** In connection with any combination or merger or sale of assets transaction provided for in Article IVD(2)(c)(i) (a "*Combination Transaction*"), shares of Class A Common Stock and Class B Common Stock shall be treated equally, identically and ratably, on a per-share basis, with respect to any consideration into which such shares are converted or any consideration paid or otherwise distributed to stockholders of the Corporation, unless different treatment of the shares of each such class is approved by the affirmative vote of the holders of a majority of the outstanding shares of the applicable class of Common Stock treated adversely, voting separately as a class. Notwithstanding anything set forth herein to the contrary, in the event of any Combination Transaction to which the Corporation is a party in which the shares of Class A Common Stock or Class B Common Stock will be exchanged for or converted into, or will receive a distribution of, cash or other property or securities of the Corporation or any other person, each share of Class A Common Stock and Class B Common Stock shall be entitled to receive Equivalent Consideration (as defined herein) on a per-share basis. As used herein, the term "Equivalent Consideration" shall mean consideration in the same form, in the same amount and with the same voting rights on a per-share basis; provided, however, that for the avoidance of doubt, consideration to be paid or received by a holder of Class A Common Stock or Class B Common Stock in connection with any Combination Transaction pursuant to any employment, consulting, severance or other

arrangement shall not be deemed to be "consideration" that is included in the determination of "Equivalent Consideration."

10. **Status of Converted Senior Common Stock.** In the event any shares of Senior Common Stock shall be converted pursuant to Section 6 or 7 hereof, the shares so converted shall be cancelled and shall not be issuable by the Corporation. This Restated Certificate of Incorporation of the Corporation shall be appropriately amended to effect the corresponding reduction in the Corporation's authorized capital stock.

ARTICLE V.

The Board of Directors of the Corporation is expressly authorized to make, alter or repeal Bylaws of the Corporation.

ARTICLE VI.

Elections of directors need not be by written ballot unless otherwise provided in the Bylaws of the Corporation.

ARTICLE VII.

A director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law, or (iv) for any transaction from which the director derived an improper personal benefit. If the Delaware General Corporation Law is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the Delaware General Corporation Law, as so amended.

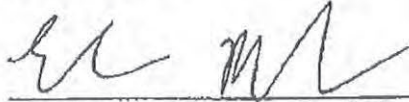
The Corporation shall indemnify to the fullest extent permitted by law any person made or threatened to be made a party to an action or proceeding, whether criminal, civil, administrative or investigative, by reason of the fact that he, his testator or intestate is or was a director or officer of the Corporation or any predecessor of the Corporation, or serves or served at any other enterprise as a director or officer at the request of the Corporation or any predecessor to the Corporation.

Neither any amendment nor repeal of this Article VII, nor the adoption of any provision of the Corporation's Certificate of Incorporation inconsistent with this Article VII, shall eliminate or reduce the effect of this Article VII in respect of any matter occurring, or any action or proceeding accruing or arising or that, but for this Article VII, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision.

* * *

The foregoing Amended and Restated Certificate of Incorporation has been duly adopted by this Corporation's Board of Directors and stockholders in accordance with the applicable provisions of Sections 228, 242 and 245 of the General Corporation Law of the State of Delaware.

Executed at Hawthorne, California, on March 23 2012.

A handwritten signature in black ink, appearing to be 'Elon Musk', written over a horizontal line.

Elon Musk, Chief Executive Officer

Delaware

PAGE 1

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "SPACE EXPLORATION TECHNOLOGIES CORP." IS DULY INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL CORPORATE EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE TWENTY-EIGHTH DAY OF MAY, A.D. 2013.

3500808 8300

130665641

You may verify this certificate online
at corp.delaware.gov/authver.shtml




Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 0463523

DATE: 05-28-13



Franchise Tax Account Status

As of: 07/16/2013 10:54:54 AM

This Page is Not Sufficient for Filings with the Secretary of State

SPACE EXPLORATION TECHNOLOGIES CORP.	
Texas Taxpayer Number	10106276719
Mailing Address	1 ROCKET RD ATTN: REBECCA CHAPMAN HAWTHORNE, CA 90250-6844
Right to Transact Business in Texas	ACTIVE
State of Formation	DE
Effective SOS Registration Date	04/05/2005
Texas SOS File Number	0800475804
Registered Agent Name	NATIONAL CORPORATE RESEARCH, LTD.
Registered Office Street Address	800 BRAZOS, SUITE 1100 AUSTIN, TX 78701



Federal Aviation
Administration

Environmental Documents in Progress

SpaceX Texas Launch Site Environmental Impact Statement

PLEASE NOTE – the public comment period has been extended to June 24, 2013

The Federal Aviation Administration (FAA) Office of Commercial Space Transportation (AST) is preparing an Environmental Impact Statement (EIS) to evaluate the potential environmental impacts that may result from the FAA/AST proposal to issue launch licenses and/or experimental permits to Space Exploration Technologies Corporation (SpaceX). The launch licenses and/or experimental permits would allow SpaceX to launch the Falcon 9 and Falcon Heavy orbital vertical launch vehicles and a variety of smaller reusable suborbital launch vehicles from a launch site on privately-owned property in Cameron County, Texas.

Draft Environmental Impact Statement – SpaceX Texas Launch Site (Draft EIS)

[Volume I - Executive Summary and Chapters 1-14, April 2013 \(media/SpaceX_Texas_Launch_Site_Draft_EIS_V1.pdf\)](#) (PDF)

[Volume II - Appendices, April 2013 \(media/SpaceX_Texas_Launch_Site_Draft_EIS_V2.pdf\)](#) (PDF)

[Resumen Ejecutivo, Abril 2013 \(Executive Summary – Spanish version\) \(media/SpaceX_EIS_Resumen_Ejecutivo_espanol.pdf\)](#) (PDF)

Copies were sent to persons and agencies that requested a copy. CDs of the Draft EIS are also available at the following locations:

Brownsville Public Library Main Branch, 2600 Central Boulevard, Brownsville, Texas 78520

Southmost Branch Library, 4320 Southmost Boulevard, Brownsville, Texas 78520

University of Texas at Brownsville, Oliveira Library, 80 Fort Brown Street, Brownsville, Texas 78521

Public Hearing on Draft EIS

The FAA held a public hearing to obtain comments on the Draft EIS. The hearing was held on May 7, 2013 at the ITEC Center in Brownsville, TX. The format of the public hearing included a poster information session, an FAA presentation, and a public statement period in which members of the public provided statements.

Materials from the public hearing are available for download:

[FAA presentation \(media/SpaceX_EIS_Hearing_Compatibility_Mode.pdf\)](#) (PDF)

[Factsheets \(media/SpaceX_EIS_Factsheets_FINAL.pdf\)](#) (PDF)

[Factsheets \(en español\) \(media/SpaceX_EIS_Factsheets_espa_FINAL.pdf\)](#) (PDF)

[Posters \(media/SpaceX_EIS_ALL_Station_Posters_FINAL.pdf\)](#) (PDF)

[Carteles de Estaciones \(media/SpaceX_EIS_Carteles_de_Estaciones_FINAL.pdf\)](#) (PDF)

Public Comments on the Draft EIS

The FAA encourages all interested parties to provide comments concerning the scope and content of the Draft EIS.

The public comment period for the Draft EIS was originally scheduled to close on June 3, 2013. The FAA received a request to extend the comment period for an additional 21 days. The FAA agreed to this extension, which changes the deadline for submitting comments on the Draft EIS from June 3, 2013 to June 24, 2013. Interested parties can submit comments on the Draft EIS in one of the following ways:

Email comments to [\[redacted\]](#)

Fax comments to (410) 990-0455

Mail comments to:

Ms. Stacy M. Zee

FAA Environmental Protection Specialist

SpaceX EIS c/o Cardno TEC, Inc.

275 West Street, Suite 110

Annapolis, MD 21401

Tips for Effective Comments

Comments should be as specific as possible instead of using broad statements.

Focus your comments on the purpose and need for the project, proposed action and alternatives, potential environmental issues, and mitigation measures. Where possible, cite sections of the Draft EIS in your comments.

Try to keep comments concise and relevant to the Draft EIS.

Comments that provide specific examples are more effective than comments only stating opposition or support.

Matters that could have been raised with specificity during the comment period on the Draft EIS may not be considered if they are raised for the first time later in the decision process. This commenting procedure is intended to ensure that substantive comments and concerns are made available to the FAA in a timely manner so that the FAA has an opportunity to address them.

Background Information

The FAA published a [Notice of Intent \(NOI\)](#) (media/2012_NOI_SpaceX_Texas_Launch_Site_EIS.pdf) (PDF) in the Federal Register on April 10, 2012 to prepare an EIS, open a public scoping period, and conduct a public scoping meeting.

The FAA also invited interested parties to submit comments or suggestions to help identify potentially significant environmental issues. A public scoping meeting was held to solicit input from the public on May 15, 2012, from 5:00 p.m. to 8:00 p.m. at the International Technology, Education and Commerce Center in Brownsville, Texas. The scoping comment period ended on May 30, 2012. The [Scoping Summary Report](#) (media/Scoping_Summary_Report_EIS_June_2012.pdf) (PDF) summarizes the activities during, and the results of, the official public scoping period.

This webpage provides information on the EIS and how to get involved in the National Environmental Policy Act (NEPA)

(http://www.faa.gov/about/office_org/headquarters_offices/ast/licenses_permits/htm/nepa/) process. Interested parties can also read the Council on Environmental Quality's A Citizen's Guide to NEPA (http://ceq.hss.doe.gov/nepa/Citizens_Guide_Dec07.pdf) (PDF). This Guide describes the NEPA process and provides information on how citizens can get involved. Additional information will be added to this webpage as the EIS progresses to keep you informed about the project. Please send an email to faaspacexei@faa.gov if you would like to be added to the project mailing list.

Page last Modified: 05/29/13 11:30 EDT

This page can be viewed online at:

http://www.faa.gov/about/office_org/headquarters_offices/ast/environmental/nepa_docs/review/documents_progress/spacex_texas_launch_site_environmental_impact_statement/



February 25, 2025

The Honorable Ken Paxton
Office of the Attorney General
Open Records Division
P.O. Box 12548
Austin, TX 78711-2548

**Re: Space Exploration Technologies Corp.'s Objections to Disclosure of Records
Under OOG ID# 036-25**

Dear Attorney General Paxton:

Space Exploration Technologies Corp. ("SpaceX") respectfully submits this letter objecting to the disclosure of certain records identified by the Office of the Governor ("OOG") as responsive to the above-referenced open records request. On February 10, 2025, SpaceX received a third-party notice from OOG informing SpaceX of a public information request seeking information related to the Spaceport Trust Fund (the "Request").

SpaceX now objects to the disclosure of certain portions of the records attached in **Exhibit A** on the basis of Texas Government Code Section 552.110(c), as commercial and financial information whose disclosure would cause SpaceX substantial competitive harm. SpaceX employee email addresses are also exempt under Section 552.137. Accordingly, SpaceX requests that the Office of Attorney General direct OOG to withhold the redacted records in **Exhibit A** from disclosure.

I. Exhibit A Contains Commercial and Financial Information Whose Disclosure Would Cause SpaceX Substantial Competitive Harm.

Section 552.110(c) protects the proprietary interests of private parties with respect to commercial or financial information whose disclosure would cause substantial competitive harm to the person from whom the information was obtained.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

For the foregoing reasons, the redacted information in **Exhibit A** should be protected from disclosure under Section 552.110(c).

II. SpaceX Employee Email Addresses Are Also Exempt from Disclosure Under Section 552.137.

Section 552.137(a) 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."

[REDACTED]

* * *

To summarize, SpaceX contends that records in **Exhibit A** marked by a red border are exempt from disclosure under Section 552.110(c) because they constitute confidential, commercial and financial information whose disclosure would cause SpaceX substantial competitive harm. SpaceX additionally asserts that its employees' email addresses are also exempt from disclosure under Section 552.137.

Thank you for your consideration of this matter. I can be reached at [REDACTED]

Sincerely,

[REDACTED]

[REDACTED]

Enclosure

cc: Matthew Taylor
Assistant General Counsel and Public Information Coordinator
publicrecords@gov.texas.gov

cc: Vianna Davila
[REDACTED] (redacted and without enclosure)

From: [REDACTED]
Sent: Tuesday, February 11, 2025, 10:06 AM
To: "publicrecords@gov.texas.gov" <publicrecords@gov.texas.gov>
Cc: [REDACTED]
Subject: RE: 036-25 Davila - Third Party Notice

[EXTERNAL SENDER] - Do not click on links or open attachments in unexpected messages.

Hi, Matthew.
I hope that you are well. Please provide the records at issue for our review.
Thank you very much!
Best,

[REDACTED]


From: Public Records <publicrecords@gov.texas.gov>
Date: Monday, February 10, 2025 at 4:02 PM
Subject: 036-25 Davila - Third Party Notice
February 10, 2025
Third Party
VIA EMAIL ONLY
Re: OOG PIR# 036-25

To Whom it May Concern:

The Office of the Governor ("OOG") has received a formal request to inspect or copy some of our files. The requested files include records involving your company. A copy of our request for an OAG decision with included copy of the original request for information is attached.

If you would like to view or discuss the records from your company that are at issue before the OAG, please respond to this email or call me at 512-463-8470.

Generally, the Public Information Act (the "Act") requires the release of requested information, but there are exceptions. As described below, you have the right to object to the release of your records by submitting written arguments to the OAG that one or more exceptions apply to your records. You are not required to submit arguments to OAG but if you decide not to submit arguments, OAG will presume that you have no interest in withholding your records from disclosure. In other words, if you fail to take timely action, the OAG will more than likely rule that your records must be released to the public. If you decide to submit arguments, **you must do so not later than the tenth business day after the date you receive this notice.**

If you submit arguments to the OAG you must:

- a) identify the legal exceptions that apply
- b) identify the specific parts of each document that are covered by each exception, and
- c) explain why each exception applies.

Gov't Code § 552.305(d). A claim that an exception applies without further explanation will not suffice. See Attorney General Opinion H-436 (1974). You may contact this office to review the information at issue in order to make your arguments. We will provide the OAG with a copy of the request for information and a copy of the requested information,

along with other material required by the Act. The OAG is generally required to issue a decision within 45 working days.

Please send your written comments to the OAG at the following address:

Open Records Division

Office of the Attorney General

P.O. Box 12548

Austin, Texas 78711-2548

If you wish to submit your written comments electronically, you may only do so via the OAG's eFiling System. An administrative convenience charge will be assessed for use of the eFiling System. No other method of electronic submission is available. Please visit the OAG's website at <http://www.texasattorneygeneral.gov>.

In addition, you are required to provide the requestor with a copy of your communication to the OAG. Gov't Code § 552.305(e). You may redact the requestor's copy of your communication to the extent it contains the substance of the requested information. Gov't Code § 552.305(e).

Commonly Raised Exceptions

In order for a governmental body to withhold requested information, specific tests or factors for the applicability of a claimed exception must be met. Failure to meet these tests may result in the release of requested information. We have listed the most commonly claimed exceptions in the Government Code concerning proprietary information and the leading cases or decisions discussing them. This listing is not intended to limit any exceptions or statutes you may raise.

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Open Records Decision No. 652 (1997).

Section 552.110: Confidentiality of Trade Secrets and Commercial or Financial Information

Trade Secrets

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Open Records Decision No. 661 (1999).

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Open Records Decision No. 627 (1994)

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Section 552.143: Confidentiality of Certain Investment Information

If you have questions about this notice or release of information under the Act, please refer to the Public Information Handbook published by the OAG, or contact the OAG's Open Government Hotline toll-free at (877) 673-6839 (877-OPEN TEX). To obtain copies of the Public Information Handbook or Attorney General Opinions, including those listed above, please visit the OAG's website at

<http://www.texasattorneygeneral.gov>.

If you have any other questions, you may contact me at 512-463-8470 or publicrecords@gov.texas.gov.

Sincerely,

Matthew Taylor

Public Information Coordinator

Assistant General Counsel

Office of Governor Greg Abbott

Enc: Request for ruling from OAG with attached original request for information

From: Public Records <publicrecords@gov.texas.gov>
Sent: Monday, February 10, 2025, 4:02 PM
To: Undisclosed recipients;
Bcc: "dapir@co.cameron.tx.us" <dapir@co.cameron.tx.us>; "mark.yates@co.cameron.tx.us" <mark.yates@co.cameron.tx.us>;
"Arturo.Machuca@houstontx.gov" <Arturo.Machuca@houstontx.gov>;
"has.website@houstontx.gov" <has.website@houstontx.gov>; "has.tpia@houstontx.gov" <has.tpia@houstontx.gov>; "
"hperez@midlandtexas.gov" <hperez@midlandtexas.gov>; "emunoz@midlandtexas.gov" <emunoz@midlandtexas.gov>
Subject: 036-25 Davila - Third Party Notice
Attachments: 036-25 Davila - Submitted Request for Ruling.pdf

February 10, 2025

Third Party

VIA EMAIL ONLY

Re: OOG PIR# 036-25

To Whom it May Concern:

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Office of the Attorney General

P.O. Box 12548

Austin, Texas 78711-2548

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System. No other method of electronic submission is available. Please visit the OAG's website at <http://www.texasattorneygeneral.gov>.

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In order for a governmental body to withhold requested information, specific tests or factors for the applicability of a claimed exception must be met. Failure to meet these tests may result in the release of requested information. We have listed the most commonly claimed exceptions in the Government Code concerning proprietary information and the leading cases or decisions discussing them. This listing is not intended to limit any exceptions or statutes you may raise.

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Section 552.143: Confidentiality of Certain Investment Information

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If you have any other questions, you may contact me at 512-463-8470 or publicrecords@gov.texas.gov.

Sincerely,

Matthew Taylor

Public Information Coordinator

Assistant General Counsel

Office of Governor Greg Abbott

Enc: Request for ruling from OAG with attached original request for information



GOVERNOR GREG ABBOTT

February 3, 2025

Tamara Smith
Open Records Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

Re: Open Records Letter Ruling Request
OOG ID#: 036-25

Dear Ms. Smith:

On January 22 2025, the Office of the Governor (the "OOG") received a request under the Public Information Act (the "PIA") from Ms. Vianna Davila. A copy of the request is attached as Exhibit A.

The OOG asserts information responsive to this request is excepted from disclosure under the PIA. Specifically, the OOG invokes all of the exceptions provided by, and the exceptions incorporated into, sections 552.101 through 552.160 of the Government Code.

Pursuant to section 552.301(a) of the Government Code, this letter is submitted in order to seek a decision as to whether the exceptions apply. To assist in your review, the OOG will provide written comments and the responsive documents, or a representative sample of the responsive documents, not later than the 15th business day from the date the request was received.

Should you need additional information, please feel free to contact me at 512-475-2256 or via email at publicrecords@gov.texas.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "K. Hillis".

Kieran Hillis
Public Information Coordinator
Assistant General Counsel
Office of Governor Greg Abbott

cc: Ms. Vianna Davila
ProPublica
919 Congress Avenue, 6th Floor
Austin, Texas 78701
VIA EMAIL ONLY



GOVERNOR GREG ABBOTT

February 3, 2025

Tamara Smith
Open Records Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

RE: OOG ID# 036-25

Dear Ms. Smith:

In accordance with sections 552.308(b) and 552.3031(a) of the Government Code, the Office of the Governor certifies the undersigned sent the attached letter related to OOG ID# 036-25 to the Open Records Division of the Office of the Attorney General via hand-delivery on February 3, 2025.

Sincerely,

A handwritten signature in blue ink, appearing to read "K. Hillis".

Kieran Hillis
Public Information Coordinator
Assistant General Counsel
Office of Governor Greg Abbott

EXHIBIT A

From: [Vianna Davila](#)
To: [Adriana Cruz](#); [Public Records](#)
Subject: 036-25 Davila - Request for Information
Date: Tuesday, January 21, 2025 5:39:41 PM

[EXTERNAL SENDER] - Do not click on links or open attachments in unexpected messages.

Hello,

Below is a public information request for the governor's office, specifically the Economic Development and Tourism Office — the records concern the Spaceport Trust Fund, which I understand is run by the EDT. That's why I've included you here on this email, Ms. Cruz.

Please let me know that you have received the below request and if I should direct this request elsewhere.

Feel free to call me at 210-387-8984 if you have any questions about the request. Thank you for your time.

Respectfully,
Vianna Davila



Jan. 21, 2025

To whom it may concern,

This is a request under the Texas Public Information Act. On behalf of ProPublica, The Texas Tribune and myself, jointly, we respectfully request the following public records:

- A list of all applications for the Spaceport Trust Fund, since the fund was launched and up to and including the date this request is processed.
- Copies of all applications for the Spaceport Trust Fund, since the fund was launched and up to and including the date this request is processed.
- A list of all applications which received funding from the Spaceport Trust Fund and the amount of money each applicant received, since the fund was launched and up to and including the date this request is processed.

In the event some of the requested records cannot be immediately released, I ask that your office still provide me whatever portion of my request is already public under Texas public records law and ready for release. Sec. 552.221(a) of the Texas Government Code notes that “an officer for public information of a governmental body shall promptly produce public

information for inspection, duplication, or both on application by any person to the officer.”

I prefer to receive records in machine-readable electronic format via email, including but not limited to, Excel spreadsheets, word processing files and computer-generated PDFs (not scans).

In order to help to determine my status to assess fees, you should know that I am a reporter for ProPublica and the Texas Tribune, two nonprofit news organizations, and this request is made as part of news gathering and is not for a commercial use.

I request a waiver of all fees for this request. Disclosure of the requested information to me is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in my commercial interest. If this is not possible, please provide a detailed list that breaks down each charge and informs us of the total charges in advance of fulfilling our request.

If you deny any part of this request, please cite in writing each specific reason that you think justifies your refusal to release the information and notify me of appeal procedures available under the law.

In principle, I am willing to consider ways in which the request might reasonably be narrowed. Let me know if clarifying this request might speed the release of the information.

Please feel free to contact me about any aspect of this request, via email at [REDACTED] or by phone at 210-387-8984. Thank you in advance for your cooperation.

Sincerely,

Vianna Davila

Reporter, ProPublica/Texas Tribune Investigative Unit

919 Congress Avenue

Sixth Floor

Austin, TX 78701

--

Vianna Davila

Reporter - ProPublica/Texas Tribune investigative unit

Email: [REDACTED]

Cell: 210-387-8984

Google Voice: 512-596-0148

Bio: <https://www.propublica.org/people/vianna-davila>

ProPublica: <https://www.propublica.org/>

From: Public Records <publicrecords@gov.texas.gov>
Sent: Monday, February 10, 2025, 4:02 PM
To: Undisclosed recipients;
Bcc: "dapir@co.cameron.tx.us" <dapir@co.cameron.tx.us>; "mark.yates@co.cameron.tx.us" <mark.yates@co.cameron.tx.us>;
[REDACTED]; "Arturo.Machuca@houstontx.gov" <Arturo.Machuca@houstontx.gov>;
"has.website@houstontx.gov" <has.website@houstontx.gov>; "has.tpia@houstontx.gov" <has.tpia@houstontx.gov>; "[REDACTED]" <[REDACTED]>;
"hperez@midlandtexas.gov" <hperez@midlandtexas.gov>; "emunoz@midlandtexas.gov" <emunoz@midlandtexas.gov>
Subject: 036-25 Davila - Third Party Notice
Attachments: 036-25 Davila - Submitted Request for Ruling.pdf

February 10, 2025

Third Party
VIA EMAIL ONLY

Re: OOG PIR# 036-25

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Sincerely,

Matthew Taylor
Public Information Coordinator
Assistant General Counsel
Office of Governor Greg Abbott

Enc: Request for ruling from OAG with attached original request for information



GOVERNOR GREG ABBOTT

February 3, 2025

Tamara Smith
Open Records Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

Re: Open Records Letter Ruling Request
OOG ID#: 036-25

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Kieran Hillis
Public Information Coordinator
Assistant General Counsel
Office of Governor Greg Abbott

cc: Ms. Vianna Davila
ProPublica
919 Congress Avenue, 6th Floor
Austin, Texas 78701
VIA EMAIL ONLY



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February 3, 2025

Tamara Smith
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Office of the Attorney General
P.O. Box 12548
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EXHIBIT A

From: [Vianna Davila](#)
To: [Adriana Cruz](#); [Public Records](#)
Subject: 036-25 Davila - Request for Information
Date: Tuesday, January 21, 2025 5:39:41 PM

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In the event some of the requested records cannot be immediately released, I ask that your office still provide me whatever portion of my request is already public under Texas public records law and ready for release. Sec. 552.221(a) of the Texas Government Code notes that “an officer for public information of a governmental body shall promptly produce public

information for inspection, duplication, or both on application by any person to the officer.”

I prefer to receive records in machine-readable electronic format via email, including but not limited to, Excel spreadsheets, word processing files and computer-generated PDFs (not scans).

In order to help to determine my status to assess fees, you should know that I am a reporter for ProPublica and the Texas Tribune, two nonprofit news organizations, and this request is made as part of news gathering and is not for a commercial use.

I request a waiver of all fees for this request. Disclosure of the requested information to me is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in my commercial interest. If this is not possible, please provide a detailed list that breaks down each charge and informs us of the total charges in advance of fulfilling our request.

If you deny any part of this request, please cite in writing each specific reason that you think justifies your refusal to release the information and notify me of appeal procedures available under the law.

In principle, I am willing to consider ways in which the request might reasonably be narrowed. Let me know if clarifying this request might speed the release of the information.

Please feel free to contact me about any aspect of this request, via email at [REDACTED] or by phone at 210-387-8984. Thank you in advance for your cooperation.

Sincerely,

Vianna Davila

Reporter, ProPublica/Texas Tribune Investigative Unit

919 Congress Avenue

Sixth Floor

Austin, TX 78701

--

Vianna Davila

Reporter - ProPublica/Texas Tribune investigative unit

Email: [REDACTED]

Cell: 210-387-8984

Google Voice: 512-596-0148

Bio: <https://www.propublica.org/people/vianna-davila>

ProPublica: <https://www.propublica.org/>

From: [REDACTED]
Sent: Thursday, April 3, 2025, 10:10 PM
To: Public Records <publicrecords@gov.texas.gov>
Cc: [REDACTED]
Subject: RE: 137-25 McGaughy - Third Party Notice
Attachments: SpaceX Objections to OOG PIR 137-25.pdf; Exhibit A (SpaceX Objections to OOG #137-25).pdf

[**WARNING**] - The sender of this email could not be validated, and may not match the display name.

[**EXTERNAL SENDER**] - Do not click on links or open attachments in unexpected messages.

Matthew,

Please find attached a copy of the objections to the above-referenced public information request that SpaceX filed with OAG today.

Regards,
[REDACTED]

From: Public Records <publicrecords@gov.texas.gov>
Sent: Monday, March 24, 2025 9:36 AM
To: [REDACTED]
Subject: RE: 137-25 McGaughy - Third Party Notice

Good morning,

Please find attached the responsive information for this request. This information has been submitted to the AG's Office for a ruling.

I hope that you are also well!

Best regards,

Matthew Taylor
Assistant General Counsel and Public Information Coordinator
1100 San Jacinto Boulevard, Fourth Floor
Austin, Texas 78701

From: [REDACTED]
Sent: Monday, March 24, 2025 9:15 AM
To: Public Records <publicrecords@gov.texas.gov>
Cc: [REDACTED]
Subject: RE: 137-25 McGaughy - Third Party Notice

[**EXTERNAL SENDER**] - Do not click on links or open attachments in unexpected messages.

Hi, Matthew.

I hope that you are well. Please provide the records at issue for our review.

Thank you very much!

[REDACTED]

From: Public Records <publicrecords@gov.texas.gov>

Sent: Thursday, March 20, 2025 12:24:38 PM

To: [REDACTED]

Subject: 137-25 McGaughy - Third Party Notice

March 20, 2025

[REDACTED]

VIA EMAIL ONLY

Re: OOG PIR# 137-25

Dear Mr. [REDACTED]

The Office of the Governor (“OOG”) has received a formal request to inspect or copy some of our files. The requested files include records involving SpaceX. A copy of our request for an OAG decision with included copy of the original request for information is also attached.

If you would like to view or discuss the records from your company that are at issue before the OAG, please respond to this email or call me at (512) 463-8470.

Generally, the Public Information Act (the “Act”) requires the release of requested information, but there are exceptions. As described below, you have the right to object to the release of your records by submitting written arguments to the OAG that one or more exceptions apply to your records. You are not required to submit arguments to OAG but if you decide not to submit arguments, OAG will presume that you have no interest in withholding your records from disclosure. In other words, if you fail to take timely action, the OAG will more than likely rule that your records must be released to the public. If you decide to submit arguments, **you must do so not later than the tenth business day after the date you receive this notice.**

If you submit arguments to the OAG you must:

- a) identify the legal exceptions that apply

- b) identify the specific parts of each document that are covered by each exception, and
- c) explain why each exception applies.

Gov't Code § 552.305(d). A claim that an exception applies without further explanation will not suffice. *See* Attorney General Opinion H-436 (1974). You may contact this office to review the information at issue in order to make your arguments. We will provide the OAG with a copy of the request for information and a copy of the requested information, along with other material required by the Act. The OAG is generally required to issue a decision within 45 working days.

Please send your written comments to the OAG at the following address:

Open Records Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

If you wish to submit your written comments electronically, you may only do so via the OAG's eFiling System. An administrative convenience charge will be assessed for use of the eFiling System. No other method of electronic submission is available. Please visit the OAG's website at <http://www.texasattorneygeneral.gov>.

In addition, you are required to provide the requestor with a copy of your communication to the OAG. Gov't Code § 552.305(e). You may redact the requestor's copy of your communication to the extent it contains the substance of the requested information. Gov't Code § 552.305(e).

Commonly Raised Exceptions

In order for a governmental body to withhold requested information, specific tests or factors for the applicability of a claimed exception must be met. Failure to meet these tests may result in the release of requested information. We have listed the most commonly claimed exceptions in the Government Code concerning proprietary information and the leading cases or decisions discussing them. This listing is not intended to limit any exceptions or statutes you may raise.

Section 552.101: Information Made Confidential by Law

Open Records Decision No. 652 (1997).

Section 552.110: Confidentiality of Trade Secrets and Commercial or Financial Information

Trade Secrets

Commercial or Financial Information:

Birnbaum v. Alliance of Am. Insurers, 994 S.W.2d 766 (Tex. App.—Austin 1999, pet. filed) (construing previous version of section 552.110), *abrogated by In re Bass*, 113 S.W.3d 735 (Tex. 2003).

Open Records Decision No. 639 (1996).

Open Records Decision No. 661 (1999).

Section 552.113: Confidentiality of Geological or Geophysical Information

Open Records Decision No. 627 (1994)

Section 552.1101: Confidentiality of Proprietary Information

Section 552.131: Confidentiality of Certain Economic Development Negotiation Information

Section 552.143: Confidentiality of Certain Investment Information

If you have questions about this notice or release of information under the Act, please refer to the Public Information Handbook published by the OAG, or contact the OAG's Open Government Hotline toll-free at (877) 673-6839 (877-OPEN TEX). To obtain copies of the Public Information Handbook or Attorney General Opinions, including those listed above, please visit the OAG's website at <http://www.texasattorneygeneral.gov>.

If you have any other questions, you may contact me at (512) 463-8470 or publicrecords@gov.texas.gov.

Sincerely,

Matthew Taylor
Public Information Coordinator
Assistant General Counsel
Office of Governor Greg Abbott

Enc: Request for ruling from OAG with attached original request for information



April 3, 2025

The Honorable Ken Paxton
Office of the Attorney General
Open Records Division
P.O. Box 12548
Austin, TX 78711-2548

**Re: Space Exploration Technologies Corp.'s Objections to Disclosure of Records
Under OOG PIR# 137-25**

Dear Attorney General Paxton:

Space Exploration Technologies Corp. ("SpaceX") respectfully submits this letter objecting to the disclosure of certain records identified by the Office of the Governor ("OOG") as responsive to the above-referenced open records request. On March 20, 2025, SpaceX received a third-party notice from OOG informing SpaceX of a public information request seeking the application submitted by or on behalf of SpaceX for a grant through the Texas Semiconductor Innovation Fund (the "Request").

SpaceX now objects to the disclosure of the records attached as Exhibit A in their entirety on the basis of Texas Government Code Section 552.110(c), as commercial and financial information whose disclosure would cause SpaceX substantial competitive harm. SpaceX requests that the Office of Attorney General direct OOG to withhold the records in Exhibit A from disclosure.

**Exhibit A Contains Commercial and Financial Information Whose Disclosure
Would Cause SpaceX Substantial Competitive Harm.**

SpaceX contends that the records in Exhibit A meet the criteria of Section 552.110(c) and should be withheld from disclosure in their entirety. Section 552.110(c) protects the proprietary interests of private parties with respect to commercial or financial information whose disclosure would cause substantial competitive harm to the person from whom the information was obtained. Tex. Gov't Code § 552.110(c).



[REDACTED]

[REDACTED]

For the foregoing reasons, the entirety of Exhibit A should be protected from disclosure under Section 552.110(c). Thank you for your consideration of this matter. I can be reached at [REDACTED].

Sincerely,

[REDACTED]

[REDACTED]

Enclosure

cc: Matthew Taylor
publicrecords@gov.texas.gov

cc: Ms. Lauren McGaughy, lmcgaughy@kut.org (redacted and without enclosure)

From: Public Records <publicrecords@gov.texas.gov>
Sent: Thursday, March 20, 2025, 11:24 AM
To: [REDACTED]
Bcc: Public Records <publicrecords@gov.texas.gov>
Subject: 137-25 McGaughy - Third Party Notice
Attachments: 137-25 McGaughy - Request for Ruling and Comments Submitted.pdf

March 20, 2025



Re: OOG PIR# 137-25

Dear [REDACTED]:

The Office of the Governor (“OOG”) has received a formal request to inspect or copy some of our files. The requested files include records involving SpaceX. A copy of our request for an OAG decision with included copy of the original request for information is also attached.

If you would like to view or discuss the records from your company that are at issue before the OAG, please respond to this email or call me at (512) 463-8470.

Generally, the Public Information Act (the “Act”) requires the release of requested information, but there are exceptions. As described below, you have the right to object to the release of your records by submitting written arguments to the OAG that one or more exceptions apply to your records. You are not required to submit arguments to OAG but if you decide not to submit arguments, OAG will presume that you have no interest in withholding your records from disclosure. In other words, if you fail to take timely action, the OAG will more than likely rule that your records must be released to the public. If you decide to submit arguments, **you must do so not later than the tenth business day after the date you receive this notice.**

If you submit arguments to the OAG you must:

- a) identify the legal exceptions that apply
- b) identify the specific parts of each document that are covered by each exception, and
- c) explain why each exception applies.

Gov’t Code § 552.305(d). A claim that an exception applies without further explanation will not suffice. *See* Attorney General Opinion H-436 (1974). You may contact this office to review the information at issue in order to make your arguments. We will provide the OAG with a copy of the request for information and a copy of the requested information, along with other material required by the Act. The OAG is generally required to issue a decision within 45 working days.

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In addition, you are required to provide the requestor with a copy of your communication to the OAG. Ghe'n§ h)t H00a,-y0ft), Yhq s ep lt) ernnut lt lqt srhb's rhI p hCphqb
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Commonly Raised Exceptions

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Section 552.101: Information Made Confidential by Law

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Section 552.110: Confidentiality of Trade Secrets and Commercial or Financial Information

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Section 552.1101: Confidentiality of Proprietary Information

Section 552.131: Confidentiality of Certain Economic Development Negotiation Information

Section 552.143: Confidentiality of Certain Investment Information

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GOVERNOR GREG ABBOTT

March 20, 2025

Tamara Smith
Open Records Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

Re: Open Records Letter Ruling Request
OOG ID#: 137-25

Dear Ms. Smith:

On March 12, 2025, the Office of the Governor (the "OOG") received a request under the Public Information Act (the "PIA") from Ms. Lauren McGaughy. A copy of the request is attached as Exhibit A. Pursuant to section 552.301(a), the OOG requests a decision from your office on whether certain responsive information is excepted from disclosure under the PIA. Our office submits this brief in accordance with sections 552.301(b) and 552.301(e).

The OOG asserts the responsive information is excepted from required public disclosure under section 552.104 of the Government Code. The responsive information is attached as Exhibit B. Release of the responsive information may also implicate the interests of a third party. The OOG has notified this third party of its right to submit arguments against disclosure of the information at issue pursuant to section 552.305(b). The OOG has copied the requestor as a recipient of this brief pursuant to section 552.301(e-1).

I. Information Excepted From Required Public Disclosure Under Section 552.104: Information Relating to Competition or Bidding

Section 552.104 of the Government Code provides, in part:

(a) Information is excepted from the requirements of Section 552.021 if a governmental body demonstrates that release of the information would harm its interests by providing an advantage to a competitor or bidder in a particular ongoing competitive situation or in a particular competitive situation where the governmental body establishes the situation at issue is set to reoccur or there is a specific and demonstrable intent to enter into the competitive situation again in the future.

(b) . . . [T]he requirement of Section 552.022 that a category of information listed under Section 552.022(a) is public information and not excepted from required disclosure under this chapter unless expressly confidential under law does not apply to information that is excepted from required disclosure under this section.

Tex. Gov't Code § 552.104(a), (b). Accordingly, to protect information under section 552.104, a governmental body must demonstrate the release of the information would harm the governmental body's interests by providing an advantage to a competitor or bidder 1) in a particular ongoing competitive situation; 2) when a competitive situation at issue is set to reoccur; or 3) when a governmental body has a specific and demonstrable intent to enter into a certain competitive situation again in the future. *See id.* § 552.104(a). Additionally, even if information is listed in a category under section 552.022(a) of the Government Code, a governmental body may withhold such information under section 552.104. *See id.* § 552.104(b).

Section 481.022 of the Government Code charges the OOG's Economic Development and Tourism Office with "[facilitating] the location, expansion, and retention of domestic and international business investment to the state" and "[promoting] and [administering] business and community economic development programs and services in the state, including business incentive programs." *Id.* § 481.022(2), (3). Expansion and recruitment of businesses to states is competitive by its very nature, and Texas is a competitor with other states in that competitive situation. The OOG works tirelessly to promote Texas, in part by providing various incentives and employing strategies designed to attract new business to the state or assist with the expansion of an existing business within the state. The State of Texas has a specific interest in recruiting and expanding businesses and, as required by its specific statutory directive, the OOG engages in this competitive situation on a recurring basis.

In the business expansion and recruitment competitive situation, competing states seek to know which companies are considering expanding or relocating and what incentives the companies are being offered in order to gain an advantage in drawing business to the competing state. Additionally, companies considering relocation or expansion also seek to know the OOG's approaches, methodologies, and strategies in business recruitment and expansion situations in order to achieve terms more favorable to the companies, which result in terms less favorable for the state. Because of this extremely competitive atmosphere, each time the OOG engages with—or may engage with—a business in an effort to facilitate the business's relocation or expansion in Texas, it presents a competitive situation.

The information in Exhibit B relates to a particular ongoing competitive situation. Specifically, the information at issue relates to a business prospect that has proposed to undertake a business expansion project in Texas (the "Company"). This information reflects communications related to investigating, coordinating, and gathering information regarding potential incentives under consideration to be offered to the Company. The information also reflects the OOG's approaches, methodologies, and strategies that are employed in similar competitive situations.

The OOG and the Company are currently in negotiations regarding a contract concerning incentives related to the Company's proposed business expansion project. No contract has yet been executed. Additionally, release of the information relating to the state's economic development recruitment efforts and potential incentives in these matters would seriously disadvantage Texas's ability to compete for the relocation or expansion of similar business prospects to the state in the

future. Further, the OOG employs similar approaches, methodologies, and strategies on a recurring basis to evaluate and recruit potential recipients. In addition, any incentive packages under consideration by the OOG could be used to determine the OOG's internal valuation of similar companies and projects in the future. If competing states know the approaches, methodologies, and strategies used by the OOG to evaluate and recruit companies, it will harm the state in the current business recruitment and expansion situation and will harm the OOG's ability to recruit businesses on behalf of Texas in the future. Additionally, if companies considering relocation or expansion to the state have access to such information, they will obtain unfair leverage in negotiations related to incentive packages.

In short, the release of the information in Exhibit B will provide a competitive advantage to other states competing with Texas in ongoing and recurring business expansion and recruitment competitive situations. Additionally, release of the information at issue would harm the OOG's negotiating position in current the recruitment, which will create a competitive disadvantage in both current and recurring business expansion and recruitment competitive situations. Accordingly, because the release of the information at issue would harm the OOG's interests in an ongoing competitive situation, as well as recurring competitive situations, the OOG seeks to withhold the information in Exhibit B under section 552.104 of the Government Code.

II. Conclusion

On behalf of the OOG and pursuant to section 552.301 of the Government Code, I respectfully request an open records letter ruling as to the applicability of the above raised exception. If you have any questions or need additional information, please contact me at (512) 463-8470.

Sincerely,

A handwritten signature in blue ink, appearing to read "Matthew Taylor".

Matthew Taylor
Public Information Coordinator
Assistant General Counsel
Office of Governor Greg Abbott

cc: Ms. Lauren McGaughy
KUT News
VIA EMAIL ONLY (w/o Exhibit B)

Third Party
VIA EMAIL ONLY



GOVERNOR GREG ABBOTT

March 20, 2025

Tamara Smith
Open Records Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

RE: OOG ID# 137-25

Dear Ms. Smith:

In accordance with sections 552.308(b) and 552.3031(a) of the Government Code, the Office of the Governor certifies the undersigned sent the attached letter related to OOG ID# 137-25 to the Open Records Division of the Office of the Attorney General via hand-delivery on March 20, 2025.

Sincerely,

A handwritten signature in blue ink, appearing to read "Matthew Taylor".

Matthew Taylor
Public Information Coordinator
Assistant General Counsel
Office of Governor Greg Abbott

EXHIBIT A

From: [McGaughy, Lauren](#)
To: [Public Records](#)
Subject: 137-25 McGaughy - Request for Information
Date: Wednesday, March 12, 2025 1:41:44 PM
Attachments: [Outlook-0nkynbia.png](#)

[EXTERNAL SENDER] - Do not click on links or open attachments in unexpected messages.

March 12, 2024

Pursuant to the Texas Public Information Act, I hereby request the following records:

- The application submitted by or on behalf of Space Exploration Technologies Corp (SpaceX) for a grant through the Texas Semiconductor Innovation Fund.

Release of this information is in the public interest because it will contribute significantly to public understanding of government operations and activities. If you deny this request for a fee waiver, please advise me in advance of the estimated charges associated with fulfilling this request. Please send me a detailed and itemized explanation of those charges.

In the interest of expediency, and to minimize the research and/or duplication burden on your staff, please send records electronically if possible. If this is not possible, please notify me. Since time is a factor, please communicate with me by telephone or this email address. I can be reached at 512-423-6024.

Please contact me if you have any questions about my request. My number is below.

Regards,

Lauren McGaughy

Investigative Reporter and Editor

The Texas Newsroom: A Public Radio Collaboration

c: 512-436-3641 e: lmcgaughy@kut.org



The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. — The Texas Public Information Act



RELIABLY
AUSTIN



From: [REDACTED]
Sent: Thursday, April 10, 2025, 9:28 AM
To: Public Records <publicrecords@gov.texas.gov>
Cc: [REDACTED]
Subject: RE: 150-25 Al-Shaikh - Third Party Notice
Attachments: SpaceX Objections to OOG PIR 150-25.pdf; Exhibit A (SpaceX Objections to OOG #150-25).pdf

[EXTERNAL SENDER] - Do not click on links or open attachments in unexpected messages.

Dear Matthew,

Please find attached a copy of the objections that SpaceX filed with OAG with respect to the above-referenced public information request.

Regards,
[REDACTED]

From: Public Records <publicrecords@gov.texas.gov>
Sent: Thursday, March 27, 2025 1:00:45 PM
To: Public Records <publicrecords@gov.texas.gov>
Subject: 150-25 Al-Shaikh - Third Party Notice

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If you would like to view or discuss the records from your company that are at issue before the OAG, please respond to this email or call me at (512) 463-8470.

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so not later than the tenth business day after the date you receive this notice.**

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Commonly Raised Exceptions

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Section 552.101: Information Made Confidential by Law

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Section 552.110: Confidentiality of Trade Secrets and Commercial or Financial Information

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Section 552.113: Confidentiality of Geological or Geophysical Information

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Section 552.1101: Confidentiality of Proprietary Information

Section 552.131: Confidentiality of Certain Economic Development Negotiation Information

Section 552.143: Confidentiality of Certain Investment Information

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I nr Y Nds) dPi 3bb) 5nq Cb- MAR p 5u eierudT 3b5q5ne) bds) dPi 3b5nCb- eiSm



April 8, 2025

The Honorable Ken Paxton
Office of the Attorney General
Open Records Division
P.O. Box 12548
Austin, TX 78711-2548

**Re: Space Exploration Technologies Corp.'s Objections to Disclosure of Records
Under OOG PIR# 150-25**

Dear Attorney General Paxton:

Space Exploration Technologies Corp. ("SpaceX") respectfully submits this letter objecting to the disclosure of certain records identified by the Office of the Governor ("OOG") as responsive to the above-referenced open records request. On March 27, 2025, SpaceX received a third-party notice from OOG informing SpaceX of a public information request seeking SpaceX's application to the Texas Semiconductor Innovation Fund (the "Request").

SpaceX now objects to the disclosure of the records attached as Exhibit A in their entirety on the basis of Texas Government Code Section 552.110(c), as commercial and financial information whose disclosure would cause SpaceX substantial competitive harm. SpaceX requests that the Office of Attorney General direct OOG to withhold the records in Exhibit A from disclosure.

**Exhibit A Contains Commercial and Financial Information Whose Disclosure
Would Cause SpaceX Substantial Competitive Harm.**

SpaceX contends that the records in Exhibit A meet the criteria of Section 552.110(c) and should be withheld from disclosure in their entirety. Section 552.110(c) protects the proprietary interests of private parties with respect to commercial or financial information whose disclosure would cause substantial competitive harm to the person from whom the information was obtained. Tex. Gov't Code § 552.110(c).



[REDACTED]

[REDACTED]

For the foregoing reasons, the entirety of Exhibit A should be protected from disclosure under Section 552.110(c). Thank you for your consideration of this matter. I can be reached at [REDACTED]

Sincerely,

[REDACTED]

[REDACTED]

Enclosure

cc: Matthew Taylor
publicrecords@gov.texas.gov

cc: Ms. Sarah Al-Shaikh, [REDACTED] *(redacted and without enclosure)*

From: Public Records <publicrecords@gov.texas.gov>
Sent: Thursday, March 27, 2025, 12:00 PM
To: Public Records <publicrecords@gov.texas.gov>
Bcc: " " < " <

Subject: 150-25 Al-Shaikh - Third Party Notice
Attachments: 150-25 Al-Shaikh - Request for Ruling w Brief.pdf

March 27, 2025

Third Parties
VIA EMAIL ONLY

Re: OOG PIR# 150-25

To Whom it May Concern:

The Office of the Governor ("OOG") has received a formal request to inspect or copy some of our files. The requested files include records involving your company. A copy of our request for an OAG decision with included copy of the original request for information is also attached.

If you would like to view or discuss the records from your company that are at issue before the OAG, please respond to this email or call me at (512) 463-8470.

Generally, the Public Information Act (the "Act") requires the release of requested information, but there are exceptions. As described below, you have the right to object to the release of your records by submitting written arguments to the OAG that one or more exceptions apply to your records. You are not required to submit arguments to OAG but if you decide not to submit arguments, OAG will presume that you have no interest in withholding your records from disclosure. In other words, if you fail to take timely action, the OAG will more than likely rule that your records must be released to the public. If you decide to submit arguments, **you must do so not later than the tenth business day after the date you receive this notice.**

If you submit arguments to the OAG you must:

- a) identify the legal exceptions that apply
- b) identify the specific parts of each document that are covered by each exception, and
- c) explain why each exception applies.

Gov't Code § 552.305(d). A claim that an exception applies without further explanation will not suffice. *See* Attorney General Opinion H-436 (1974). You may contact this office to review the information at issue in order to make your arguments. We will provide the OAG with a copy of the request for information and a copy of the requested information, along with other material required by the Act. The OAG is generally required to issue a decision within 45 working days.

Please send your written comments to the OAG at the following address:

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In addition, you are required to provide the requestor with a copy of your communication to the OAG. R3n' i W3Td k , , al' 0, cd(l O3) - eo bdiTeri iud bds) dPi3b Pr3so 3Co3) b
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Commonly Raised Exceptions

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Section 552.101: Information Made Confidential by Law

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Section 552.110: Confidentiality of Trade Secrets and Commercial or Financial Information

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Section 552.113: Confidentiality of Geological or Geophysical Information

Ms dmNdr 3bTP 7 dr SP3mE 3l 4ay cG9H

Section 552.1101: Confidentiality of Proprietary Information

Section 552.131: Confidentiality of Certain Economic Development Negotiation Information

Section 552.143: Confidentiality of Certain Investment Information

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GOVERNOR GREG ABBOTT

March 27, 2025

Tamara Smith
Open Records Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

Re: Open Records Letter Ruling Request
OOG ID#: 150-25

Dear Ms. Smith:

On March 19, 2025, the Office of the Governor (the "OOG") received a modified request under the Public Information Act (the "PIA") from Ms. Sarah Al-Shaikh. A copy of the request is attached as Exhibit A. Pursuant to section 552.301(a), the OOG requests a decision from your office on whether certain responsive information is excepted from disclosure under the PIA. Our office submits this brief in accordance with sections 552.301(b) and 552.301(e).

The OOG asserts the responsive information is excepted from required public disclosure under section 552.104 of the Government Code. The responsive information is attached as Exhibit B. Release of the responsive information may also implicate the interests of third parties. The OOG has notified these third parties of the right to submit arguments against disclosure of the information at issue pursuant to section 552.305(b). The OOG has copied the requestor as a recipient of this brief pursuant to section 552.301(e-1).

I. Information Excepted From Required Public Disclosure Under Section 552.104: Information Relating to Competition or Bidding

Section 552.104 of the Government Code provides, in part:

(a) Information is excepted from the requirements of Section 552.021 if a governmental body demonstrates that release of the information would harm its interests by providing an advantage to a competitor or bidder in a particular ongoing competitive situation or in a particular competitive situation where the governmental body establishes the situation at issue is set to reoccur or there is a specific and demonstrable intent to enter into the competitive situation again in the future.

(b) . . . [T]he requirement of Section 552.022 that a category of information listed under Section 552.022(a) is public information and not excepted from required disclosure under this chapter unless expressly confidential under law does not apply to information that is excepted from required disclosure under this section.

Tex. Gov't Code § 552.104(a), (b). Accordingly, to protect information under section 552.104, a governmental body must demonstrate the release of the information would harm the governmental body's interests by providing an advantage to a competitor or bidder 1) in a particular ongoing competitive situation; 2) when a competitive situation at issue is set to reoccur; or 3) when a governmental body has a specific and demonstrable intent to enter into a certain competitive situation again in the future. *See id.* § 552.104(a). Additionally, even if information is listed in a category under section 552.022(a) of the Government Code, a governmental body may withhold such information under section 552.104. *See id.* § 552.104(b).

Section 481.022 of the Government Code charges the OOG's Economic Development and Tourism Office with "[facilitating] the location, expansion, and retention of domestic and international business investment to the state" and "[promoting] and [administering] business and community economic development programs and services in the state, including business incentive programs." *Id.* § 481.022(2), (3). Expansion and recruitment of businesses to states is competitive by its very nature, and Texas is a competitor with other states in that competitive situation. The OOG works tirelessly to promote Texas, in part by providing various incentives and employing strategies designed to attract new business to the state or assist with the expansion of an existing business within the state. The State of Texas has a specific interest in recruiting and expanding businesses and, as required by its specific statutory directive, the OOG engages in this competitive situation on a recurring basis.

In the business expansion and recruitment competitive situation, competing states seek to know which companies are considering expanding or relocating and what incentives the companies are being offered in order to gain an advantage in drawing business to the competing state. Additionally, companies considering relocation or expansion also seek to know the OOG's approaches, methodologies, and strategies in business recruitment and expansion situations in order to achieve terms more favorable to the companies, which result in terms less favorable for the state. Because of this extremely competitive atmosphere, each time the OOG engages with—or may engage with—a business in an effort to facilitate the business's relocation or expansion in Texas, it presents a competitive situation.

The information in Exhibit B relates to particular ongoing competitive situations. Specifically, the information at issue relates to business prospects that have each proposed to undertake a business expansion project in Texas (the "Companies"). This information reflects communications related to investigating, coordinating, and gathering information regarding potential incentives under consideration to be offered to each of the Companies. The information also reflects the OOG's approaches, methodologies, and strategies that are employed in similar competitive situations.

The OOG and each of the Companies are currently in negotiations regarding a contract concerning incentives related to each Company's proposed business expansion project. No contract has yet been executed. Additionally, release of the information relating to the state's economic development recruitment efforts and potential incentives in these matters would seriously disadvantage Texas's ability to compete for the relocation or expansion of similar business

prospects to the state in the future. Further, the OOG employs similar approaches, methodologies, and strategies on a recurring basis to evaluate and recruit potential recipients. In addition, any incentive packages under consideration by the OOG could be used to determine the OOG's internal valuation of similar companies and projects in the future. If competing states know the approaches, methodologies, and strategies used by the OOG to evaluate and recruit companies, it will harm the state in the current business recruitment and expansion situation and will harm the OOG's ability to recruit businesses on behalf of Texas in the future. Additionally, if companies considering relocation or expansion to the state have access to such information, they will obtain unfair leverage in negotiations related to incentive packages.

In short, the release of the information in Exhibit B will provide a competitive advantage to other states competing with Texas in ongoing and recurring business expansion and recruitment competitive situations. Additionally, release of the information at issue would harm the OOG's negotiating position in current recruitments, which will create a competitive disadvantage in both current and recurring business expansion and recruitment competitive situations. Accordingly, because the release of the information at issue would harm the OOG's interests in ongoing competitive situations, as well as recurring competitive situations, the OOG seeks to withhold the information in Exhibit B under section 552.104 of the Government Code.

II. Conclusion

On behalf of the OOG and pursuant to section 552.301 of the Government Code, I respectfully request an open records letter ruling as to the applicability of the above raised exception. If you have any questions or need additional information, please contact me at (512) 463-8470.

Sincerely,

A handwritten signature in blue ink, appearing to read "Matthew Taylor".

Matthew Taylor
Public Information Coordinator
Assistant General Counsel
Office of Governor Greg Abbott

cc: Ms. Sarah Al-Shaikh
KXAN
908 W Martin Luther King Jr Blvd
Austin, Texas 78701
VIA EMAIL ONLY (w/o Exhibit B)

Third Parties
VIA EMAIL ONLY



GOVERNOR GREG ABBOTT

March 27, 2025

Tamara Smith
Open Records Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

RE: OOG ID# 150-25

Dear Ms. Smith:

In accordance with sections 552.308(b) and 552.3031(a) of the Government Code, the Office of the Governor certifies the undersigned sent the attached letter related to OOG ID# 150-25 to the Open Records Division of the Office of the Attorney General via hand-delivery on March 27, 2025.

Sincerely,

A handwritten signature in blue ink, appearing to read "Matthew Taylor".

Matthew Taylor
Public Information Coordinator
Assistant General Counsel
Office of Governor Greg Abbott

EXHIBIT A

From: [Sarah Al-Shaikh](#)
To: [Public Records](#)
Subject: 150-25 Al-Shaikh - Request for Narrowing or Clarification_Reply
Date: Wednesday, March 19, 2025 1:53:27 PM
Attachments: [image001.png](#)
[Outlook-3urgzom2.png](#)

[EXTERNAL SENDER] - Do not click on links or open attachments in unexpected messages.

Mr. Taylor,

I hope all is well. Thank you for connecting with me about this! I wasn't aware that the Texas Semiconductor Innovation Fund accepted applications on a rolling basis. Thank you for that clarity!

Yes, I would like to receive applications that were reviewed by the TSIF Executive Committee at the same time as the SpaceX application.

Thank you so much!

Best,

Sarah Al-Shaikh

Reporter

KXAN | KNVA | KBVO |

908 W Martin Luther King Jr Blvd

Austin, TX 78701

281-763-9654 Cell

www.kxan.com

KXAN In-Depth. Investigative.



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From: Public Records

Sent: Wednesday, March 19, 2025 1:46 PM

To: Sarah Al-Shaikh

Subject: 150-25 Al-Shaikh - Request for Narrowing or Clarification

Ms. Al-Shaikh,

This email seeks to narrow or clarify your request to avoid the production of and potential charges for responsive information that you are not interested in receiving. Additionally, clarifying or narrowing the scope of your public information request can assist the Office of the Governor (the "OOG") in providing responsive information to you more quickly and potentially avoid the need for a decision from the Office of the Attorney General.

Your original request seeks, in part, "all applications submitted . . . for the fifth Texas Semiconductor Innovation Fund." Please respond to the following request for narrowing or clarification:

- We note that the Texas Semiconductor Innovation Fund ("TSIF") accepts applications on a rolling basis. Accordingly, there does not exist a group of applications that were submitted "for the fifth Texas Semiconductor Innovation Fund." Please provide additional detail regarding which applications you are requesting. For example, would you like to receive applications that were reviewed by the TSIF Executive Committee at the same time as the SpaceX application?

Your narrowing or clarification of this request does not preclude you from making future requests for additional information. After we receive your response, we can begin a search of our records for the information you are seeking. If the OOG does not receive a response from you by the 61st day after the date this email is sent, your request will be considered withdrawn. See Gov't Code § 552.222(d), (g). The withdrawal of your request does not preclude you from requesting the same or other information in the future. You can reach us at publicrecords@gov.texas.gov with any questions.

Sincerely,

Matthew Taylor
Public Information Coordinator
Assistant General Counsel
Office of the Governor

From: Sarah Al-Shaikh <Sarah.Al-Shaikh@kxan.com>

Sent: Tuesday, March 18, 2025 4:42 PM

To: Public Records <publicrecords@gov.texas.gov>

Subject: 150-25 Al-Shaikh - Request for Information

[EXTERNAL SENDER] - Do not click on links or open attachments in unexpected messages.

Good Afternoon,

I hope all is well! My name is Sarah Al-Shaikh and I'm a reporter with KXAN in Austin, TX. I am writing to formally request access to public records. Specifically, I am requesting the following:

- All applications submitted by businesses, state entities and higher education institutions for the fifth Texas Semiconductor Innovation Fund
- SpaceX's application for the Texas Semiconductor Innovation Fund

If any portion of this request is unclear, or if you require more information to fulfill it, please feel free to contact me at the above email address or phone number (281-763-9654).

If the records are not immediately available, please let me know if there will be any costs for processing the request or if any portions of the records are exempt from disclosure.

If any fees are involved, please provide me with a cost estimate before proceeding. If my request is denied in whole or in part, please provide an explanation for the denial and inform me of the appeal process.

Thank you for your attention to this matter. I greatly appreciate it!

Best,

Sarah Al-Shaikh

Reporter

KXAN|KNVA|KBVO|

908 W Martin Luther King Jr Blvd

Austin, TX 78701

281-763-9654 Cell

www.kxan.com

KXAN In-Depth. Investigative.



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@KXAN_NEWS

From: [REDACTED]
Sent: Friday, May 9, 2025, 5:54 PM
To: Public Records <publicrecords@gov.texas.gov>
Cc: [REDACTED]
Subject: SpaceX Objections to OOG #196-25
Attachments: SpaceX Objections to OOG PIR 196-25.pdf; [REDACTED] Exhibit A to SpaceX's Objections to OOG#196-25 Mathews.pdf

[WARNING] - The sender of this email could not be validated, and may not match the display name.

[EXTERNAL SENDER] - Do not click on links or open attachments in unexpected messages.

Matthew,

Attached please find a copy of SpaceX's Objections to OOG PIR 196-25, filed today with OAG.

Thanks,
[REDACTED]

Pages 2-47 are currently before the ORD in connection with OOG PIR# 196-25

The OOG raised 552.104 for these pages for 196-25

The application was previously ruled on in ORL 2024-040758 but a contract has now been executed

The marking on the top of page 2 are how the docs were marked for 196-25



May 9, 2025

The Honorable Ken Paxton
Office of the Attorney General
Open Records Division
P.O. Box 12548
Austin, TX 78711-2548

**Re: Space Exploration Technologies Corp.'s Objections to Disclosure of Records
Under OOG PIR# 196-25**

Dear Attorney General Paxton:

Space Exploration Technologies Corp. ("SpaceX") respectfully submits this letter objecting to the disclosure of certain records identified by the Office of the Governor ("OOG") as responsive to the above-referenced open records request. On April 25, 2025, SpaceX received a third-party notice from OOG informing SpaceX of a public information request seeking SpaceX's grant agreement and application for its Texas Semiconductor Innovation Fund grant (the "Request").

SpaceX objects to the disclosure of the redacted portions of the records attached as Exhibit A on the basis of Texas Government Code Section 552.110(c), as commercial and financial information whose disclosure would cause SpaceX substantial competitive harm. SpaceX requests that the Office of Attorney General direct OOG to withhold the redacted portions of the records in Exhibit A from disclosure.

**Exhibit A Contains Commercial and Financial Information Whose Disclosure
Would Cause SpaceX Substantial Competitive Harm.**

SpaceX contends that the redacted portions of the records in Exhibit A meet the criteria of Section 552.110(c) and should be withheld from disclosure. Section 552.110(c) protects the proprietary interests of private parties with respect to commercial or financial information whose disclosure would cause substantial competitive harm to the person from whom the information was obtained. Tex. Gov't Code § 552.110(c).

[Redacted]

[Redacted]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

For the foregoing reasons, the redacted portions of Exhibit A should be protected from disclosure under Section 552.110(c). Thank you for your consideration of this matter. I can be reached at

[REDACTED]

Sincerely,

[REDACTED]

[REDACTED]

Enclosure

cc: Matthew Taylor, publicrecords@gov.texas.gov

cc: Ms. Jessica Mathews, [REDACTED] *(redacted and without enclosure)*

From: Public Records <publicrecords@gov.texas.gov>
Sent: Friday, May 2, 2025, 11:44 AM
To: [REDACTED] Public Records <publicrecords@gov.texas.gov>
Subject: RE: 196-25 Mathews - Third Party Notice
Attachments: 196-25 Mathews - Ex. B.pdf

Good morning,

Please see the attached records involving SpaceX that are currently before the OAG in connection with OOG ID# 196-25.

Best regards,

Matthew Taylor

Assistant General Counsel and Public Information Coordinator

1100 San Jacinto Boulevard, Fourth Floor

Austin, Texas 78701

From: [REDACTED]
Sent: Friday, May 2, 2025 10:56 AM
To: Public Records
Subject: RE: 196-25 Mathews - Third Party Notice

[EXTERNAL SENDER] - Do not click on links or open attachments in unexpected messages.

Hi Matthew,

Could you please send the records at issue in this request so that SpaceX may review?

Thanks,
[REDACTED]

From: Public Records <publicrecords@gov.texas.gov>
Sent: Friday, April 25, 2025 12:24 PM
To: [REDACTED]
Cc: Public Records <publicrecords@gov.texas.gov>
Subject: 196-25 Mathews - Third Party Notice
April 25, 2025

VIA EMAIL ONLY

Re: OOG PIR# 196-25

Dear Mr. [REDACTED]

The Office of the Governor ("OOG") has received a formal request to inspect or copy some of our files. The requested files include records involving [Company]. A copy of our request for an OAG decision with included copy of the original request for information is also attached.

If you would like to view or discuss the records from your company that are at issue before the OAG, please respond to this email or call me at (512) 463-8470.

Generally, the Public Information Act (the "Act") requires the release of requested information, but there are exceptions. As described below, you have the right to object to the release of your records by submitting written arguments to the OAG that one or more exceptions apply to your records. You are not required to submit arguments to OAG but if you decide not to submit arguments, OAG will presume that you have no interest in withholding your records from disclosure. In other words, if you fail to take timely action, the OAG will more than likely rule

that your records must be released to the public. If you decide to submit arguments, **you must do so not later than the tenth business day after the date you receive this notice.**

If you submit arguments to the OAG you must:

- a) identify the legal exceptions that apply
- b) identify the specific parts of each document that are covered by each exception, and
- c) explain why each exception applies.

Gov't Code § 552.305(d). A claim that an exception applies without further explanation will not suffice. *See* Attorney General Opinion H-436 (1974). You may contact this office to review the information at issue in order to make your arguments. We will provide the OAG with a copy of the request for information and a copy of the requested information, along with other material required by the Act. The OAG is generally required to issue a decision within 45 working days.

Please send your written comments to the OAG at the following address:

Open Records Division

Office of the Attorney General

P.O. Box 12548

Austin, Texas 78711-2548

If you wish to submit your written comments electronically, you may only do so via the OAG's eFiling System. An administrative convenience charge will be assessed for use of the eFiling System. No other method of electronic submission is available. Please visit the OAG's website at <http://www.texasattorneygeneral.gov>.

In addition, you are required to provide the requestor with a copy of your communication to the OAG. Gov't Code § 552.305(e). You may redact the requestor's copy of your communication to the extent it contains the substance of the requested information. Gov't Code § 552.305(e).

Commonly Raised Exceptions

In order for a governmental body to withhold requested information, specific tests or factors for the applicability of a claimed exception must be met. Failure to meet these tests may result in the release of requested information. We have listed the most commonly claimed exceptions in the Government Code concerning proprietary information and the leading cases or decisions discussing them. This listing is not intended to limit any exceptions or statutes you may raise.

Section 552.101: Information Made Confidential by Law

Open Records Decision No. 652 (1997).

Section 552.110: Confidentiality of Trade Secrets and Commercial or Financial Information

Trade Secrets

Commercial or Financial Information:

Birnbaum v. Alliance of Am. Insurers, 994 S.W.2d 766 (Tex. App.—Austin 1999, pet. filed) (construing previous version of section 552.110), *abrogated by In re Bass*, 113 S.W.3d 735 (Tex. 2003).

Open Records Decision No. 639 (1996).

Open Records Decision No. 661 (1999).

Section 552.113: Confidentiality of Geological or Geophysical Information

Open Records Decision No. 627 (1994)

Section 552.1101: Confidentiality of Proprietary Information

Section 552.131: Confidentiality of Certain Economic Development Negotiation Information

Section 552.143: Confidentiality of Certain Investment Information

If you have questions about this notice or release of information under the Act, please refer to the Public Information Handbook published by the OAG, or contact the OAG's Open Government Hotline toll-free at (877) 673-6839 (877-OPEN TEX). To obtain copies of the Public Information Handbook or Attorney General Opinions, including those listed above, please visit the OAG's website at <http://www.texasattorneygeneral.gov>.

If you have any other questions, you may contact me at (512) 463-8470 or publicrecords@gov.texas.gov.

Sincerely,

Matthew Taylor

Public Information Coordinator

Assistant General Counsel

Office of Governor Greg Abbott

Enc: Request for ruling from OAG with attached original request for information

From: [REDACTED]
Sent: Friday, May 2, 2025, 10:56 AM
To: Public Records <publicrecords@gov.texas.gov>
Subject: RE: 196-25 Mathews - Third Party Notice

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April 25, 2025

VIA EMAIL ONLY

Re: OOG PIR# 196-25

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Open Records Division
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P.O. Box 12548

Austin, Texas 78711-2548

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If you have any other questions, you may contact me at (512) 463-8470 or publicrecords@gov.texas.gov.

Sincerely,

Matthew Taylor

Public Information Coordinator

Assistant General Counsel

Office of Governor Greg Abbott

Enc: Request for ruling from OAG with attached original request for information

From: Public Records <matthew.taylor@gov.texas.gov>
Sent: Friday, April 25, 2025, 11:23 AM
To: [REDACTED]
Cc: 'Public Records' <publicrecords@gov.texas.gov>
Subject: 196-25 Mathews - Third Party Notice
Attachments: 196-25 Mathews - Request for Ruling w Brief.pdf

April 25, 2025

[REDACTED]
[REDACTED]
[REDACTED]

VIA EMAIL ONLY

Re: OOG PIR# 196-25

Dear [REDACTED]:

The Office of the Governor ("OOG") has received a formal request to inspect or copy some of our files. The requested files include records involving [Company]. A copy of our request for an OAG decision with included copy of the original request for information is also attached.

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Austin, Texas 78711-2548

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If you have any other questions, you may contact me at (512) 463-8470 or publicrecords@gov.texas.gov.

Sincerely,

Matthew Taylor
Public Information Coordinator
Assistant General Counsel
Office of Governor Greg Abbott

Enc: Request for ruling from OAG with attached original request for information



GOVERNOR GREG ABBOTT

April 25, 2025

Tamara Smith
Open Records Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

Re: Open Records Letter Ruling Request
OOG ID#: 196-25

Dear Ms. Smith:

On April 16, 2025, the Office of the Governor (the "OOG") received a request under the Public Information Act (the "PIA") from Ms. Jessica Mathews.¹ A copy of the request is attached as Exhibit A. Pursuant to section 552.301(a), the OOG requests a decision from your office on whether certain responsive information is excepted from disclosure under the PIA. Our office submits this brief in accordance with sections 552.301(b) and 552.301(e).

The OOG asserts the responsive information is excepted from required public disclosure under section 552.104 of the Government Code. The responsive information is attached as Exhibit B. Release of the responsive information may also implicate the interests of a third party. The OOG has notified this third party of its right to submit arguments against disclosure of the information at issue pursuant to section 552.305(b). The OOG has copied the requestor as a recipient of this brief pursuant to section 552.301(e-1).

I. Information Excepted From Required Public Disclosure Under Section 552.104: Information Relating to Competition or Bidding

Section 552.104 of the Government Code provides, in part:

(a) Information is excepted from the requirements of Section 552.021 if a governmental body demonstrates that release of the information would harm its interests by providing an advantage to a competitor or bidder in a particular ongoing competitive situation or in a particular competitive situation where the governmental body establishes the situation at issue is set to reoccur or there is a

¹ The OOG was closed on April 18, 2025, in observance of Good Friday. Additionally, the OOG observed a skeleton crew day on April 21, 2025.

specific and demonstrable intent to enter into the competitive situation again in the future.

(b) . . . [T]he requirement of Section 552.022 that a category of information listed under Section 552.022(a) is public information and not excepted from required disclosure under this chapter unless expressly confidential under law does not apply to information that is excepted from required disclosure under this section.

Tex. Gov't Code § 552.104(a), (b). Accordingly, to protect information under section 552.104, a governmental body must demonstrate the release of the information would harm the governmental body's interests by providing an advantage to a competitor or bidder 1) in a particular ongoing competitive situation; 2) when a competitive situation at issue is set to reoccur; or 3) when a governmental body has a specific and demonstrable intent to enter into a certain competitive situation again in the future. *See id.* § 552.104(a). Additionally, even if information is listed in a category under section 552.022(a) of the Government Code, a governmental body may withhold such information under section 552.104. *See id.* § 552.104(b).

Section 481.022 of the Government Code charges the OOG's Economic Development and Tourism Office with "[facilitating] the location, expansion, and retention of domestic and international business investment to the state" and "[promoting] and [administering] business and community economic development programs and services in the state, including business incentive programs." *Id.* § 481.022(2), (3). Expansion and recruitment of businesses to states is competitive by its very nature, and Texas is a competitor with other states in that competitive situation. The OOG works tirelessly to promote Texas, in part by providing various incentives and employing strategies designed to attract new business to the state or assist with the expansion of an existing business within the state. The State of Texas has a specific interest in recruiting and expanding businesses and, as required by its specific statutory directive, the OOG engages in this competitive situation on a recurring basis.

In the business expansion and recruitment competitive situation, competing states seek to know which companies are considering expanding or relocating and what incentives the companies are being offered in order to gain an advantage in drawing business to the competing state. Additionally, companies considering relocation or expansion also seek to know the OOG's approaches, methodologies, and strategies in business recruitment and expansion situations in order to achieve terms more favorable to the companies, which result in terms less favorable for the state. Because of this extremely competitive atmosphere, each time the OOG engages with—or may engage with—a business in an effort to facilitate the business's relocation or expansion in Texas, it presents a competitive situation.

The information in Exhibit B relates to recurring competitive situations. Specifically, the information at issue relates to a business prospect that has proposed to undertake a business expansion project in Texas (the "Company"). This information reflects communications related to investigating, coordinating, and gathering information regarding incentives offered to the Company. Accordingly, the information reflects the OOG's approaches, methodologies, and strategies that are employed in similar competitive situations.

The release of the information relating to the state's economic development recruitment efforts and incentives in these matters would seriously disadvantage Texas's ability to compete for the

relocation or expansion of similar business prospects to the state in the future. Further, the OOG employs similar approaches, methodologies, and strategies on a recurring basis to evaluate and recruit potential recipients. In addition, information regarding incentive packages could be used to determine the OOG's internal valuation of similar companies and projects in the future. If competing states know the approaches, methodologies, and strategies used by the OOG to evaluate and recruit companies, it will harm the state in the current business recruitment and expansion situation and will harm the OOG's ability to recruit businesses on behalf of Texas in the future. Additionally, if companies considering relocation or expansion to the state have access to such information, they will obtain unfair leverage in negotiations related to incentive packages.

In short, the release of the information in Exhibit B will provide a competitive advantage to other states competing with Texas in recurring business expansion and recruitment competitive situations. Additionally, release of the information at issue would harm the OOG's negotiating position and create a competitive disadvantage in recurring business expansion and recruitment competitive situations. Accordingly, because the release of the information at issue would harm the OOG's interests in recurring competitive situations, the OOG seeks to withhold the information in Exhibit B under section 552.104 of the Government Code.

II. Conclusion

On behalf of the OOG and pursuant to section 552.301 of the Government Code, I respectfully request an open records letter ruling as to the applicability of the above raised exceptions. If you have any questions or need additional information, please contact me at (512) 463-8470.

Sincerely,



Matthew Taylor
Public Information Coordinator
Assistant General Counsel
Office of Governor Greg Abbott

cc: Ms. Jessica Mathews
Fortune Magazine
40 Fulton Street
New York, NY 11038
VIA EMAIL ONLY (w/o Exhibit B)

Third Party
VIA EMAIL ONLY



GOVERNOR GREG ABBOTT

April 25, 2025

Tamara Smith
Open Records Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

RE: OOG ID# 196-25

Dear Ms. Smith:

In accordance with sections 552.308(b) and 552.3031(a) of the Government Code, the Office of the Governor certifies the undersigned sent the attached letter related to OOG ID# 196-25 to the Open Records Division of the Office of the Attorney General via hand-delivery on April 25, 2025.

Sincerely,

A handwritten signature in blue ink, appearing to read "Matthew Taylor".

Matthew Taylor
Public Information Coordinator
Assistant General Counsel
Office of Governor Greg Abbott

EXHIBIT A

From: [Jessica Mathews](#)
To: [Public Records](#)
Subject: 196-25 Mathews - Request for Information
Date: Wednesday, April 16, 2025 3:23:15 PM
Attachments: [abbott_request.pdf](#)

[EXTERNAL SENDER] - Do not click on links or open attachments in unexpected messages.

Hi there,

I would like to submit the attached PIR request. I am a member of the news media. Thank you!

Jessica Mathews | Tech Reporter

Fortune Magazine
cell/signal: +1 (479) 715-9553

TEXAS PUBLIC INFORMATION ACT INFORMATION REQUEST FORM

For guidance regarding your rights as a requestor and the public information procedures adopted by this governmental body, you may review the governmental body's notice required under section 552.205 of the Government Code. You can find additional Public Information Act resources on the Office of the Attorney General's website at <http://www.texasattorneygeneral.gov/open-government>.

Requestor Contact Information

First Name: Jessica

Last Name: Mathews

Company/Organization: Fortune Magazine

Mailing Address: 40 Fulton St.

City: New York

State: NY

Zip Code: 11038

E-mail Address: [REDACTED]

Phone Number: 479-715-9553

Preferred Manner of Written Communication: E-mail



Description of the Information Requested

(Note: Describe the information as precisely as you can.)

I would like to request copies of the SpaceX agreement/contract for its Texas Semiconductor Innovation Fund grant. I would also like to request SpaceX's application for the grant.

Date Range (optional): From: 4/1/2024 to: 4/16/2025

Under the Public Information Act, some categories of information do not have to be released. Exceptions to disclosure fall into two general categories: 1) mandatory exceptions that make information confidential and require a governmental body to withhold information, and 2) discretionary exceptions that allow but do not require a governmental body to withhold information. You may find information about mandatory and discretionary exceptions [HERE](#).

In most instances, a governmental body is required to request a decision from the Attorney General in order to withhold information from a requestor. However, a requestor may permit a governmental body to redact information without requesting an Attorney General decision. You are not required to agree to the redaction of any information responsive to your request, but doing so may streamline the handling of your request. If you agree to redactions in this request, then you may request the redacted information in a future information request.

- Do you agree to the redaction of information that is subject to mandatory exceptions, provided such redactions are clearly labeled on the information you received? Yes ☒
- Do you agree to the redaction of information that is subject to discretionary exceptions, provided such redactions are clearly labeled on the information you receive? No

INFORMATION PREFERENCES:

- How would you like to have the information provided? Copies
- If available, do you wish to receive an electronic copy of the information? Yes ☒

Please Note: If the information requested is unclear or if a large amount of information is requested you may be contacted to discuss clarifying or narrowing your request. There may be charges associated with production of the requested information. You may find more information regarding the charges under the Public Information Act [HERE](#).)

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Requestor Contact Information

First Name: Jessica

Last Name: Mathews

Company/Organization: Fortune Magazine

Mailing Address: 40 Fulton St.

City: New York

State: NY

Zip Code: 11038

E-mail Address: [REDACTED]

Phone Number: 479-715-9553

Preferred Manner of Written Communication: E-mail



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- How would you like to have the information provided? Copies
- If available, do you wish to receive an electronic copy of the information? Yes ☒

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From: Joe Magruder <Joe.Magruder@gov.texas.gov>
Sent: Friday, November 1, 2024, 12:09 PM
To: Aimee Burnett <[REDACTED]> Arturo Machuca <arturo.machuca@houstontx.gov>;
George Moussa <[REDACTED]> Jim Allmon <[REDACTED]> "John D.
Guevara " <[REDACTED]> John Mulholland <[REDACTED]> Kevin
Cox <[REDACTED]> Lauren Dreyer <[REDACTED]> Robert Donnelly
<[REDACTED]> Shelly deZevallos <shelly@westhoustonairport.com>; Sonja Clark
<[REDACTED]> Summer Webb <[REDACTED]>
Cc: Adriana Cruz <Adriana.Cruz@gov.texas.gov>; Cyndy Hurtado <Cyndy.Hurtado@gov.texas.gov>;
Larry McManus <Larry.McManus@gov.texas.gov>; Shirley Temple <Shirley.Temple@gov.texas.gov>
Subject: [REDACTED]
Attachments: [REDACTED]

552.137

Dear Members,
I hope you are doing well.
Please find the following for the upcoming AAAC meeting on November 7, 2024. Due to size of some of the documents, I am providing a link so this email will reach you. I will print copies of all the items listed below for the meeting.

- Meeting Agenda
- 2021 Letter of Recommendations
- AAAC Member List
- [REDACTED]
- Aerospace, Aviation & Defense Industry Snapshot:
<https://gov.texas.gov/uploads/files/business/AerospaceAviationandDefense.pdf>
- Texas Aerospace, Aviation & Defense Industry Report:
<https://gov.texas.gov/uploads/files/business/TexasAerospaceReport.pdf>
- Texas Business Incentives & Programs Overview:
<https://gov.texas.gov/uploads/files/business/IncentivesOverview.pdf>

Please let me know if you should need anything.
I look forward to seeing each of you.

Best regards,
Joe Magruder
Industry Specialist
Office of Aerospace & Aviation
Texas Economic Development & Tourism
Office of Governor Greg Abbott
221 E. 11 St. | Austin, TX 78701
Direct: 512.475.2209 | Cell: 512.436.4482
Email: joe.magruder@gov.texas.gov
www.Gov.Texas.Gov/Business

From: Joe Magruder
Sent: Tuesday, October 15, 2024 9:05 AM
To: Aimee Burnett ; Arturo Machuca ; George Moussa ; Jim Allmon ; John D. Guevara ; John Mulholland ; Kevin Cox ; Lauren Dreyer ; Robert Donnelly ; Shelly deZevallos ; Sonja Clark ; Summer Webb
Cc: Adriana Cruz ; Cyndy Hurtado ; Larry McManus ; Shirley Temple
Subject: [REDACTED]
Dear Members,

I hope this finds you well.

As per the request of Shelly deZevallos, Chair of the Aerospace & Aviation Advisory Committee (AAAC), below you will find information about the upcoming meeting:

- Invite to the upcoming AAAC Meeting will be sent shortly:
 - Date: November 7, 2024
 - Time: 10:00 a.m. to 3:00 p.m. CST
 - This is a tentative length of time. We may or may not use full five (5) hours.
 - Location:
 - Office of the Governor (OOG)
Economic Development & Tourism (EDT)
221 E. 11th St.
4th Floor
Austin, TX 78701
(Map attached with location and parking information)
 - In-person is requested.
 - This is the first meeting of the newly appointed and re-appointed members. We wish to meet face-to-face to get to know one another.
 - If absolutely necessary, you can join via Microsoft Teams.
 - There are currently 12 members to the AAAC.
 - The committee needs to have seven (7) members present to have a quorum.
- Agenda to follow..
- 2021 Letter of Recommendations
 - Please review.
 - Please be prepared to discuss recommendations for the upcoming 2024 Letter of Recommendations.

Please let me know if you should need anything.

Best regards,

Joe Magruder

Industry Specialist

Office of Aerospace & Aviation

Texas Economic Development & Tourism

Office of Governor Greg Abbott

221 E. 11 St. | Austin, TX 78701

Direct: 512.475.2209 | Cell: 512.436.4482

Email: joe.magruder@gov.texas.gov

www.Gov.Texas.Gov/Business



Aerospace & Aviation Advisory Committee (AAAC)

List of Members

2024

New members:

Kevin Cox (Ferrovia Vertiports)
Robin Donnelly (The Eastland Oil Company)
Representing the Midland Spaceport Development Corporation
Sonya Clark (Bell Textron)
Summer Webb (Blue Origin)
Representing the West Texas Spaceport Development Corporation

Reappointed and returning members:

Aimee Burnett (Lockheed Martin Aeronautics)
Arturo Machuca (City of Houston, Houston Airport System, Ellington Airport)
Representing the Houston Spaceport Development Corporation
George Moussa (Ambassador Jet Center)
Jim Allmon (Blackhawk Aerospace)
John D. Guevara (Linebarger Goggan Blair & Sampson LLP)
Representing the Cameron County Spaceport Development Corporation
John Mulholland (The Boeing Company)
Lauren Dryer (SpaceX)
Shelly deZevallos (West Houston Airport)



Aerospace & Aviation Advisory Committee Meeting

Date: November 7, 2024
Time: 10:00 a.m. – 12:00 p.m.

AGENDA

ITEM

1. Call to Order
2. Shelly deZevallos (Chair) welcome and roll call
3. Chair to welcome the new, reappointed, and returning members
 - a. Each committee member introduces themselves
 - b. Each Office of the Governor staff introduces themselves
4. Texas Government Code, Chapter 481.0066: Aerospace and Aviation Office
 - a. Review and comments by Office of the Governor staff
5. Texas Government Code, Chapter 481.0066(e), (e-1), and (e-2): Aerospace and Aviation Advisory Committee
 - a. Review and comments by Office of the Governor staff
6. Chair to review of 2021 Letter of Recommendations
7. Committee members discussion of items to be included in 2024 Letter of Recommendations
8. Committee members additional thoughts and/or items
9. Adjournment

From: [REDACTED]
Sent: Thursday, March 27, 2025, 2:26 PM
To: Public Records <publicrecords@gov.texas.gov>
Subject: Automatic reply: 150-25 Al-Shaikh - Third Party Notice

[WARNING] - The sender of this email could not be validated, and may not match the display name.

[EXTERNAL SENDER] - Do not click on links or open attachments in unexpected messages.

I will be out of office March 25-31. For urgent matters, please contact legal@spacex.com.



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RESOLUTIONS

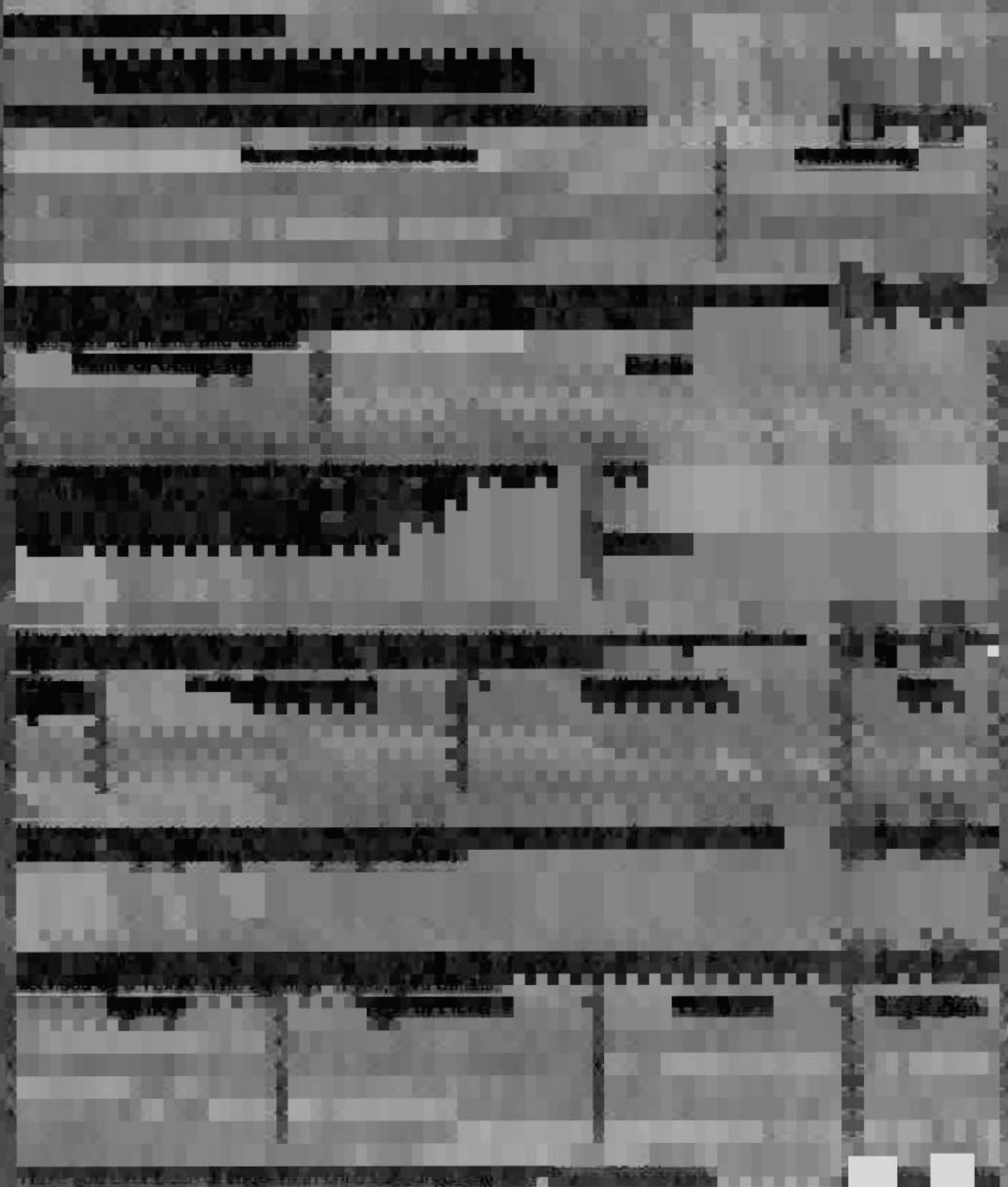
1880

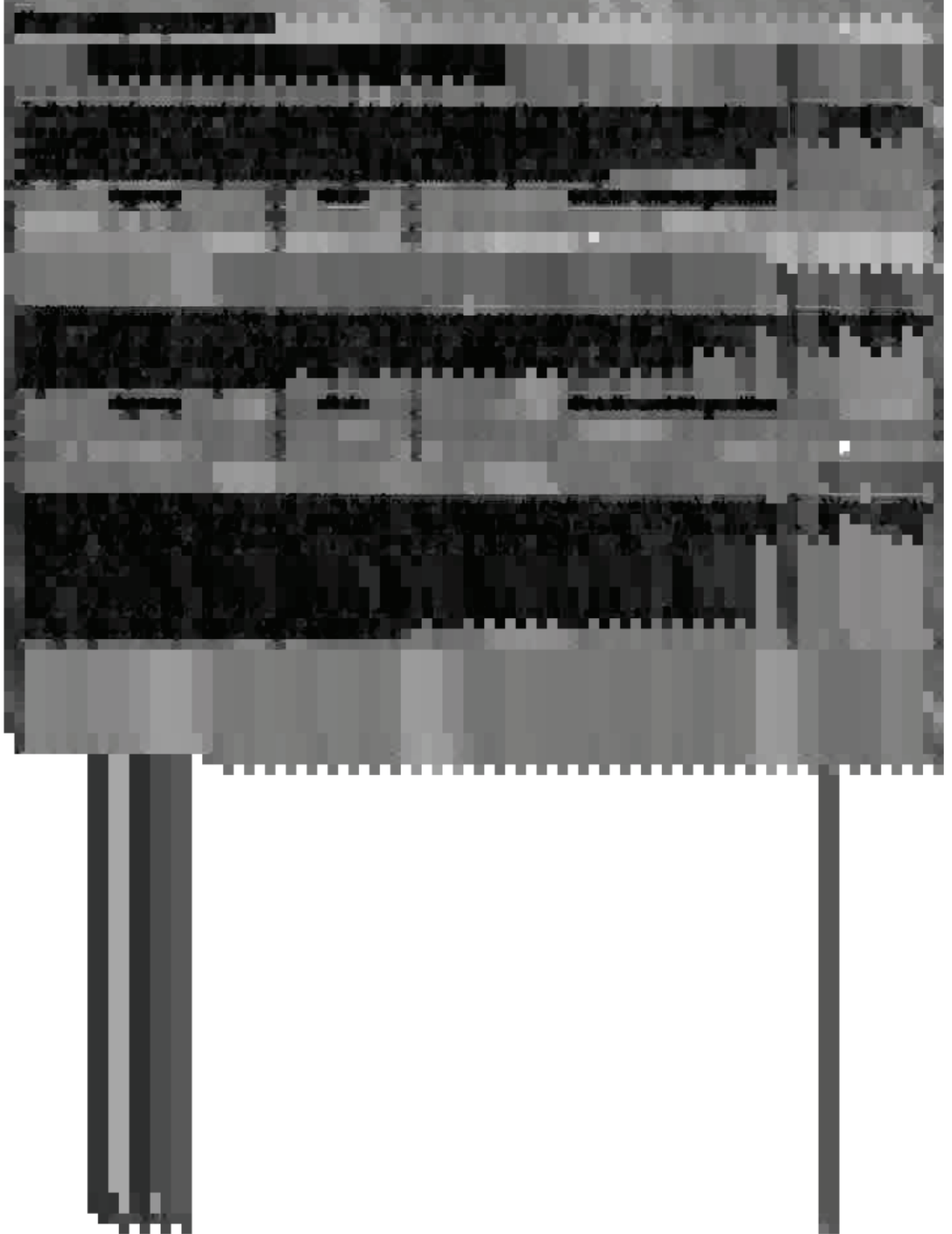


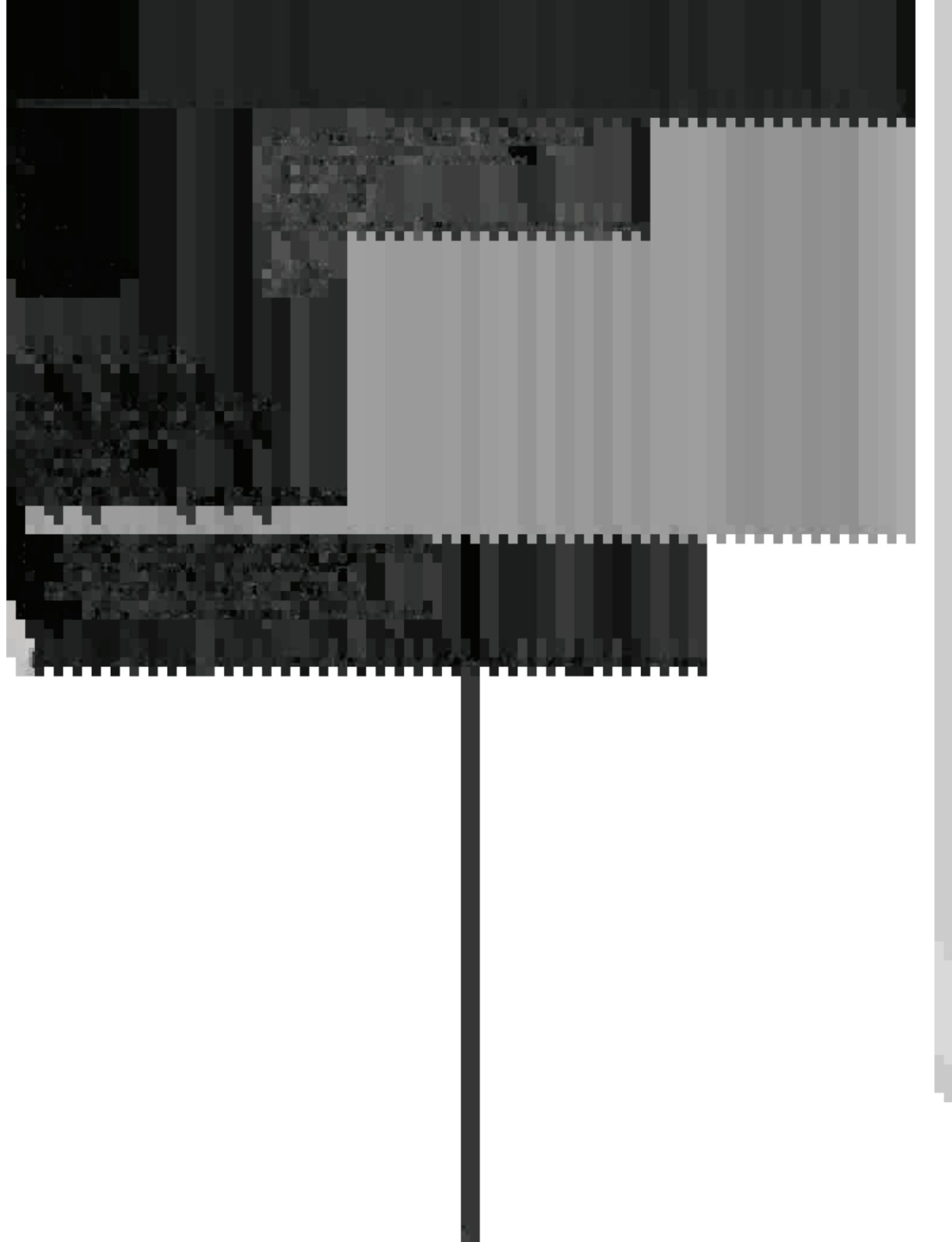
552.117



552.101 / common-law privacy









From: Public Records <matthew.taylor@gov.texas.gov>
Sent: Tuesday, April 15, 2025, 12:03 PM
To: [REDACTED]

Subject: RE: 036-25 Davila - SpaceX_Third Party Reply | Ruling

Hi [REDACTED]

Thank you for reaching out about the AG's ruling for PIR# 036-25. I will review the AG's ruling and markings and provide you a redacted copy of the SpaceX information before the information is released to the requestor.

Best regards,

Matthew Taylor
Assistant General Counsel and Public Information Coordinator
1100 San Jacinto Boulevard, Fourth Floor
Austin, Texas 78701

From: [REDACTED]
Sent: Monday, April 14, 2025 9:10 AM
To: Public Records <publicrecords@gov.texas.gov>
Cc: [REDACTED]
Subject: RE: 036-25 Davila - SpaceX_Third Party Reply | Ruling

[EXTERNAL SENDER] - Do not click on links or open attachments in unexpected messages.

Dear Mr. Taylor,

I recently received in the mail a copy of the ruling on OOG ID# 036-25. Would you please be able to provide OAG's redactions as they pertain to the SpaceX information? Thank you!

Best,

[REDACTED]

From: [REDACTED]
Sent: Tuesday, February 25, 2025 12:17 PM
To: Public Records <publicrecords@gov.texas.gov>
Cc: [REDACTED]
Subject: RE: 036-25 Davila - SpaceX_Third Party Reply

Dear Mr. Taylor,

Please find attached copies of SpaceX's objections and redacted records submitted on the Public Information Act Electronic Filing System (request ID: 66281048). Please let us know if you have any questions.

From: Public Records <publicrecords@gov.texas.gov>

Sent: Tuesday, February 11, 2025 3:09 PM

To: [REDACTED]

Subject: RE: 036-25 Davila - SpaceX_Third Party Reply

Good afternoon,

Please see the attached records involving SpaceX that are currently before the OAG in connection with OOG ID# 036-25.

Best regards,

Matthew Taylor
Assistant General Counsel and Public Information Coordinator
1100 San Jacinto Boulevard, Fourth Floor
Austin, Texas 78701

From: [REDACTED]

Sent: Tuesday, February 11, 2025 10:06 AM

To: Public Records <publicrecords@gov.texas.gov>

Cc: [REDACTED]

Subject: 036-25 Davila - SpaceX_Third Party Reply

[EXTERNAL SENDER] - Do not click on links or open attachments in unexpected messages.

Hi, Matthew.

I hope that you are well. Please provide the records at issue for our review.

Thank you very much!

Best,

[REDACTED]



From: Public Records <publicrecords@gov.texas.gov>

Date: Monday, February 10, 2025 at 4:02 PM

Subject: 036-25 Davila - Third Party Notice

February 10, 2025

Third Party
VIA EMAIL ONLY

Re: OOG PIR# 036-25

To Whom it May Concern:

The Office of the Governor ("OOG") has received a formal request to inspect or copy some of our files. The requested files include records involving your company. A copy of our request for an OAG decision with included copy of the original request for information is attached.

If you would like to view or discuss the records from your company that are at issue before the OAG, please respond to this email or call me at 512-463-8470.

Generally, the Public Information Act (the "Act") requires the release of requested information, but there are exceptions. As described below, you have the right to object to the release of your records by submitting written arguments to the OAG that one or more exceptions apply to your records. You are not required to submit arguments to OAG but if you decide not to submit arguments, OAG will presume that you have no interest in withholding your records from disclosure. In other words, if you fail to take timely action, the OAG will more than likely rule that your records must be released to the public. If you decide to submit arguments, **you must do so not later than the tenth business day after the date you receive this notice.**

If you submit arguments to the OAG you must:

- a) identify the legal exceptions that apply
- b) identify the specific parts of each document that are covered by each exception, and
- c) explain why each exception applies.

Gov't Code § 552.305(d). A claim that an exception applies without further explanation will not suffice. *See* Attorney General Opinion H-436 (1974). You may contact this office to review the information at issue in order to make your arguments. We will provide the OAG with a copy of the request for information and a copy of the requested information, along with other material required by the Act. The OAG is generally required to issue a decision within 45 working days.

Please send your written comments to the OAG at the following address:

Open Records Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

If you wish to submit your written comments electronically, you may only do so via the OAG's eFiling System. An administrative convenience charge will be assessed for use of the eFiling System. No other method of electronic submission is available. Please visit the OAG's website at <http://www.texasattorneygeneral.gov>.

In addition, you are required to provide the requestor with a copy of your communication to the OAG. Gov't Code § 552.305(e). You may redact the requestor's copy of your communication to the extent it contains the substance of the requested information. Gov't Code § 552.305(e).

Commonly Raised Exceptions

In order for a governmental body to withhold requested information, specific tests or factors for the applicability of a claimed exception must be met. Failure to meet these tests may result in the release of requested information. We have listed the most commonly claimed exceptions in the Government Code concerning proprietary information and the leading cases or decisions discussing them. This listing is not intended to limit any exceptions or statutes you may raise.

Section 552.101: Information Made Confidential by Law

Open Records Decision No. 652 (1997).

Section 552.110: Confidentiality of Trade Secrets and Commercial or Financial Information

Trade Secrets

Commercial or Financial Information:

Birnbaum v. Alliance of Am. Insurers, 994 S.W.2d 766 (Tex. App.—Austin 1999, pet. filed) (construing previous version of section 552.110), *abrogated by In re Bass*, 113 S.W.3d 735 (Tex. 2003).

Open Records Decision No. 639 (1996).

Open Records Decision No. 661 (1999).

Section 552.113: Confidentiality of Geological or Geophysical Information

Open Records Decision No. 627 (1994)

Section 552.1101: Confidentiality of Proprietary Information

Section 552.131: Confidentiality of Certain Economic Development Negotiation Information

Section 552.143: Confidentiality of Certain Investment Information

If you have questions about this notice or release of information under the Act, please refer to the Public Information Handbook published by the OAG, or contact the OAG's Open Government Hotline toll-free at (877) 673-6839 (877-OPEN TEX). To obtain copies of the Public Information Handbook or Attorney General Opinions, including those listed above, please visit the OAG's website at <http://www.texasattorneygeneral.gov>.

If you have any other questions, you may contact me at 512-463-8470 or publicrecords@gov.texas.gov.

Sincerely,

Matthew Taylor
Public Information Coordinator
Assistant General Counsel
Office of Governor Greg Abbott

Enc: Request for ruling from OAG with attached original request for information

From: [Public Records](#)
To: [REDACTED]; [Public Records](#)
Cc: [REDACTED]
Subject: RE: 036-25 Davila - SpaceX_Third Party Reply
Date: Tuesday, February 11, 2025 3:09:26 PM
Attachments: [Cameron County Spaceport Development Corporation Application Info..pdf](#)
[STF Grant proposal from Cameron County Spaceport Development Corporation.pdf](#)
[image001.jpg](#)

Good afternoon,

Please see the attached records involving SpaceX that are currently before the OAG in connection with OOG ID# 036-25.

Best regards,

Matthew Taylor

Assistant General Counsel and Public Information Coordinator

1100 San Jacinto Boulevard, Fourth Floor

Austin, Texas 78701

From: [REDACTED]
Sent: Tuesday, February 11, 2025 10:06 AM
To: Public Records
Cc: [REDACTED]
Subject: 036-25 Davila - SpaceX_Third Party Reply

[EXTERNAL SENDER] - Do not click on links or open attachments in unexpected messages.

Hi, Matthew.

I hope that you are well. Please provide the records at issue for our review.

Thank you very much!

Best,

[REDACTED]
[REDACTED]
[REDACTED]


From: Public Records <publicrecords@gov.texas.gov>

Date: Monday, February 10, 2025 at 4:02 PM

Subject: 036-25 Davila - Third Party Notice

February 10, 2025

Third Party

VIA EMAIL ONLY

Re: OOG PIR# 036-25

To Whom it May Concern:

The Office of the Governor ("OOG") has received a formal request to inspect or copy some of our files. The requested files include records involving your company. A copy of our request for an OAG decision with included copy of the original request for information is attached.

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your records from disclosure. In other words, if you fail to take timely action, the OAG will more than likely rule that your records must be released to the public. If you decide to submit arguments, **you must do so not later than the tenth business day after the date you receive this notice.**

If you submit arguments to the OAG you must:

- a) identify the legal exceptions that apply
- b) identify the specific parts of each document that are covered by each exception, and
- c) explain why each exception applies.

Gov't Code § 552.305(d). A claim that an exception applies without further explanation will not suffice. *See* Attorney General Opinion H-436 (1974). You may contact this office to review the information at issue in order to make your arguments. We will provide the OAG with a copy of the request for information and a copy of the requested information, along with other material required by the Act. The OAG is generally required to issue a decision within 45 working days.

Please send your written comments to the OAG at the following address:

Open Records Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

If you wish to submit your written comments electronically, you may only do so via the OAG's eFiling System. An administrative convenience charge will be assessed for use of the eFiling System. No other method of electronic submission is available. Please visit the OAG's website at <http://www.texasattorneygeneral.gov>.

In addition, you are required to provide the requestor with a copy of your communication to the OAG. Gov't Code § 552.305(e). You may redact the requestor's copy of your communication to the extent it contains the substance of the requested information. Gov't Code § 552.305(e).

Commonly Raised Exceptions

In order for a governmental body to withhold requested information, specific tests or factors for the applicability of a claimed exception must be met. Failure to meet these tests may result in the release of requested information. We have listed the most commonly claimed exceptions in the Government Code concerning proprietary information and the leading cases or decisions discussing them. This listing is not intended to limit any exceptions or statutes you may raise.

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Open Records Decision No. 652 (1997).

Section 552.110: Confidentiality of Trade Secrets and Commercial or Financial Information

Trade Secrets

Commercial or Financial Information:

Birnbaum v. Alliance of Am. Insurers, 994 S.W.2d 766 (Tex. App.—Austin 1999, pet. filed) (construing previous version of section 552.110), *abrogated by In re Bass*, 113 S.W.3d 735 (Tex. 2003).

Open Records Decision No. 639 (1996).

Open Records Decision No. 661 (1999).

Section 552.113: Confidentiality of Geological or Geophysical Information

Open Records Decision No. 627 (1994)

Section 552.1101: Confidentiality of Proprietary Information

Section 552.131: Confidentiality of Certain Economic Development Negotiation Information

Section 552.143: Confidentiality of Certain Investment Information

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If you have any other questions, you may contact me at 512-463-8470 or publicrecords@gov.texas.gov.

Sincerely,

Matthew Taylor

Public Information Coordinator

Assistant General Counsel

Office of Governor Greg Abbott

Enc: Request for ruling from OAG with attached original request for information

From: Public Records <publicrecords@gov.texas.gov>
Sent: Monday, March 24, 2025, 9:35 AM
To: [REDACTED]
Bcc: Public Records <publicrecords@gov.texas.gov>
Subject: RE: 137-25 McGaughy - Third Party Notice
Attachments: 137-25 McGaughy Exhibit B.pdf

Good morning,

Please find attached the responsive information for this request. This information has been submitted to the AG's Office for a ruling.

I hope that you are also well!

Best regards,

Matthew Taylor
Assistant General Counsel and Public Information Coordinator
1100 San Jacinto Boulevard, Fourth Floor
Austin, Texas 78701

From: [REDACTED]
Sent: Monday, March 24, 2025 9:15 AM
To: Public Records <publicrecords@gov.texas.gov>
Cc: [REDACTED]
Subject: RE: 137-25 McGaughy - Third Party Notice

[EXTERNAL SENDER] - Do not click on links or open attachments in unexpected messages.

Hi, Matthew.

I hope that you are well. Please provide the records at issue for our review.

Thank you very much!

[REDACTED]

From: Public Records <publicrecords@gov.texas.gov>
Sent: Thursday, March 20, 2025 12:24:38 PM
To: [REDACTED]
Subject: 137-25 McGaughy - Third Party Notice

March 20, 2025

[REDACTED]

[REDACTED]

Re: OOG PIR# 137-25

Dear [REDACTED]

The Office of the Governor ("OOG") has received a formal request to inspect or copy some of our files. The requested files include records involving SpaceX. A copy of our request for an OAG decision with included copy of the original request for information is also attached.

If you would like to view or discuss the records from your company that are at issue before the OAG, please respond to this email or call me at (512) 463-8470.

Generally, the Public Information Act (the "Act") requires the release of requested information, but there are exceptions. As described below, you have the right to object to the release of your records by submitting written arguments to the OAG that one or more exceptions apply to your records. You are not required to submit arguments to OAG but if you decide not to submit arguments, OAG will presume that you have no interest in withholding your records from disclosure. In other words, if you fail to take timely action, the OAG will more than likely rule that your records must be released to the public. If you decide to submit arguments, **you must do so not later than the tenth business day after the date you receive this notice.**

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- c) explain why each exception applies.

Gov't Code § 552.305(d). A claim that an exception applies without further explanation will not suffice. *See* Attorney General Opinion H-436 (1974). You may contact this office to review the information at issue in order to make your arguments. We will provide the OAG with a copy of the request for information and a copy of the requested information, along with other material required by the Act. The OAG is generally required to issue a decision within 45 working days.

Please send your written comments to the OAG at the following address:

Open Records Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

If you wish to submit your written comments electronically, you may only do so via the OAG's eFiling System. An administrative convenience charge will be assessed for use of the eFiling System. No other method of electronic submission is available. Please visit the OAG's website at <http://www.texasattorneygeneral.gov>.

In addition, you are required to provide the requestor with a copy of your communication to the OAG. Gov't Code § 6.003. You may redact the requestor's copy of your communication to the extent it contains the substance of the requested information. Gov't Code § 6.003.

Commonly Raised Exceptions

In order for a governmental body to withhold requested information, specific tests or factors for the applicability of a claimed exception must be met. Failure to meet these tests may result in the release of requested information. We have listed the most commonly claimed exceptions in the Government Code concerning proprietary information and the leading cases or decisions discussing them. This listing is not intended to limit any exceptions or statutes you may raise.

Section 552.101: Information Made Confidential by Law

Open Records Decision No. 15573

Section 552.110: Confidentiality of Trade Secrets and Commercial or Financial Information

Trade Secrets

Commercial or Financial Information

Birnbaum v. Alliance of Am. Insurers, 559 S.W.2d 777 (Tex. App.—Austin 1977, pet. filed 3/11/03, *abrogated by In re Bass*, 11(S.W.2d 777) (Tex. 600(3).

Open Records Decision No. 15573

Open Records Decision No. 15553

Section 552.113: Confidentiality of Geological or Geophysical Information

Open Records Decision No. 67 (15593)

Section 552.1101: Confidentiality of Proprietary Information

Section 552.131: Confidentiality of Certain Economic Development Negotiation Information

Section 552.143: Confidentiality of Certain Investment Information

If you have questions about this notice or release of information under the Act, please refer to the Public Information § andbooHpublished by the OAG, or contact the OAG's Open Government § otline toll4free at (8773-7(48(5 (8774OPXE TXX3. To obtain copies of the Public Information § andbooHor Attorney General Opinions, including those listed above, please visit the OAG's website at <httpR/www.texasattorneygeneral.gov>.

If you have any other questions, you may contact me at () 1639-(48970 or publicrecords@gov.texas.gov.

Sincerely,

Matthew Taylor
Public Information Coordinator
Assistant General Counsel
Office of Governor Greg Abbott

XncR Yequest for ruling from OAG with attached original request for information

From: [REDACTED]
Sent: Friday, January 31, 2025, 11:01 AM
To: Ariane Marion <ariane.marion@gov.texas.gov>; Joseph Behnke <Joseph.Behnke@gov.texas.gov>
Subject: RE: Texas CHIPS Office - Vendor Setup Information

[EXTERNAL SENDER] - Do not click on links or open attachments in unexpected messages.

Thank you, Ari and Joseph! We will get this all filled out and back to you asap.
All the best,

[REDACTED]

From: Ariane Marion <ariane.marion@gov.texas.gov>
Date: Friday, January 31, 2025 at 10:56
To: [REDACTED]
Cc: Joseph Behnke <Joseph.Behnke@gov.texas.gov>, Louie Sanchez <Louie.Sanchez@gov.texas.gov>, Ariane Marion <ariane.marion@gov.texas.gov>
Subject: Texas CHIPS Office - Vendor Setup Information

Dear [REDACTED],

I hope this email finds you well. I wanted to give you an update on where we are with the grant agreement. It is almost finalized, and I am hoping we will be able to send it to you soon. In the meantime, would you please fill out these forms that will allow us to set you up in our system, so we will be able to process the reimbursement forms after the grant agreement is approved and signed.

Happy to answer any questions you may have.

Best,

Ariane Marion, MA, LL.M | Executive Director
Texas Semiconductor Innovation Consortium
Texas Economic Development & Tourism
Office of Governor Greg Abbott

125 E. 11th Street | Austin TX 78701

512-463-8410 | ariane.marion@gov.texas.gov

Caution: EXTERNAL SENDER: This email originated from OUTSIDE of your organization. Please take care in opening or clicking anything in this email. Please notify I.T/Mgmt if you have any questions.

