CAUSE NO. D-1-GN-26-009388

SAVE OUR SPRINGS ALLIANCE, INC., *Plaintiff*,	§	IN THE DISTRICT COURT OF
v.	§	
CITY OF AUSTIN, *Defendant*,	§	TRAVIS COUNTY, TEXAS
and	§	
TESLA, INC., *Intervenor-Defendant*.	§	98TH JUDICIAL DISTRICT

INTERVENOR TESLA, INC.'S PETITION IN INTERVENTION

Intervenor Tesla, Inc. files this Petition in Intervention under Rule 60 of the Texas Rules of Civil Procedure and Chapter 552 of the Texas Government Code and the Texas Public Information Act (the "Act" or "PIA"), in this mandamus action brought by Plaintiff Save Our Springs Alliance, Inc. ("SOS") against Defendant City of Austin. Tesla is the third party whose proprietary commercial and financial information is the subject of SOS's request and of this suit, and Tesla intervenes to protect that confidential information from disclosure. In support, Tesla respectfully shows the Court as follows:

I. DISCOVERY CONTROL PLAN

1. To the extent discovery is necessary, Tesla intends to conduct discovery under Level 2 of Rule 190.3 of the Texas Rules of Civil Procedure. SOS's Original Petition expressly contemplates this result if "the City—or Tesla, should it intervene—seeks to introduce evidence beyond the record before the Attorney General to support the withholding." Pl.'s Orig. Pet. ¶ 1. Tesla may offer such evidence and therefore requests that any discovery proceed under Level 2.

II. PARTIES

2. Plaintiff Save Our Springs Alliance, Inc. is a Texas nonprofit corporation that has appeared in this action through its attorneys of record, Robert J. Levinski, William G. Bunch, Victoria Ann Rose, and Beatrice Anderson, Save Our Springs Alliance, 3201 Menchaca Road, Austin, Texas 78704. SOS may be served with this pleading through its counsel of record pursuant to Rules 21 and 21a of the Texas Rules of Civil Procedure.

3. Defendant City of Austin is a home-rule municipality and a "governmental body" under the Act. *See* TEX. GOV'T CODE § 552.003(1)(A)(iii). The City may be served with this pleading through its counsel of record or, if it has not yet appeared, as provided by law.

4. Intervenor Tesla, Inc. is a Texas corporation with its principal place of business in Austin, Travis County, Texas. Tesla appears through its undersigned counsel of record.

III. JURISDICTION AND VENUE

5. This Court has subject-matter jurisdiction over SOS's mandamus claim under section 552.321(a) of the Government Code, and venue is mandatory in Travis County under section 552.321(b). Tesla's intervention is ancillary to that claim, and the Court has jurisdiction to determine Tesla's interests in the information at issue.

IV. BACKGROUND

6. On March 5, 2026, SOS submitted Public Information Request No. C305497-030526 (the "Request") to the City, seeking records related to service extension requests submitted since January 1, 2024. The Request expressly excluded diagrams showing the location of water or wastewater lines on the property and any detailed schematics of any proposed facilities. The City identified two responsive service extension requests: one submitted by Stantec Consulting Services Inc. on behalf of American Towers LLC, and one involving Tesla.

7. The Tesla records at issue (the "Protected Documents") consist of correspondence and related materials exchanged between Tesla and the City of Austin, including Austin Water and the City's Service Extension Request program, in connection with a service extension request process. The Protected Documents relate to aspects of the construction and continued operations of and surrounding Tesla's Gigafactory and contain confidential, proprietary, commercial sensitive, and trade-secret information—including Tesla's plans, methods, techniques, processes, and procedures for Gigafactory operations; operations specifics; infrastructure and utility system locations and details; site-layout information; and related diagrams, schematics, and renderings—as well as information reflecting an ongoing government application and negotiation process and Tesla employee contact information. That information is confidential and proprietary and is properly withheld from public disclosure under the Act.

8. On March 20, 2026, the City requested a decision from the Attorney General of Texas and notified Tesla of the request under section 552.305(d) of the Government Code. The City took "no position" on the release of the information and raised no exception of its own.

9. On April 3, 2026, Tesla timely submitted its reasons for withholding to the Attorney General under section 552.305(d)(2)(B). Tesla objected to release of any portion of the Protected Documents and provided proposed redacted versions for the Attorney General's review. Tesla asserted that the Protected Documents are excepted from disclosure under, among other provisions:

a. Section 552.110(b) (trade secrets);

b. Section 552.110(c) (commercial or financial information the disclosure of which would cause substantial competitive harm);

c. Section 552.101, in conjunction with section 418.181 of the Texas Homeland Security Act (and, as applicable, section 552.022's recognition of confidentiality under other law), protecting technical details of vulnerabilities of critical infrastructure;

d. Section 552.153 (certain proprietary records relating to a qualifying project under Chapter 2267); and

e. Section 552.137 (email addresses of members of the public, and related Tesla employee contact information).

10. On May 26, 2026, the Attorney General issued Open Records Letter Ruling No. OR2026-021677 (the "AG Ruling"). The AG Ruling first noted that information specifically excluded by the Request—including certain diagrams and detailed schematics—is not responsive and need not be released. As to the responsive information, the Attorney General concluded that Tesla "has demonstrated portions of the information at issue constitute commercial or financial information, the release of which would cause substantial competitive harm," and directed the City to withhold the information the Attorney General indicated under section 552.110(c). Because that ruling was dispositive as to the marked information, the Attorney General did not consider Tesla's remaining arguments against disclosure of that same information. As to the remaining responsive information, the Attorney General concluded on the letter-ruling record that Tesla had not made the required showing under sections 552.110, 552.101 (with section 418.181), and 552.153, and directed release of that remaining information.

11. On July 22, 2026, the City released fifteen pages of Tesla records with redactions. The City's release notice incorrectly stated that the redactions were made pursuant to Texas Government Code § 552.153. Counsel for Tesla has since confirmed that the redactions to the

Tesla records at issue were made as marked by the Attorney General's office pursuant to the AG Ruling under section 552.110(c), not under section 552.153. SOS thereafter challenged the scope of those redactions, and on September 21, 2026, filed this suit seeking a writ of mandamus compelling release of the redacted information and in camera inspection of the records.

V. TESLA'S RIGHT TO INTERVENE

12. Rule 60 provides that "[a]ny party may intervene by filing a pleading, subject to being stricken out by the court for sufficient cause on the motion of any party." TEX. R. CIV. P. 60. An intervenor need not obtain leave of court; intervention is proper where the intervenor has a justiciable interest in the subject matter of the suit and could have brought the action, or defended against it, in its own name. *See Guaranty Fed. Sav. Bank v. Horseshoe Operating Co.*, 793 S.W.2d 652, 657 (Tex. 1990). Because no motion to strike has been filed, Tesla's intervention is effective upon filing.

13. The Act's statutory framework confirms that a third party whose proprietary information is at stake is a proper participant in litigation over that information. The Act requires a governmental body to notify such a third party and permits the third party to submit its reasons for withholding to the Attorney General. TEX. GOV'T CODE § 552.305(b), (d). The Act likewise authorizes a third party to file suit to prevent disclosure of its information, *id.* § 552.325(a), and expressly preserves, in any suit under the Act, a party's ability to raise exceptions "involving the property or privacy interests of another person." *Id.* § 552.326(b)(2). It would make little sense for the Legislature to grant third parties these protections while excluding them from the very mandamus proceeding in which a court will decide whether their information must be released.

14. Intervention is also necessary here because the existing parties do not adequately represent Tesla's interests. The City took "no position" before the Attorney General and raised no exception of its own. The City has no proprietary stake in Tesla's information, cannot be expected

to marshal evidence of Tesla's competitive harm, and may elect not to defend the withholding with the vigor Tesla's interests require. Tesla alone possesses the specific factual evidence necessary to demonstrate that its information is excepted from disclosure.

15. Finally, Tesla's intervention will not unduly complicate the case or prejudice any party. This suit is at its earliest stage (upon information and belief, the City has not yet even been served), the issues Tesla raises are the same issues SOS has placed before the Court, and SOS's own petition anticipates Tesla's intervention. Pl.'s Orig. Pet. ¶ 1.

VI. TESLA'S JUSTICIABLE INTEREST

16. Tesla has a direct, substantial, and legally protectable interest in this suit. The information SOS seeks to compel the City to release is Tesla's own proprietary commercial and financial information. That information is not merely related to the subject matter of the suit; it *is* the subject matter of the suit. Any writ of mandamus the Court issues will operate directly on Tesla's property interests by requiring public release of information that Tesla has maintained as confidential.

17. As set out in Tesla's April 3, 2026, objections, the Protected Documents reveal details of Tesla's plans, methods, techniques, processes, and procedures for Gigafactory operations—including operations specifics, infrastructure and utility system locations and details, potential vulnerabilities, and site-layout information—as well as the substance and status of Tesla's ongoing application and negotiations with the City. Disclosure could provide competitors and others economic value Tesla developed at significant cost, undercut Tesla in future projects, and risk disruption of Tesla's operations. Once released under the Act, information is available to any member of the public, *see* TEX. GOV'T CODE § 552.007(b), and the harm from disclosure cannot be undone. Tesla's interest is therefore justiciable and supports intervention.

VII. TESLA'S PARTICIPATION IN THE ATTORNEY GENERAL PROCESS

18. Section 552.305 governs the participation of third parties whose privacy or property interests may be implicated by a request. When a governmental body seeks an Attorney General decision regarding such information, it must make a good-faith attempt to notify the third party, and the third party may submit to the Attorney General its reasons why the information should be withheld. TEX. GOV'T CODE § 552.305(b), (d).

19. Tesla fully and timely participated in that process. Upon receiving the City's notice, Tesla timely submitted its April 3, 2026, objections explaining why the Protected Documents are excepted from disclosure under the provisions identified above. Each exception Tesla asserts in this Petition was raised before the Attorney General. Accordingly, section 552.326(a)—which generally limits a governmental body to exceptions it raised before the Attorney General—poses no obstacle to Tesla's defenses. *See* TEX. GOV'T CODE § 552.326(a).

20. The Attorney General sustained Tesla's position in part, concluding that portions of Tesla's information constitute commercial or financial information whose release would cause substantial competitive harm. Tesla is entitled to defend the withholding of its information on additional independent bases as well and, to the extent necessary, to develop a full evidentiary record supporting those exceptions. *See City of Garland v. Dallas Morning News*, 22 S.W.3d 351, 357 (Tex. 2000); *Thomas v. Cornyn*, 71 S.W.3d 473, 483 (Tex. App.—Austin 2002, no pet.).

VIII. TESLA'S DEFENSES TO THE MANDAMUS CLAIMS

21. Subject to and without waiving the foregoing, Tesla asserts the following defenses to SOS's claims for mandamus relief. Tesla acknowledges that the party seeking to withhold information bears the burden of establishing that an exception applies. *See Birnbaum v. Alliance of Am. Insurers*, 994 S.W.2d 766, 780 (Tex. App.—Austin 1999, pet. denied). Tesla will carry that

burden with specific factual evidence. Whether information is excepted from disclosure is ultimately a question of law for the Court. *City of Garland*, 22 S.W.3d at 357.

A. The City's Redactions Comply with the AG Ruling.

22. The AG Ruling directed the City to withhold the information the Attorney General indicated under section 552.110(c). The City's redactions correspond to, and properly implement, the information the Attorney General marked for withholding. SOS's contention that the redactions exceed the AG Ruling rests on SOS's inference from the appearance of the redacted pages, not on any comparison with the Attorney General's markings, which SOS has not seen. The proper means of resolving that question is the Court's in camera comparison of the City's redactions with the marked records reviewed by the Attorney General, as requested in Part IX below.

23. To the extent the Court determines that any redaction does not correspond precisely to the Attorney General's markings, the remedy is not wholesale release. Rather, the Court should determine, based on the evidence Tesla presents, whether the information is independently excepted from disclosure under the exceptions set forth below, and order release, if at all, only of information that is not so excepted.

B. Tesla's Information Is Excepted Under Section 552.110(c) as Commercial or Financial Information.

24. Section 552.110(c) excepts from disclosure "[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained." TEX. GOV'T CODE § 552.110(c). Courts assessing this exception consider whether the information is commercial or financial in nature and whether specific factual evidence demonstrates that its release would cause substantial competitive harm. *See Genuine Parts Co. v. Paxton*, No. 03-19-

00441-CV, 2020 Tex. App. LEXIS 5114 (Tex. App.—Austin July 10, 2020, no pet.) (decided under prior numbering of the Act).

25. Tesla's information readily satisfies this standard. As Tesla explained to the Attorney General's office, the Protected Documents contain commercial and financial information concerning Tesla's business operations and capital investments—including Tesla's plans, methods, techniques, processes, and procedures for Gigafactory operations; operations specifics; infrastructure and utility system locations and details; potential vulnerabilities; site-layout information; and related application and negotiation materials. Tesla expects to present specific factual evidence—including testimony from knowledgeable Tesla personnel—demonstrating that disclosure would allow competitors to obtain economic value Tesla developed at significant cost, undercut Tesla in future projects, enable others to disrupt Tesla's operations, and would reveal Tesla's confidential negotiating positions. That harm is concrete, substantial, and competitive. The Attorney General has already found that portions of this information satisfy section 552.110(c). Tesla's evidence will confirm that conclusion and demonstrate that the exception properly extends to the information the City withheld—and, as warranted by the record, to additional information SOS seeks.

C. Tesla's Additional Exceptions.

26. Tesla also asserts, and preserves, each of the following exceptions, which Tesla raised before the Attorney General and which involve Tesla's property interests. *See* TEX. GOV'T CODE § 552.326(a), (b)(2). Although the Attorney General did not sustain these exceptions on the letter-ruling record, this Court is not bound by the Attorney General's conclusions and will decide their applicability on the evidence presented here.

27. *Trade Secrets — Section 552.110(b).* Section 552.110(b) excepts from disclosure "[a] trade secret obtained from a person and privileged or confidential by statute or judicial

decision." TEX. GOV'T CODE § 552.110(b); *see also id.* § 552.110(a) (defining "trade secret" by reference to section 134A.002 of the Civil Practice and Remedies Code). The Protected Documents contain Tesla trade secrets: technical and business information revealing Tesla's plans, methods, techniques, processes, and procedures for Gigafactory operations, including operations specifics, infrastructure and utility locations, potential vulnerabilities, and non-public site-layout information. That information derives independent economic value from not being generally known or readily ascertainable by proper means, and Tesla takes reasonable measures to keep it secret. Disclosure to the City in a confidential application process does not destroy secrecy. Tesla will present evidence establishing each element of trade-secret status.

28. *Information Confidential by Law — Section 552.101, in conjunction with Section 418.181.* Section 552.101 excepts information "considered to be confidential by law, either constitutional, statutory, or by judicial decision." TEX. GOV'T CODE § 552.101. Section 418.181 of the Texas Homeland Security Act makes confidential "[t]hose documents or portions of documents in the possession of a governmental entity . . . [that] identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism." *Id.* § 418.181; *see also id*. § 421.001(2) (defining "critical infrastructure). That information identifies particular vulnerabilities of critical infrastructure and is confidential by law. The Attorney General has previously recognized the applicability of these protections to Tesla Gigafactory site and utility information. *See, e.g.,* Tex. Att'y Gen. OR2022-11377.

29. *Qualifying Project Records — Section 552.153.* Section 552.153 excepts certain information in the custody of a governmental body relating to a proposed or qualifying project, including information submitted by a private entity, before the relevant agreement is executed or final action is taken. *See* TEX. GOV'T CODE § 552.153. Tesla's negotiations with Austin Water

remain ongoing and no final agreement has been executed. To the extent the Protected Documents relate to a qualifying project within the meaning of the statute, they are excepted from disclosure until the statutory conditions for release are met.

30. *Email Addresses of Members of the Public — Section 552.137.* Section 552.137 provides that "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure," unless the owner affirmatively consents to its release or an enumerated exception applies. TEX. GOV'T CODE § 552.137(a). Tesla has not consented to the release of its employees' email addresses, and those addresses must be withheld. Tesla further contends that the names, titles, and direct contact information of its personnel who participate in confidential infrastructure negotiations are properly withheld to protect Tesla's property and its employees' privacy interests.

D. Tesla Is Entitled to Present Evidence in Support of Withholding Under Section 552.326(b)(2).

31. Section 552.326(b)(2) provides that the general limitation on exceptions not raised before the Attorney General "does not prohibit a governmental body from raising an exception . . . involving the property or privacy interests of another person." TEX. GOV'T CODE § 552.326(b)(2). This provision reflects the Legislature's recognition that a third party's property and privacy interests should not be forfeited by the litigation choices of a governmental body. Tesla is the "other person" whose property interests are at stake, and Tesla is entitled to present evidence and argument in support of every exception protecting those interests.

32. Because this Court determines the applicability of exceptions on the record before it, rather than merely reviewing the Attorney General's letter ruling, Tesla is entitled to supplement the abbreviated letter-briefing record with affidavits, declarations, testimony, and other specific factual evidence demonstrating that its information is excepted. *See City of Garland*, 22 S.W.3d at

357; *Envoy Med. Sys., L.L.C. v. State*, 108 S.W.3d 333, 337 (Tex. App.—Austin 2003, no pet.). SOS's own petition acknowledges this possibility and proposes that discovery proceed under Level 2 in that event. Pl.'s Orig. Pet. ¶ 1.

E. SOS Is Not Entitled to Attorney's Fees.

33. Tesla opposes SOS's request for attorney's fees and costs under section 552.323 of the Government Code. SOS has not substantially prevailed, and Tesla contends it will not. Alternatively, in exercising its discretion, the Court must consider whether the conduct of the governmental body had a reasonable basis in law and whether the litigation was brought in good faith. TEX. GOV'T CODE § 552.323(a). The City acted in reasonable reliance on the AG Ruling and on the information Tesla supplied. Any award of fees would therefore be unwarranted. In no event should any fee award be assessed against Tesla, as section 552.323 does not authorize such an award against a third-party intervenor.

IX. PRAYER

For these reasons, Intervenor Tesla, Inc. respectfully prays that the Court:

(a) recognize Tesla as a party to this action as Intervenor-Defendant;

(b) deny SOS's petition for writ of mandamus in its entirety and render judgment that the information at issue is excepted from required public disclosure under the Government Code;

(c) deny SOS's request for attorney's fees and costs, and in no event assess any fees or costs against Tesla; and

(d) grant Tesla such other and further relief, at law or in equity, to which it may show itself justly entitled.

Respectfully submitted,

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ATTORNEYS FOR INTERVENOR TESLA, INC.

CERTIFICATE OF SERVICE

I certify that on October 8, 2026, a true and correct copy of the foregoing Petition in Intervention was served on all counsel of record through the electronic filing manager in accordance with Rules 21 and 21a of the Texas Rules of Civil Procedure, as follows:

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