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Carin Carroll
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Titus County, Texas
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**CAUSE NO. 44437**

| | | |
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| **KYLE DOUGLAS MORING,** | § | IN THE DISTRICT COURT OF |
| *Petitioner,* | § | |
| | § | |
| **v.** | § | TITUS COUNTY, TEXAS |
| | § | |
| **CITY OF MOUNT PLEASANT, TEXAS,** | § | |
| *Respondent.* | § | 76th JUDICIAL DISTRICT |

# PETITIONER'S PRE-HEARING BRIEF IN SUPPORT OF FIRST AMENDED PETITION FOR WRIT OF MANDAMUS

*Hearing: August 10, 2026, 9:00 a.m. – Titus County Annex*

## I. Purpose and Focus

This case concerns thirteen pleaded requests for public information under Texas Government Code chapter 552. The City answered with a general denial. That pleading joins issue but supplies no evidence that any request has been fully satisfied. The Court can resolve the live disputes by receiving the request-by-request evidence identified below. Petitioner will authenticate and offer the relevant filed source records through live testimony and, subject to the Court's evidentiary rulings, the accompanying unsworn declaration; the general denial itself does not prove complete production.

Record-citation convention: all exhibit citations in this brief refer only to the file-stamped First Amended Petition, stamped Exhibit Binder Volumes 1-2, the June 23, 2026 court-returned, accepted Supplemental Exhibit Binder Volume 3, the file-stamped July 6 Notice of OAG Closure, the August 3, 2026 file-stamped Supplemental Exhibit R, and Conditional Hearing Exhibit S submitted contemporaneously through a separate Notice of Filing, where expressly cited. Unfiled production folders and file-property analysis are not cited.

The most efficient path begins with Count V, the Moring/OSHA keyword request, and Count IX, the Regulatory Agency Correspondence request. Those

counts expose the recurring search and production defects across City-controlled Microsoft 365 records. The remaining counts then supply direct examples in which City records, later City productions, or outside-agency productions contradict a claim of no responsive information or complete production. Petitioner does not ask the Court to adjudicate any unpleaded request or to supervise the City's records program in the abstract.

## II. Governing Law

The Public Information Act requires prompt production of public information. Tex. Gov't Code § 552.221(a). A governmental body wishing to withhold responsive information generally must timely seek an Attorney General decision; failure to comply with § 552.301 gives rise to the presumption in § 552.302. Section 552.321(a) authorizes a requestor to seek mandamus when a governmental body refuses to request an Attorney General decision, refuses to supply public information, or refuses to supply information the Attorney General has determined is public and not excepted from disclosure.

Petitioner does not contend that untimeliness alone waives a genuine attorney-client privilege. Paxton v. City of Dallas, 509 S.W.3d 247, 262, 271 (Tex. 2017). But Paxton protects only information actually shown to be privileged, and the party seeking to withhold requested information bears the burden to establish nondisclosure or an applicable exception. City of Garland v. Dallas Morning News, 22 S.W.3d 351, 364 (Tex. 2000).

A requestor need not exhaust an Attorney General process before seeking mandamus. Kallinen v. City of Houston, 462 S.W.3d 25, 28–30 (Tex. 2015) (per curiam). Section 552.228(b) requires production in a requested electronic medium when the governmental body has the technological ability, need not purchase software or hardware, and would not violate a copyright agreement; if it cannot comply for one of those reasons, it must offer another medium acceptable to the requestor. Tex. Gov't Code § 552.228(b)–(c).

At the hearing, Petitioner will ask the Court to take judicial notice of the procedural filings only, authenticate the filed source records through live testimony, and offer the relevant portions of the exhibit volumes for their proper evidentiary purposes. See Tex. R. Evid. 901(a), 901(b)(1). Authentication does not itself resolve a hearsay objection, and the accompanying unsworn declaration is offered subject to the Court's evidentiary procedure. Petitioner's proof map, mootness tracker, oral outline, and spreadsheet are demonstratives rather than independent evidence.

Mootness is request- and relief-specific. A mandamus claim becomes moot when the governmental body releases all requested information in its possession or under its control. But a live controversy remains when responsive information continues to be withheld. Muir v. Univ. of Tex. at Austin, No. 03-22-00196-CV, 2023 WL 4110843, at *6 (Tex. App.—Austin June 22, 2023, no pet.) (mem. op.); Kessling v. Friendswood Indep. Sch. Dist., 302 S.W.3d 373, 384–85 (Tex. App.—Houston [14th Dist.] 2009, pet. denied).

City of El Paso v. Abbott is distinguishable and supplies a useful proof benchmark. There, detailed affidavits from City counsel and the system administrator described extensive searches, requests to the identified custodians, and production of every located record; the requestor offered no evidence or even argument controverting that search evidence. 444 S.W.3d 315, 324–26 (Tex. App.—Austin 2014, pet. denied). Here, the City's Answer is a general denial, while Petitioner offers count-specific evidence of identified omissions, contradictory City-side records, and unresolved requested categories. If the City presents sworn search evidence at the hearing, the Court can test it against that count-specific proof.

## III. The Record Shows Live, Unfulfilled Requests

### A. Count V — the Moring/OSHA production is not complete.

Count V required a search across City and MPPD accounts, shared mailboxes, archives, and repositories for Moring identifiers, his email address, "whistleblower," and "OSHA," for the period pleaded here, January 1, 2024 through December 29, 2025. The City characterized the production as 366 emails; directory-

level verification of the production ZIP identifies 362 .msg files—230 unique Message-IDs and 132 additional files sharing a Message-ID with another produced file. Petitioner compared the production against a defined ninety-one-file native-email inventory. All ninety-one files have unique Message-IDs, and none has an exact Message-ID match in the production. Eighty-eight of those messages are dated no later than December 29, 2025; Petitioner relies only on those eighty-eight in establishing the Count V omission count. Stamped Vol. 1, Ex. E; stamped Vol. 2, Ex. K-3; accepted Supp. Vol. 3, Ex. K-9. Moring Decl. ¶¶ 6–7.

The City's later Count VII review supplies a separate, objective cross-check. On May 13, 2026, City counsel reported to the Attorney General that the DTRG request had yielded more than 3,000 responsive pages, that the vast majority were emails from Petitioner to City officials, that perhaps one percent were privileged, and that counsel had completed separating those communications. Petitioner does not equate pages with messages or assume that the two requests are coextensive. The narrow overlap is that Petitioner-to-City emails dated on or before December 29, 2025 bear the exact identifier Count V required the City to search. After counsel's representation, Petitioner received no copy of the promised ruling request, no Open Records Division tracking number, no request-specific reconciliation, and no nonprivileged Count VII production. An August 3, 2026 search of the OAG public PIA Decision Database displayed no City matter identified as Count VII; Petitioner offers that limited result only to corroborate nonreceipt. Stamped Vol. 1, Ex. G; stamped Vol. 2, Ex. K-5, PDF p. 496; Conditional Hearing Exs. S-2 and S-3. Moring Decl. ¶¶ 8–9.

The filed record shows that the City repeatedly routed TPIA search work to Seth Bryan. The City's March 10 technical response—with the answers displayed in red font—identifies Bryan IT as the primary administrator of the City's Microsoft 365 tenant, Microsoft Purview as the e-discovery tool, and .pst or .msg as available native export formats. Accepted Supp. Vol. 3, Exs. K-9 and K-15. Those records

establish a concrete City-directed source for the pleaded searches; they do not make Bryan IT a separate respondent or temporary custodian. Moring Decl. ¶¶ 10–11.

**B. Count IX — the regulatory-agency production remains incomplete, and the City-provided SharePoint link is inaccessible.**

Count IX sought correspondence with identified federal and state regulatory, enforcement, and investigative agencies from May 1, 2025 through the date of the City's search. After the City required a bond equal to its $234 estimate, Petitioner paid the City $234 by Visa on March 23, 2026; the City-issued receipt records a $234 sale. Filed Exhibit K-8 reported 941 files—890 .msg messages and 51 other files. A previously generated direct directory inventory of the three original City ZIP archives corrects the total to 945 entries: 890 .msg files and 55 non-.msg entries. The four-file difference consists of four standalone PDFs in the April archive; the historical 890 .msg count is unchanged. Of those 890 messages, 231 were sent by a Law360-domain sender, and fifteen involved a sender or recipient using a dshs.texas.gov address. The DSHS-participant subset consists largely of training, conference, and calendar items; Petitioner did not locate the substantive Walmart inspection correspondence later produced by DSHS in the reviewed message-and-attachment set. Stamped Vol. 1, Ex. I; accepted Supp. Vol. 3, Exs. K-8 and K-13. Moring Decl. ¶¶ 12–18.

The unresolved search cutoff reinforces the completeness dispute. The City's disclosed Purview query ended February 9, 2026. The request ran through the date of the City's search, but the City has not identified the query's execution date or reconciled that cutoff with its rolling production through May 21. The production also omitted substantive City correspondence that named agencies possessed and produced in native form. Access to the City-provided SharePoint link later became unavailable; as of August 3, 2026, the same link still displayed "This link has been removed." Petitioner offers that link status only as limited evidence of current access—not as proof that the paid production no longer exists or that all previously downloaded records are inaccessible. One City ZIP contained an inadvertently

produced unredacted MPPD report. After final review of active file locations and as of signing, to the best of Petitioner's knowledge neither the report nor the affected original ZIP remains within his possession, custody, or control. The report is excluded from his proof: Petitioner does not offer, rely on, disclose, or seek its reproduction, and he retained only a non-content directory inventory of filenames, paths, file types, and counts for the affected archive. No additional rolling production has been received after May 21, and the City has not provided a final completion notice, a search-date reconciliation, a final cost accounting, or a statement defining the complete scope of the paid production. Stamped Vol. 1, Ex. I; accepted Supp. Vol. 3, Exs. K-8, K-13, and Q; Conditional Hearing Ex. S-1. Count IX therefore remains live as a completeness, search-cutoff, final-production-scope, and accounting dispute. Moring Decl. ¶¶ 13–18.

The accepted court record provides a concrete comparison. Exhibit K-13's chronology, crosswalk, and native-file manifest identify the September 11, 2025 Ramirez-to-DSHS message family and a corresponding DSHS-produced native .msg. K-13's City-side scan expressly lists "Code Enforcement Inspection.pdf" as an attachment, but the scan does not preserve the native message or that attachment as a separate linked electronic file. Accepted Supp. Vol. 3, Ex. K-13, PDF pp. 435–440, 449–450, 457–464; see also Ex. K-11, PDF pp. 279–283. This is a concrete completeness and source-context discrepancy. It does not, by itself, establish which inspection platform generated the attachment, intentional deletion, or destruction. Moring Decl. ¶ 12.

On February 9, Ms. Webster forwarded the Count IX request to Seth Bryan and asked him to gather the information. The City has not connected the production to a request-specific return, result count, or date-corrected query. Accepted Supp. Vol. 3, Exs. K-9 and K-15. Petitioner relies on that assignment only to identify the specific source and scope of the pleaded search, not to demand generalized vendor discovery. Moring Decl. ¶¶ 10–11.

### C. Count XII — the certification and embedded-attachment sequence leave remaining source-record disputes.

On October 22, 2025, Ms. Webster certified to OAG ORD that the City had made available all existing responsive information it owned, controlled, or had a right of access to. FS-473357 was absent. Petitioner testifies that the later-produced native .msg showed Ankrum sent FS-473357 to Webster on August 1 for this exact request with three other attachments; Exhibit O records that sequence. Petitioner found FS-473357 only on February 2, 2026 by extracting the later native .msg file's embedded attachments; the City did not separately identify it as the omitted record. Exhibit O compares its "no more follow ups required" conclusion with DSHS's materially different same-day inspection. That comparison explains the omission's significance and tests completeness; it is not offered to adjudicate food-safety issues. Petitioner now possesses the PDF and seeks no duplicate. The sequence shows that the certification did not account for this record and supports only the remaining source/export, category, and count-specific accounting relief. First Am. Pet. ¶¶ 94–96; accepted Supp. Vol. 3, Ex. O. Moring Decl. ¶ 19.

### D. Each remaining count has a concrete, record-specific dispute.

| Count | Request / live issue | Concrete remaining dispute and principal filed proof |
|---|---|---|
| I | MPPD Cases [redacted] / 25-17553 | [redacted] source attachments, audio, and audit records remain disputed. Exs. A, K-7; file-stamped Supp. Ex. R-2. |
| II | Oct. 28 inspection / FS-473844 | City denied having FS-473844, but its own produced inspection record identifies that number. Stamped Vol. 1, Ex. B; stamped Vol. 2, Ex. K-5, PDF p. 493. |
| III | Chief Buhman temporary-custodian records | City supplied a two-line typed summary rather than the requested source call-history and voicemail records. Stamped Vol. 1, Ex. C; stamped Vol. 2, Ex. K-4; file-stamped Supp. Ex. R-3. |
| IV | Jan. 13 Walmart inspection | Three report images were produced; other requested categories and underlying HSGov/HSCloud case material remain disputed. Exs. D, K-9; file-stamped Supp. Ex. R-4. |

| Count | Request / live issue | Concrete remaining dispute and principal filed proof |
|---|---|---|
| V | Moring / OSHA keyword search | The City characterized the production as 366 emails; directory-level verification of the production ZIP identifies 362 .msg files—230 unique Message-IDs and 132 additional files sharing a Message-ID with another produced file. A defined ninety-one-file native-email comparison inventory has no exact Message-ID match; eighty-eight of those messages are dated no later than December 29, 2025 and are the subset Petitioner relies upon under Count V. Stamped Vol. 1, Ex. E; stamped Vol. 2, Ex. K-3; accepted Supp. Vol. 3, Exs. K-9 and K-15; file-stamped Supp. Ex. R-5. |
| VI | Walmart keyword search | Nineteen-message production omitted later-produced Walmart-responsive City emails. K-13's City-side scan lists "Code Enforcement Inspection.pdf," but does not preserve the native message/attachment relationship. Stamped Vol. 1, Ex. F; accepted Supp. Vol. 3, Exs. K-8, K-13, K-15; K-13 PDF pp. 435–440, 449–450, 457–464. |
| VII | DTRG correspondence | Counsel reported more than 3,000 responsive pages and completion of privilege review, but the nonprivileged remainder and promised ruling request were not produced. Stamped Vol. 1, Ex. G; stamped Vol. 2, Ex. K-5, PDF p. 496. |
| VIII | MPFD follow-up inspection | The produced inspection report states "Signature of: E-Mail on 01/09/2026 15:02," but the corresponding source email and transmission record remain disputed. Stamped Vol. 1, Ex. H. |
| IX | Regulatory-agency correspondence | Paid rolling production remains incomplete. The disclosed search cutoff, the K-13 Ramirez/DSHS comparison, the lack of final production and cost accounting, and the present unavailability of the City-provided SharePoint link remain unresolved. The link status is offered only as limited evidence of current access. Stamped Vol. 1, Ex. I; accepted Supp. Vol. 3, Exs. K-8, K-11, K-13, K-15, Q. |
| X | Ankrum official-business cellular records | Carrier/source-account records for the pleaded official-business call remain disputed; screenshots concerned a different contact. Stamped Vol. 2, Ex. L, including L-2. |
| XI | MPPD call-detail records | Requested MPPD lines and date range were not completely produced or reconciled. Exs. M, L-7. |

| Count | Request / live issue | Concrete remaining dispute and principal filed proof |
|---|---|---|
| XII | Walmart code-compliance records | FS-473357 was absent when Ms. Webster signed the October 22, 2025 OAG ORD certification that the City had made available all existing responsive information it owned, controlled, or had a right of access to. It surfaced only on February 2, 2026 inside a later-produced native City .msg file, and Petitioner located it only by extracting that message's embedded attachments; the source electronic case/export record and other pleaded categories remain disputed. Accepted Supp. Vol. 3, Ex. O; First Am. Pet. ¶¶ 94–96. |
| XIII | Ordinance 2025-24 records | Internal routing/draft records and pleaded § 552.275 tracking records remain disputed. Exs. P, L-7; file-stamped Supp. Ex. R-6. |

## IV. The City's Own Records Defeat a Blanket Mootness Claim

A new production matters, but it must be measured against the particular request and the relief still sought. The City may moot a count by producing all requested information in its possession or control. Muir, 2023 WL 4110843, at *6. Producing some records, a summary of a source record, duplicate recipient copies, or an image-only substitute does not establish that standard when identified responsive information remains withheld. Nor does production on one request moot a different request merely because the subjects overlap.

The accepted K-13 comparison illustrates the distinction. The City-side scan shows that an electronic attachment called "Code Enforcement Inspection.pdf" existed in the message family, while the accepted crosswalk and manifest identify a corresponding DSHS-produced native message. Production of the flattened scan does not, standing alone, establish production of the complete message family or the linked attachment in the requested electronic medium. Accepted Supp. Vol. 3, Ex. K-13, PDF pp. 435–440, 449–450, 457–464. Petitioner offers this only for Counts VI and IX, to which the identified Walmart and DSHS correspondence is tied.

The file-stamped Supplemental Exhibit R further defines the City's completeness position for Counts I, III, IV, V, and XIII. The five City certification forms state that the City made available all existing responsive information it

owned, controlled, or had a right of access to. Petitioner offers those City-authored certifications only to compare the asserted completeness with the count-specific omissions already pleaded and supported by the filed record—not as independent proof of intent or as a new claim. File-stamped Supp. Ex. R-2 through R-6. Moring Decl. ¶ 3.

If the City tenders additional material before or at the hearing, the practical question is whether that production fully satisfies a particular pleaded request. Petitioner will identify the affected count, the category produced, its format, and the specific relief that remains. The City's general denial is not proof that all thirteen requests have been fulfilled; the Court should decide mootness from the evidence, count by count.

## V. Native-Format Relief Is Tied to the Pleaded Requests

For identified categories in the pleaded requests, the City supplied screenshots, copier scans, or typed summaries instead of the requested source electronic records. The accepted record also contains the City's technical answer concerning Purview and .pst/.msg export capability, and K-11/K-13's record-specific comparison of the Ramirez/DSHS message family. Accepted Supp. Vol. 3, Exs. K-9, K-11, K-13, K-15; K-11, PDF pp. 279–283; K-13, PDF pp. 435–440, 449–450, 457–464. The requested remedy is therefore narrow: where a pleaded request sought an electronic medium and § 552.228(b)'s conditions are met, order production in that medium; otherwise require the City to offer an acceptable alternative under § 552.228(c).

This relief does not require the City to create new public information. It requires production of existing electronic information in the statutorily prescribed medium. For pleaded requests received on or after September 1, 2025, if the City determines that it has no responsive information, § 552.221(f) requires written notice of that determination. Count XII predates that amendment. If the evidence leaves a factual dispute about a specific count, the Court may require a reasonable supplemental search and a sworn, count-specific return sufficient to determine

compliance. Petitioner does not claim a freestanding right to generalized search-methodology declarations.

## VI. The OAG Closure Did Not Clear the City or Require Abatement

The Open Records Division's July 1, 2026 letter closed consolidated complaint file OR-25-055840-IC because this mandamus was pending and stated that the trial court would be allowed to resolve the issues raised. Petitioner filed and served notice of that closure. The letter is a procedural deferral, not a merits determination that the City complied. Kallinen confirms that Attorney General review is a check on the governmental body, not an administrative remedy the requestor must exhaust. 462 S.W.3d at 29.

## VII. Relief Requested

Petitioner respectfully requests that the Court grant mandamus to the extent each count remains unfulfilled and order the City to: **(1)** produce the identified nonexempt responsive information in its possession or under its control; **(2)** produce existing electronic information in the medium required by § 552.228; **(3)** produce any nonexempt Count IX material not yet produced, including material shown by a reasonable supplemental search to have been omitted from the City's prior production; restore access to, or re-produce, the nonexempt records previously delivered through the now-inaccessible SharePoint link, expressly excluding the inadvertently produced unredacted MPPD report, of which Petitioner seeks no duplicate copy; and provide a final production and cost accounting; **(4)** for any pleaded request received on or after September 1, 2025, as to which the City determines it has no responsive information, provide the written notice required by § 552.221(f); and **(5)** as to any specifically disputed category, conduct any reasonable supplemental search ordered by the Court and provide a sworn, count-specific return sufficient to determine compliance.

Petitioner further requests assessment of costs requested under § 552.323(a), subject to that section's statutory requirements, and all other relief to which he is

entitled. Petitioner does not submit a proposed form of order and respectfully leaves the form and timing of the Court's order to the Court after hearing the evidence and the parties' positions.

Respectfully submitted,



**Kyle Douglas Moring**
*Petitioner, Pro Se*
[redacted]

## CERTIFICATE OF SERVICE

I certify that on August 3, 2026, a true and correct copy of this Pre-Hearing Brief was served electronically through the electronic filing manager on all counsel and service contacts of record for Respondent City of Mount Pleasant, Texas, in accordance with Texas Rules of Civil Procedure 21 and 21a.



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**Kyle Douglas Moring**

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