INFORMATION REDACTED PURSUANT TO THE FREEDOM OF INFORMATION ACT (FOIA), 5 U.S.C. 552(B)(6)

Waymo LLC
1600 Amphitheatre Pkwy
Mountain View, CA

September 9, 2024

Via U.S. DOT's SLFTS and Confidential Business Information Portal

Adam Raviv
Chief Counsel
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
West Building W41-227
Washington, D.C. 20590

Re: Waymo LLC – Request for Confidential Treatment; Waymo's second response to the June 11, 2024 Office of Defects Investigation's Preliminary Evaluation Information Request ID PE24016-2

Dear Mr. Raviv:

This letter serves as the request by Waymo LLC ("Waymo") for confidential treatment of the enclosed documents, which are being submitted as a second response to the Agency's June 11, 2024, Information Request in the above-referenced investigation.

NHTSA has taken the position that users of NHTSA's online submission portal ("Portal") may submit requests and files containing confidential business information ("CBI") to NHTSA.[1] As instructed by the information request letter and NHTSA, Waymo will be submitting this information via the Portal using both the CBI and Safety Defect Investigations ("SDI") portals. Because Waymo is submitting this information electronically, the request includes a single copy of the confidential files.

In accordance with 49 C.F.R. § 512.5, Waymo is submitting the files with the file names marked "CONFIDENTIAL BUS INFO" and their contents, where possible, marked "CONFIDENTIAL BUSINESS INFORMATION." The files contain or otherwise disclose highly confidential information regarding, among other things, detailed descriptions of Waymo's internal policies, processes and procedures for responding to and managing various in-field events; information about Waymo's internal policies and procedures for its software development and fleet operations; and information associated with Waymo's internal analysis of the driving behavior of the Waymo ADS ("Waymo Driver") on public roads.

[1] https://www.nhtsa.gov/submit-confidential-business-info.

The autonomous vehicle (AV) industry was kick-started by the Defense Advanced Research Projects Agency (DARPA) in their 2004 Grand Challenge, to accelerate the development of autonomous ground vehicles for use in the public sector. The seeds of Waymo's origin began with a team that participated in that 2004 Grand Challenge. However, 20 years later, commercially viable AV technology and the AV industry as a whole, is still at a very nascent stage. AV companies continue to face many challenges in advancing, scaling, and commercializing this technology – including developing software, hardware, and other technology that allow AVs to operate effectively and safely and are commercially viable; performing resource intensive gathering and annotating of data to train AVs to navigate a wide variety of road environments; and making deep investments in conducting extensive testing and research on AVs' real-world operations and customer and bystander experience. Waymo's cutting-edge technological research and development (R&D) efforts are supported by large software and hardware engineering teams, data collection and analytics teams, and safety and testing teams, and has been recognized by patent offices around the world, which have collectively granted Waymo 4700+ patents worldwide. The USPTO alone has cited Waymo patents and published patent applications as prior art against others in 3000+ instances.

These R&D efforts take many years and an enormous financial investment. The investment in Waymo's AV technology began when Google's founders convinced a Grand Challenge winning team -- the Stanford Racing Team -- to join Google and begin the Google self-driving car project in 2009; the project was spun-out of Google in 2016 as a separate company -- Waymo. Accordingly, Waymo's investment in AVs began 15 years ago, and has included truly significant amounts of research and development into safe and commercially viable AV products and services that attract and delight customers.

Waymo also has invested significant time and financial resources to maintain a competitive advantage over other manufacturers and service providers in the AV space. As a result, Waymo has been able to achieve many industry firsts. For example, in 2015, Waymo took a legally blind man on the world's first fully autonomous ride on public roads in Austin, Texas. Three years later, in 2018, Waymo was the first company in the world to offer an autonomous, customer-facing AV ride hailing service in the United States: the Waymo One™ ride hailing service in the Metro Phoenix area, including Chandler, Tempe, Mesa, and Gilbert, Arizona. In 2022, Waymo began offering fully autonomous rides in San Francisco, becoming the first company to offer fully autonomous ride-hailing services in more than one state. Since then, Waymo has expanded to offer fully autonomous paid rides in 2023 in San Francisco and in 2024 in Los Angeles. Waymo has also greatly expanded the Waymo One™ service to include 315 square miles of the greater Phoenix, Arizona area, including downtown Phoenix and Phoenix's Sky Harbor International Airport.[2] We are also testing fully autonomous rides across 43 square miles of Austin, Texas, including downtown and Barton Hills. We plan to open Waymo rides to members of the Austin public later this year.[3] Assembling the technological, driving and operational experience required to launch and grow our public service in Arizona, California and Texas have required an enormous amount of time, expertise and financial investment.

Waymo's program has spanned across multiple states and allowed it to broadly develop its AV operations, to iterate on its AV software and other features to safely and effectively respond to real-world roadway and environmental conditions, and to adapt its products and services (AV technology, fleet operations, ride-hailing app, to name a few) to address consumer and bystander

[2] https://waymo.com/blog/2024/06/largest-autonomous-ride-hail-territory-in-us-now-even-larger/
[3] https://waymo.com/blog/2024/03/scaling-waymo-one-safely-across-four-cities-this-year/

expectations and experiences. Waymo's deep investment in and broad experience with developing, testing, and operating AVs has in turn allowed it to make significant progress over its competitors in developing and commercializing AV technology.

Because Waymo is a pioneer in the AV industry, domestic and foreign competitors closely scrutinize Waymo's activities. To protect these valuable investments, Waymo makes extensive efforts to maintain the confidentiality of the information described herein through executing and enforcing confidentiality agreements, access controls and restrictions to sensitive information, and physical restrictions[4] to maintain the confidentiality of this information.[5,6] In accordance with 49 C.F.R. § 512.4(b), Waymo has enclosed a Certificate in Support of Confidentiality.

As set forth below, Waymo requests confidential treatment for the enclosed materials on the ground that they contain trade secrets and/or confidential, proprietary information that is kept private or closely held by Waymo and would likely subject Waymo to substantial competitive harm if disclosed. *See* 49 C.F.R. § 512.3(c)(1) and (2); *Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2364 (2019) (FOIA Exemption 4 protects information that "is customarily kept private, or at least closely held, by the person imparting it"); *Critical Mass. Energy Prof. v. Nuclear Regul. Comm'n*, 975 F.2d 871, 879 (D.C. Cir. 1992) (en banc) (information is confidential under Exemption 4 "if it is of a kind that would customarily not be released to the public by the person [or entity] from whom it was obtained); *Public Citizen Health Research Group v. FDA*, 704 F.3d 1280, 1288 (D.C. Cir. 1983) (a trade secret is a "secret, commercially valuable plan, formula, process or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort"); *Center for Auto Safety v. Nat'l Hwy. Traffic Safety Admin.*, 93 F. Supp. 2d 1, 16 (D.D.C. 2000), *remanded for further proceedings*, 244 F.3d 144 (D.C. Cir. 2001) (air bag specifications representing "years of research and development and enormous financial investment" not subject to FOIA disclosure); see also *Renewable Fuels Ass'n v. U.S. Envtl. Prot. Agency*, 519 F. Supp. 3d 1 (D.D.C. 2021) and *Naumes v. Dep't of the Army*, No. 21-1670, 2022 WL 17752206 (D.D.C. Dec. 19, 2022).

Release of the enclosed information would permit competitors to learn more about Waymo's closely held information regarding its AV testing, operations, and technologies, and to thereby advance their own competing AV programs, products and services without incurring the substantial investment and time that would otherwise be required. Thus, substantial competitive harm to Waymo is a reasonably foreseeable consequence of public disclosure.

Specifically, Waymo requests confidential treatment for the information provided in the following categories of files, all of which (as described above) is treated by Waymo as highly confidential:

- **Waymo's Incident Management documents, Bates PE24016-2_0000000031-110; PE24016-2_0000000116-121; PE24016-2_0000000127-135; PE24016-2_0000000180-217**
    - These files contain information associated with Waymo's internal policies, processes and procedures associated with incident management and business and fleet

[4] Physical restrictions include restricting physical work areas using security badges, guards, and other mechanisms to limit, control, and oversee physical access.

[5] Waymo has also successfully defended this type of information from public disclosure by state regulators. *See Waymo LLC v. Calif. Dept. of Motor Veh.,* Case No. 34-2022-80003805 (Super. Ct. Sacramento).

[6] Waymo has pursued civil litigation to secure its confidential information. *See Waymo LLC v. Uber Technologies, Inc. et al, N.D. Cal. 3:17-cv-00939*.

operations. Disclosure of this information, which contains details which Waymo keeps confidential, both individually and in conjunction with the other information provided in this response, would provide competitors and others who can obtain economic value from the disclosure or use of the information with valuable insight into how Waymo organizes the operations of its fleet, how it responds to various events, and related strategies around its business and fleet operations. This, in turn, could inform competitors' decisions about their own resource allocation and the development of their business operations, thereby allowing them to adapt their own strategies and decisions based on Waymo's confidential business and technical strategies, all of which were developed by Waymo through considerable investment of time, money, expertise and effort. Therefore, disclosure of this information would harm Waymo by allowing Waymo's competitors to benefit tremendously off of Waymo's substantial investments.

- **List of files produced in this category:**
  - PE24016-2 0000000031-33_Confidential Bus Info.pdf;
  - PE24016-2_0000000034-43_Confidential Bus Info.pdf;
  - PE24016-2_0000000044-62_Confidential Bus Info.pdf;
  - PE24016-2_0000000063-94_Confidential Bus Info.pdf;
  - PE24016-2_0000000095-107_Confidential Bus Info.pdf;
  - PE24016-2_0000000108-110_Confidential Bus Info.pdf;
  - PE24016-2_0000000116_Confidential Bus Info.pdf;
  - PE24016-2_0000000117-121_Confidential Bus Info.pdf;
  - PE24016-2_0000000127-135_Confidential Bus Info.pdf;
  - PE24016-2_0000000180-194_Confidential Bus Info.pdf;
  - PE24016-2_0000000195-217_Confidential Bus Info.pdf.

- **Bates PE24016-2 0000000145-179**
  - This file contains information associated with Waymo's evaluation of its software in relation to traffic rules and regulations for operation on public roads. Disclosure of this information, which contains details which Waymo keeps confidential, both individually and in conjunction with the other information provided in this response, would provide competitors and others who can obtain economic value from the disclosure or use of the information with valuable insight into how Waymo analyzes the Waymo Driver's driving behavior. This, in turn, could inform competitors' decisions about their own resource allocation and the development of their business operations, thereby allowing them to adapt their own strategies and decisions based on Waymo's confidential business and technical strategies, all of which were developed by Waymo through considerable investment of time, money, expertise and effort. Therefore, disclosure of this information would harm Waymo by allowing Waymo's competitors to benefit tremendously off of Waymo's substantial investments.
  - **List of files produced in this category:**
    - PE24016-2_0000000145-179_Confidential Bus Info.pdf.

- **Waymo's safety policies, Bates PE24016-2_0000000027-30; PE24016-2_0000000111-115; PE24016-2_0000000122-126; PE24016-2_0000000136-144**
  - These files contain information associated with Waymo's internal safety policies, processes and procedures for the design, development, testing, and oversight of its

software and business and fleet operations. Disclosure of this information, which contains details which Waymo keeps confidential, both individually and in conjunction with the other information provided in this response, would provide competitors and others who can obtain economic value from the disclosure or use of the information with valuable insight into how Waymo sets internal safety standards and oversight of its software and business and fleet operations. This, in turn, could inform competitors' decisions about their own resource allocation and the development of their business operations, thereby allowing them to adapt their own strategies and decisions based on Waymo's confidential business and technical strategies, all of which were developed by Waymo through considerable investment of time, money, expertise and effort. Therefore, disclosure of this information would harm Waymo by allowing Waymo's competitors to benefit tremendously off of Waymo's substantial investments.

- **List of files produced in this category:**
  - PE24016-2_0000000027-30_Confidential Bus Info.pdf;
  - PE24016-2_0000000111-115_Confidential Bus Info.pdf;
  - PE24016-2_0000000122-126_Confidential Bus Info.pdf;
  - PE24016-2_0000000136-144_Confidential Bus Info.pdf;

- **Waymo's Internal Knowledge Base ("IKB") procedure documents, Bates PE24016-2_0000000334-636**
  - These files contain information associated with Waymo's in-field operations and business and fleet operations. Disclosure of this information, which contains details which Waymo keeps confidential, both individually and in conjunction with the other information provided in this response, would provide competitors and others who can obtain economic value from the disclosure or use of the information with valuable insight into how Waymo responds to and manages various in-field events involving its fleet and its riders. This, in turn, could inform competitors' decisions about their own resource allocation and the development of their business operations, thereby allowing them to adapt their own strategies and decisions based on Waymo's confidential business and technical strategies, all of which were developed by Waymo through considerable investment of time, money, expertise and effort. Therefore, disclosure of this information would harm Waymo by allowing Waymo's competitors to benefit tremendously off of Waymo's substantial investments.
  - **List of files produced in this category:**
    - PE24016-2_0000000334-336_Confidential Bus Info.pdf;
    - PE24016-2_0000000337-353_Confidential Bus Info.pdf;
    - PE24016-2_0000000354-358_Confidential Bus Info.pdf;
    - PE24016-2_0000000359-367_Confidential Bus Info.pdf;
    - PE24016-2_0000000368-369_Confidential Bus Info.pdf;
    - PE24016-2_0000000370-374_Confidential Bus Info.pdf;
    - PE24016-2_0000000375-382_Confidential Bus Info.pdf;
    - PE24016-2_0000000383-398_Confidential Bus Info.pdf;
    - PE24016-2_0000000399-423_Confidential Bus Info.pdf;
    - PE24016-2_0000000424-430_Confidential Bus Info.pdf;
    - PE24016-2_0000000431-439_Confidential Bus Info.pdf;
    - PE24016-2_0000000440-442_Confidential Bus Info.pdf;
    - PE24016-2_0000000443-452_Confidential Bus Info.pdf;

- PE24016-2_0000000453-464_Confidential Bus Info.pdf;
- PE24016-2_0000000465-470_Confidential Bus Info.pdf;
- PE24016-2_0000000471-480_Confidential Bus Info.pdf;
- PE24016-2_0000000481-487_Confidential Bus Info.pdf;
- PE24016-2_0000000488-497_Confidential Bus Info.pdf;
- PE24016-2_0000000498-503_Confidential Bus Info.pdf;
- PE24016-2_0000000504-512_Confidential Bus Info.pdf;
- PE24016-2_0000000513-518_Confidential Bus Info.pdf;
- PE24016-2_0000000519-541_Confidential Bus Info.pdf;
- PE24016-2_0000000542-563_Confidential Bus Info.pdf;
- PE24016-2_0000000564-566_Confidential Bus Info.pdf;
- PE24016-2_0000000567-569_Confidential Bus Info.pdf
- PE24016-2_0000000570-575_Confidential Bus Info.pdf;
- PE24016-2_0000000576-579_Confidential Bus Info.pdf;
- PE24016-2_0000000580-582_Confidential Bus Info.pdf;
- PE24016-2_0000000583-587_Confidential Bus Info.pdf;
- PE24016-2_0000000588-591_Confidential Bus Info.pdf;
- PE24016-2_0000000592-594_Confidential Bus Info.pdf;
- PE24016-2_0000000595-597_Confidential Bus Info.pdf;
- PE24016-2_0000000598-600_Confidential Bus Info.pdf;
- PE24016-2_0000000601-602_Confidential Bus Info.pdf;
- PE24016-2_0000000603-636_Confidential Bus Info.pdf.

- **Waymo 2nd response to NHTSA Information Request PE24016-2_Confidential Business Information.pdf**
    - This file contains information associated with Waymo's software and business and fleet operations. Disclosure of this information, which contains details which Waymo keeps confidential, both individually and in conjunction with the other information provided in this response, would provide competitors and others who can obtain economic value from the disclosure or use of the information with valuable insight into Waymo's technical and operational capabilities and the timing thereof. This, in turn, could inform competitors' decisions about their own resource allocation and the development of their business operations, thereby allowing them to adapt their own strategies and decisions based on Waymo's confidential business and technical strategies, all of which were developed by Waymo through considerable investment of time, money, expertise and effort. Therefore, disclosure of this information would harm Waymo by allowing Waymo's competitors to benefit tremendously off of Waymo's substantial investments.

The information identified above, both individually and collectively, represents many years of extensive R&D work and financial investment. All of this valuable, commercial information is "customarily kept private" and "closely held"[7] by Waymo using a multi-layered approach to protection noted above. As the Agency is aware, the transportation industry is highly competitive and companies closely guard against public disclosure of information pertaining to AV technology, research and development. Domestic and foreign companies and governments have invested billions of dollars and countless years into developing AV technologies. As described above, disclosure of

[7] *See Food Marketing Institute v. Argus leader Media, supra*.

the enclosed information would permit Waymo's competitors and others who can obtain economic value from the disclosure or use of the information to take advantage of its extensive R&D efforts and investment for their own benefit, and to Waymo's detriment. What took Waymo 15 years and significant amounts of money to develop could be used by others domestically and internationally to develop and improve their own products and services more quickly and at a fraction of the expense. Accordingly, Waymo requests that this information be granted confidential treatment for an indefinite period of time.

Please contact me if you have any questions or need additional information.

Sincerely,



Van Nguy
Deputy General Counsel
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