



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 3, 2019

Mr. Neal Falgoust  
Assistant City Attorney  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767-8828

OR2019-27748

Dear Mr. Falgoust:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 789312 (COA PIR# C03776).

The City of Austin (the "city") received a request for all communications between a specified company and the city's transportation department. The city states it has released most of the responsive information to the requestor. Although the city takes no position as to whether the submitted information is excepted under the Act, the city states release of the submitted information may implicate the proprietary interests of Social Bicycles LLC d/b/a JUMP Bikes ("Jump"). Accordingly, the city states, and provides documentation showing, it notified Jump of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received and considered comments from Jump and reviewed the submitted information.

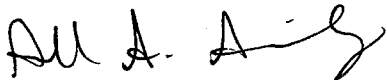
Jump asserts the submitted information is protected under section 552.104 of the Government Code. Section 552.104(a) excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive

advantage.” *Id.* at 841. Jump states it has competitors. In addition, Jump argues release of the submitted information would provide an advantage to its competitors. After review of the submitted information and consideration of the arguments, we find Jump has established the release of the submitted information would give advantage to a competitor or bidder. Thus, we conclude the city may withhold the submitted information under section 552.104(a) of the Government Code.<sup>1</sup>

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Gerald Arismendez  
Assistant Attorney General  
Open Records Division

GAA/mo

Ref: ID# 789312

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)

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<sup>1</sup> As our ruling is dispositive, we need not address Jump’s remaining arguments against disclosure of the submitted information.