



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 24, 2022

Ms. Victoria Hayslett  
Assistant City Attorney  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767-8828

OR2022-18261

Dear Ms. Hayslett:

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# 954883 [PIR# C1257533].

The City of Austin (the "city") received a request for monthly reports submitted by shared mobility companies during a specified period of time pertaining to e-scooter collisions. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Bird Rides, Inc.; Lime and Jump; Lyft ("Lyft"); Superpedestrian dba LINK; Ojo Electric; PACE dba Zagster; Revel; Scoobi; and Wheels Labs ("Wheels").<sup>1</sup> Accordingly, you state, and provide documentation showing, the city notified these third parties of the request for information and of their 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 comments from Lyft and Wheels. We have considered the submitted arguments and reviewed the submitted information.

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<sup>1</sup> We note the city failed to comply with the procedural requirements of section 552.301 of the Government Code in requesting a decision from this office. *See* Gov't Code § 552.301(b), (e). Nonetheless, third party interests can provide a compelling reason to overcome the presumption of openness caused by a failure to comply with section 552.301. *See id.* § 552.302; Open Records Decision No. 150 at 2 (1977). Because third party interests are at stake in this instance, we will consider any third party arguments against disclosure of the submitted information.

Initially, we note Lyft argues its information is not responsive to the request for information. However, we also note the Act requires a governmental body to make a good-faith effort to relate a request to information the governmental body holds or to which it has access. *See* Open Records Decision Nos. 563 at 8 (1990), 561 at 8-9 (1990), 555 at 1-2 (1990), 534 at 2-3 (1989). Because the city has submitted the information at issue for our review, we find the city has made a good-faith effort to submit information that is responsive to the request, and we will address the arguments against disclosure of this information.

Next, we note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from any of the remaining third parties explaining why the submitted information should not be released. Therefore, we have no basis to conclude any of these third parties has a protected proprietary interest in the submitted information. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception). Accordingly, the city may not withhold any of the submitted information on the basis of any proprietary interest any of the remaining third parties may have in it.

Section 552.110(c) of the Government Code exempts from disclosure "commercial 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[.]" *Id.* § 552.110(c). Lyft and Wheels argue their information consists of commercial or financial information subject to section 552.110(c). Upon review, we find Lyft and Wheels have demonstrated the information at issue constitutes commercial or financial information, the release of which would cause substantial competitive harm. Accordingly, the city must withhold the information pertaining to Lyft and Wheels under section 552.110(c) of the Government Code.<sup>2</sup> As no exceptions to disclosure have been raised for the remaining information, the remaining information must be released.

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

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<sup>2</sup> As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

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,

Paige Lay  
Assistant Attorney General  
Open Records Division

PL/mo

Ref: ID# 954883

Enc. Submitted documents

c: Requestor  
(w/o enclosures)