

**Texas Municipal Retirement System
Non Disclosure Agreement**

This Non Disclosure Agreement (the "Agreement") is made on and effective as of this _____ day of _____, 2008 by and between the City of _____, Texas, a Texas municipality ("City") and the Texas Municipal Retirement System ("TMRS").

RECITALS

WHEREAS, City is a municipality that participates in TMRS; and

WHEREAS, City has hired an actuarial firm to perform actuarial services which require City participant data from TMRS; and

WHEREAS, TMRS must protect the confidentiality of this participant data pursuant to Sections 552.101 and 855.115 of the Government Code; and

WHEREAS, TMRS may disclose such information pursuant to the terms and conditions herein;

* * *

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge and confirm, the parties agree as follows:

1. For the purposes of this Agreement, "Confidential Information" shall mean only TMRS participant data which is subject to Section 855.115 of the Government Code, including, but not limited to, any information concerning an individual member, retiree, annuitant, or beneficiary, whether in electronic or written form provided by TMRS to any employee, officer, representative, contractor or agent of the City (each a "Receiving Party") during the term of this Agreement. Confidential information will not include any information which (i) is or becomes publicly available, (ii) is already in the City's possession and not otherwise subject to the confidentiality provisions of Section 855.115 of the Government Code; (iii) is or becomes available to the City on a non-confidential basis from a source other than TMRS, provided that such source is not known to be subject to any legal or contractual obligation to TMRS to keep such information confidential, or (iv) is independently developed by the City or on the City's behalf without violating any of City's obligations hereunder.
2. The City represents that any of its employees, officers, representatives, contractors or agents who will receive the Confidential Information, will, prior to receiving such information, sign and agree to be bound by language at least as restrictive as the language contained in this Agreement, regarding the use and protection of the Confidential Information.
3. The City or any Receiving Party agrees that all Confidential Information:
 - a. shall be maintained in accordance with Section 855.115 of the Government Code and in strict confidence by such Receiving Party except as required by an order of a court of competent jurisdiction or other legal process;
 - b. shall not be disclosed by the Receiving Party to any third party other than the employees or agents of such Receiving Party who have a need to know the information in connection with the purpose stated in the Recitals; and
 - c. shall return the Confidential Information to TMRS or destroy any and all originals and copies upon completion of the set task for which it is required or at the end of an appropriate record retention period.

4. The City or any Receiving Party shall not publish any report, press release, data or other information regarding or determined from such Confidential Information to the extent the report, press release, data or other information includes individual participant data in a form identifiable with a specific individual and whose release would be prohibited by Section 855.115 of the Government Code, unless otherwise required by law.

5. The parties agree that if a breach of this Agreement occurs by a Receiving Party, TMRS shall suffer irreparable harm and significant injury and loss to a degree which would be difficult to ascertain and which would not be fully compensable by damages alone, and that TMRS shall have the right to invoke the jurisdiction of the courts to seek immediate temporary or permanent injunctive relief, specific performance or other equitable relief, without bond, and without prejudice to any other rights and remedies available to TMRS.

6. This Agreement is to be construed and interpreted in accordance with the laws of the State of Texas without regard to its conflicts of laws provisions. It is agreed that venue shall be in the District Court of Travis County, Texas.

7. Each party represents that the person signing below has the requisite right and authority to execute this Agreement on behalf of its organization and to bind it to the provisions hereof. The parties further agree that this Agreement contains the entire understanding of the parties with respect to the subject matter hereof and that there are no other agreements or understandings with respect to the subject matter.

8. If any third person or entity requests or seeks to compel the City to disclose or produce any information provided to the City by TMRS under this Agreement which is subject to Section 855.115 of the Government Code, or claims an entitlement to any such information on the grounds that such information is alleged or claimed to be generally available to the public or to constitute in whole or in part a public record, document or report under applicable law, the City agrees to file a timely request for an opinion of the attorney general seeking to withhold the information under the Texas Public Information Act. In addition, the City agrees to use its best efforts to notify TMRS within two (2) business days of its receipt of such a request, but in no case later than is reasonably necessary to provide TMRS an adequate opportunity to request a legal opinion or to consent to or seek to prevent such disclosure through protective order or other appropriate remedy.

9. The parties agree that Chapter 2260, *Texas Government Code*, is applicable to this Agreement and the dispute resolution process provided for in Chapter 2260 will be used by TMRS and City to attempt to resolve any claim for breach of contract or other claim made by City that cannot be resolved in the ordinary course of business. The Executive Director of TMRS or his designee will examine the City's claim and any counterclaim and negotiate with City in an effort to resolve such claims. The parties specifically agree that (i) neither the execution of the Agreement by TMRS nor any other conduct, action or inaction of any representative of TMRS relating to the Agreement constitutes or is intended to constitute a waiver of TMRS' sovereign immunity to suit; and (ii) TMRS has not waived its right to seek redress in the courts or to a jury trial.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date(s) set forth opposite the signatures of their authorized representatives to be effective for all purposes on the date first written above.

CITY OF _____

**TEXAS MUNICIPAL RETIREMENT
SYSTEM**

BY: _____

BY: _____

NAME: _____

NAME: Eric Henry

TITLE: _____

TITLE: EXECUTIVE DIRECTOR AND
CHIEF INVESTMENT OFFICER

DATE: _____

DATE: _____