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ATTORNEY GENERAL OF TEXAS

February 13, 2020

Ms. Paige H. Saenz  
Counsel for the City of Austin Employees Retirement System  
The Knight Law Firm, LLP  
223 West Anderson Lane, Suite A-105  
Austin, Texas 78752

OR2020-04644

Dear Ms. Saenz:

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# 811898.

The City of Austin Employees Retirement System (the "system"), which you represent, received a request for specified information pertaining to a certain meeting. You state the system is releasing some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.104, 552.111, and 552.143 of the Government Code.<sup>1</sup> You also state release of this information may implicate the proprietary interests of a third party. Accordingly, you state, and provide documentation showing, you notified the Northern Trust Company ("Northern Trust") 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

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<sup>1</sup> We note although you raise section 552.106 of the Government Code, you make no arguments to support this assertion. Therefore, we assume you have withdrawn your claim that this exception applies to the submitted information. *See* Gov't Code § 552.301, .302.

interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from Northern Trust. We have considered the submitted arguments and reviewed the submitted representative sample of information.<sup>2</sup>

Section 552.143 of the Government Code provides, in relevant part,

(a) All information prepared or provided by a private investment fund and held by a governmental body that is not listed in Section 552.0225(b) is confidential and excepted from [required public disclosure].

(b) Unless the information has been publicly released, pre-investment and post-investment diligence information, including reviews and analyses, prepared or maintained by a governmental body or a private investment fund is confidential and excepted from [required public disclosure], except to the extent it is subject to disclosure under Subsection (c).

Gov't Code § 552.143(a)-(b). You state the information submitted as Exhibit B consists of “analysis pertaining to both pre- and post-investment due diligence” and “an analysis framework for conducting due diligence analysis, for analyzing current and prospective investments and structuring the investments of the [system’s] fund as a whole” created by system staff in conjunction with the system’s investment consultant. You also state the information at issue does not consist of the type of information that is subject to section 552.0225(b) of the Government Code, and we understand this information is not subject to disclosure pursuant to section 552.143(c) of the Government Code. Further, you state the information at issue has not been released to the public. Based on these representations and our review, we find the system must withhold Exhibit B under section 552.143 of the Government Code.<sup>3</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

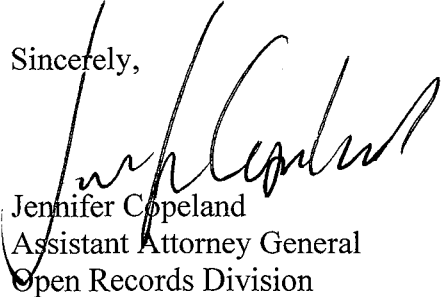
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<sup>2</sup> We assume the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

<sup>3</sup> As our ruling is dispositive, we need not address the remaining arguments against the disclosure of the submitted 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,



Jennifer Copeland  
Assistant Attorney General  
Open Records Division

JC/gw

Ref: ID# 811898

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

c: Third Party  
(w/o enclosures)