

ORDINANCE NO. O-2008-143

AN ORDINANCE OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 2, "FINANCE AND TAXATION", ARTICLE V, "INVESTMENT POLICY", PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Public Funds Investment Act, (currently Chapter 2256 of the Government Code), requires that the City Council review and adopt its Investment Policy and strategy at least annually; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:

PART 1. That Chapter 2, "Finance and Taxation", Article V., "Investment Policy", be amended to read as follows:

ARTICLE V. INVESTMENT POLICY

Sec. 2-46. Introduction And Scope.

The Public Funds Investment Act, Chapter 2256, Texas Government Code, requires each city to adopt a written investment policy that includes a written investment strategy, quarterly reports to City Council with market values, an annual review of the policy by Council and an annual compliance audit among other requirements. This policy shall apply to the investment and management of all City funds under its control, other than those expressly excluded within this document or by applicable law or valid agreement. The Fire Pension Fund is excluded from this policy because it is separately organized and managed by contract with investment companies as directed by the Fire Pension Board, and the Lindsey Police and Firefighters' Endowment Fund is also excluded from this policy because it is separately organized and managed by contract with an investment company as directed by the Lindsey Police and Firefighters' Fund Board. The Employees Deferred Compensation Agency Fund and the Retirees Health Benefits Trust Fund are also excluded.

This Policy shall not supersede the restrictions on investment of specific funds because of legal limits, created by grants, bond covenants or similar regulations. In the event of conflict, the more restrictive policy shall be followed. (Ord. No. 0-98-21; 3/18/98) (Ord. No. 0-2000-21; 3/22/00) (Ord. No. 0-2002-54, 11/13/2002) (0-2003-65, 11/26/03) (Ord. 0-2004-87, 11/10/04) (Ord. 0-2005-91, 11/9/05) (Ord. No. O-2006-93, 11/8/06) (Ord. No. 0-2007-130, 11/14/07) (Ord. No. 0-2008-37, 2/27/08) (Ord. No. 0-2008-143, 11/12/08)

Sec. 2-47. Investment Strategy.

The City shall use a pooled cash and investment approach commingling money from various fund types for market efficiencies; to the extent that is practical and legal. The following investment strategy considerations recognize the unique advantages of a pooled cash and investment portfolio, including the reduction of cash flow uncertainty and the increased opportunity of yield curve extension. Funds included in the portfolio will include those from the operating funds, debt service and debt reserve funds, and special projects. The liquidity requirements of the pooled investment portfolio will be estimated and matched.

To implement the investment strategy the City shall:

- a. Identify and utilize suitable investment options as described in this Policy.
- b. Preserve principal by investing in options with limited perceived credit risk and manage the portfolio to reduce market and opportunity risk as described in this Policy.
- c. Provide adequate liquidity by using short-term investment pools and bank deposits, and staggering investment maturities based on anticipated cash flow needs.
- d. Diversify investment types and maturities throughout the cash flow and market cycles as described in this Policy.
- e. Seek to attain a competitive market yield for comparable security-types and portfolio restrictions.

The maximum maturity of any security in the portfolio will not exceed two (2) years and the overall weighted average maturity of the portfolio will not exceed 270 days. (Ord. No. 0-2000-21, 3/22/00) (Ord. No. 0-2001-51, 10/24/01) (Ord. No. 0-2002-54, 11/13/2002) (0-2003-65, 11/26/03) (Ord. 0-2004-87, 11/10/04) (Ord. 0-2005-91, 11/9/05) (Ord. No. O-2006-93, 11/8/06) (Ord. No. 0-2007-130, 11/14/07) (Ord. No. 0-2008-143, 11/12/08)

Sec. 2-48. Objectives.

Principal investment objectives in order of priority are:

- a. Preservation of capital and the protection of investment principal.
- b. Maintaining public trust by avoiding any transaction, which might impair public confidence in the City's ability to manage public funds with which it is entrusted.
- c. Conformance with all Federal statutes, State statutes, City Charter requirements, City ordinances, and other legal or policy requirements.
- d. Maintenance of sufficient liquidity to meet anticipated disbursement and cash flows.
- e. Diversification to avoid incurring unreasonable risks regarding securities owned.
- f. Attainment of a market rate of returns equal to or higher than the performance of comparable portfolios. (Ord. No. 0-98-21; 3/18/98) (Ord. No. 0-2000-21, 3/22/00) (Ord. No. 0-2001-51, 10/24/01) (Ord. No. 0-2002-54, 11/13/2002) (Ord. 0-2004-87, 11/10/04) (Ord. 0-2005-91, 11/9/05) (Ord. No. O-2006-93, 11/8/06) (Ord. No. 0-2007-130, 11/14/07) (Ord. No. 0-2008-143, 11/12/08)

Sec. 2-49. Investment Officers.

The Chief Financial Officer, Accounting Manager, and Accountants are appointed as investment officers. The Investment Officer's authority will be limited by applicable laws, regulations and this policy.

The City shall provide periodic training in investments for the investment personnel through courses and seminars offered by professional organizations and associations in order to insure the quality and capability of the City's investment personnel.

Investment Officers shall attend at least one training session, containing at least 10 hours of instruction, within twelve months of assuming their duties. An additional ten hours of training will be required in each succeeding two-year period. Training will address investment topics in compliance with the Public Funds Investment Act. The City approves the GFOA, GFOAT, GTOT, NTCOG, TCMA, TML, and UNT as independent sources for training. (Ord. No. 0-98-21; 3/18/98) (Ord. No. 0-2000-21, 3/22/00) (Ord. No. 0-2001-51, 10/24/01) (Ord. No. 0-2002-54, 11/13/2002)

(0-2003-65, 11/26/03) (Ord. 0-2004-87, 11/10/04) (Ord. 0-2005-91, 11/9/05) (Ord. No. O-2006-93, 11/8/06) (Ord. No. O-2006-93, 11/8/06) (Ord. No. 0-2007-130, 11/14/07) (Ord. No. 0-2008-143, 11/12/08)

Sec. 2-50. Standards of Care, Ethics and Conflicts of Interest.

As provided for in the Public Funds Investment Act, the standard of care for the City's investments shall be the Prudent Person Rule, which states "investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived."

The overall investment program shall be designed and managed with a degree of care and professionalism that is worthy of the public trust. The Investment Officers shall recognize that the investment activities of the City are a matter of public record and public trust.

The Investment Officers, acting in accordance with written procedures and exercising the proper standard of care, shall be relieved of personal responsibility for an individual investment decision, provided that this Policy and the City's procedures were followed. In determining whether an Investment Officer has exercised the proper standard of care, all investments over which the individual had responsibility will be considered rather than a single investment.

Officers and employees of the City involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Employees and officers shall not utilize investment advice concerning specific securities or classes of securities obtained in the transaction of the City's business for personal investment decisions, shall in all respects subordinate their personal investment transaction to those of the City particularly with regard to the timing of purchases and sales, and shall keep confidential all investment advice obtained on behalf of the City and all transactions contemplated and completed by the City, except when disclosure is required by law.

All Investment Officers of the City shall file with the Texas Ethics Commission and the City Council a statement disclosing any personal business relationship with a business organization seeking to sell investments to the City or any relationship within the second degree by affinity or consanguinity to an individual seeking to sell investments to the City. (Ord. No. 0-98-21; 3/18/98) (Ord. No. 0-2000-21, 3/22/00) (Ord. No. 0-2001-51, 10/24/01) (Ord. No. 0-2002-54, 11/13/2002) (0-2003-65, 11/26/03) (Ord. 0-2004-87, 11/10/04) (Ord. 0-2005-91, 11/9/05) (Ord. No. O-2006-93, 11/8/06) (Ord. No. 0-2007-130, 11/14/07) (Ord. No. 0-2008-143, 11/12/08)

Sec. 2-51. Authorized Investments.

The investment officers shall use only investment options approved by City Council. Participation in any investment pool must also be approved by formal Council action. Subject to any limitations otherwise imposed by applicable law, regulations, bond indentures or other agreements, (including but not limited to Chapter 2256 Texas Government Code, the Public Funds Investment Act), the following securities and deposits are the only ones permitted as investments for the City's funds:

- a. Direct obligations of the United States government with a maturity not to exceed two

(2) years from the date of purchase; U.S. Treasury Bills, U.S. Treasury Notes, U.S. Treasury Bonds, and U.S. Treasury Strips (book entry U.S. Treasury securities whose coupon has been removed).

b. Debentures or discount notes with a maturity not to exceed two (2) years from the date of purchase issued by, guaranteed by, or for which the credit of any Federal Agencies and Instrumentalities is pledged for payment. Principal-only and interest-only mortgage backed securities and collateralized mortgage obligations and real estate mortgage investment conduits are expressly prohibited.

c. Bonds or other interest bearing obligations of which the principal and interest are guaranteed by the full faith and credit of the United States government with a stated maturity not to exceed two (2) years from the date of purchase. Principal-only and interest-only mortgage backed securities and collateralized mortgage obligations and real estate mortgage investment conduits are expressly prohibited.

d. Certificates of Deposit with a maturity not to exceed two (2) years from the date of purchase, insured by the Federal Deposit Insurance Corporation (FDIC) or its successor, in banks doing business in Texas which have been approved as a depository by the City. All deposits exceeding the FDIC insurance limits shall be collateralized as required by Section 2-57 Selection of Depositories.

e. Local government investment pools organized under the Interlocal Cooperation Act that meets the requirements of Chapter 2256 Texas Government Code and have been specifically approved and authorized by the City Council.

f. Direct obligations of the State of Texas or its agencies with a maturity not to exceed two (2) years from the date of purchase.

A security's "average life" does not constitute a stated maturity.

No security type approved by the Legislature for public investment will be authorized by the City without specific City Council approval and adoption in this investment Policy. And securities, which become unauthorized by legislative action or changes in credit rating/status, need not be liquidated immediately. The investment officer will make specific suggestions as to the possible liquidation or retention.

This Policy does not apply to an investment donated to the City for a particular purpose or under terms of use specified by the donor (Section 2256.004). (Ord. No. 0-98-21; 3/18/98) (Ord. No. 0-2000-21, 3/22/00) (Ord. No. 0-2001-51, 10/24/01) (Ord. No. 0-2002-54, 11/13/2002) (0-2003-65, 11/26/03) (Ord. 0-2004-87, 11/10/04) (Ord. 0-2005-91, 11/9/05) (Ord. No. O-2006-93, 11/8/06) (Ord. No. 0-2007-130, 11/14/07) (Ord. No. 0-2008-143, 11/12/08)

Sec. 2-52. Investment Limits.

It is the City's policy to diversify its investment portfolio. Invested funds shall be diversified to minimize risk or loss resulting from over-concentration of assets in a specific maturity, specific issuer, or specific class of securities. Cash flow projections shall be utilized to spread investment maturities, smooth market fluctuations, and reduce reinvestment risk.

The maturity of an investment largely dictates its price volatility. Therefore, the City shall concentrate its investment portfolio in shorter-term securities to protect market valuation from unanticipated rate movements. The City will attempt to avoid over-investment in local government pools and match a portion its investments with anticipated cash flow requirements. The asset allocation in the portfolio will vary depending upon those requirements and the outlook for the economy and the security markets.

The City will not directly invest in securities maturing more than two (2) years from the date of purchase. The maximum average dollar-weighted maturity for the total City portfolio, including funds at the City's depository bank, shall not exceed two hundred seventy (270) days. (Ord. No. 0-98-21; 3/18/98) (Ord. No. 0-2000-21, 3/22/00) (Ord. No. 0-2001-51, 10/24/01) (Ord. No. 0-2002-54, 11/13/2002) (0-2003-65, 11/26/03) (Ord. 0-2004-87, 11/10/04) (Ord. 0-2005-91, 11/9/05) (Ord. No. 0-2006-93, 11/8/06) (Ord. No. 0-2007-130, 11/14/07) (Ord. No. 0-2008-143, 11/12/08)

Sec 2-53. Selection of Broker/Dealers.

The City may utilize the in-house brokerage services of the bank qualifying as City depository in the acquisition and disposition of authorized securities. Other broker/dealers meeting the qualifications of this Policy section and selected by the Investment Officers for competitive assurance that the best investment available is purchased and shall be annually approved by the City Council.

The approved list of broker/dealers includes the following firms:

Banc of America Securities
Rice Financial Products Company
Duncan-Williams Securities

For brokers and dealers of investment securities, the City shall select only dealers reporting to the Market Reports Division of the Federal Reserve Board of New York, also known as the "Primary Government Security Dealers," unless a credit and capitalization analysis reveals that other firms are adequately financed to conduct public business.

All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply the following as appropriate:

- Annual audited financial statements
- Proof of Texas State Securities Commission registration
- Proof of National Association of Securities Dealers (NASD) certification
- Completed broker/dealer questionnaire

Each entity from which the City purchases investments (brokers/banks/pools) shall be provided the City's Investment Policy. Each will be required to provide a written certification of having read the Policy signed by an authorized representative of the firm. The certification will state that they have reviewed the Policy and will implement reasonable procedures to preclude investment transactions not authorized by the Policy.

It is the policy of the City to require competitive bidding for all individual security purchases and sales except for transactions with money market mutual funds and local government investment pools. (Ord. No. 0-98-21; 3/18/98) (Ord. No. 0-2000-21, 3/22/00) (Ord. No. 0-2001-51, 10/24/01)

(Ord. No. 0-2002-54, 11/13/2002) (0-2003-65, 11/26/03) (Ord. 0-2004-87, 11/10/04) (Ord. 0-2005-91, 11/9/05) (Ord. No. O-2006-93, 11/8/06) (Ord. No. 0-2007-130, 11/14/07) (Ord. No. 0-2008-143, 11/12/08)

Sec. 2-54. Safekeeping.

Eligible investment securities shall be purchased using the delivery versus payment method. That is, funds shall not be wired or paid until verification has been made that the security has been received by the City safekeeping/clearance agent. The security shall be held in the name of the City. The original copy of all safekeeping receipts shall be delivered to the City. An independent custodian will be used for securities safekeeping. (Ord. No. 0-98-21; 3/18/98) (Ord. No. 0-2000-28, 3/22/00) (Ord. No. 0-2001-51, 10/24/01) (Ord. No. 0-2002-54, 11/13/2002) (Ord. 0-2004-87, 11/10/04) (Ord. 0-2005-91, 11/9/05) (Ord. No. O-2006-93, 11/8/06) (Ord. No. 0-2007-130, 11/14/07) (Ord. No. 0-2008-143, 11/12/08)

Sec. 2-55. Reporting and Audits.

At least quarterly, the Investment Officer shall submit a written report of all investments in compliance with Section 2256.023 of the Public Funds Investment Act. The market valuations obtained by the City shall be from sources believed to be accurate and representative of the securities' true values. The reports shall be submitted to City Council.

An annual compliance audit of management's controls on investments and adherence to this Investment Policy shall be performed in conjunction with the annual financial audit and include a review of quarterly reports.

The benchmark for the portfolio will be three-month Treasury Bill average yield for the reporting period. Reporting will include the benchmark as a gauge of the portfolio's performance and a measure of risk. (Ord. No. 0-98-21; 3/18/98) (Ord. No. 0-2000-21, 3/22/00) (Ord. No. 0-2001-51, 10/24/01) (Ord. No. 0-2002-54, 11/13/2002) (0-2003-65, 11/26/03) (Ord. 0-2004-87, 11/10/04) (Ord. 0-2005-91, 11/9/05) (Ord. No. O-2006-93, 11/8/06) (Ord. No. 0-2007-130, 11/14/07) (Ord. No. 0-2008-143, 11/12/08)

Sec. 2-56. Review of Investment Policy.

The City Council will review and adopt this Investment Policy and investment strategy at least annually, approving changes to policy or strategy. (Ord. No. 0-98-21; 3/18/98) (Ord. No. 0-2000-21, 3/22/00) (Ord. No. 0-2001-51, 10/24/01) (Ord. No. 0-2002-54, 11/13/2002) (0-2003-65, 11/26/03) (Ord. 0-2004-87, 11/10/04) (Ord. 0-2005-91, 11/9/05) (Ord. No. O-2006-93, 11/8/06) (Ord. No. 0-2007-130, 11/14/07) (Ord. No. 0-2008-143, 11/12/08)

Sec. 2-57. Selection of Depositories.

Depositories shall be selected through the City's banking services procurement process, which shall include a formal Request for Proposal (RFP) issued in compliance with applicable State law. A written contract shall be entered into and extended as per the RFP specifications. In selecting depositories, the credit worthiness of institutions shall be considered, and the Investment Officers shall conduct a review of prospective depository's credit characteristics and financial history.

All deposits placed with the City's depository or other financial institution shall be insured or collateralized in compliance with applicable State law. The City reserves the right, in its sole discretion, to accept or reject any form of insurance or collateralization pledged towards deposits. The City shall receive original safekeeping receipts for securities pledged, copies of any pledged insurance policies or letters of credit, and all pledged securities shall be held by an unaffiliated custodian. Written authorization by an Investment Officer is required prior to the release of any pledged collateral, insurance, or letter of credit.

The City requires market value of pledged securities in excess of 102% of all uninsured deposits plus accrued interest if any. All financial institutions pledging securities as collateral shall be required to sign a collateralization agreement with the City. The agreement shall define the City's rights to the collateral in case of default, bankruptcy, or closing and shall establish a perfected security interest in compliance with Federal and State regulations, including:

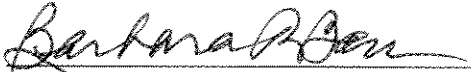
- The agreement must be in writing;
- The agreement has to be executed by the financial institution and the City contemporaneously with the deposit;
- The agreement must be approved by the Board of Directors or designated committee of the financial institution and a copy of the meeting minutes must be delivered to the City; and
- The agreement must be part of the financial institution's "official record" continuously since its execution.

The Investment Officers shall monitor deposit and collateral levels at least monthly to maintain adequate coverage. (0-2003-65, 11/26/03) (Ord. 0-2004-87, 11/10/04) (Ord. 0-2005-91, 11/9/05) (Ord. No. O-2006-93, 11/8/06) (Ord. No. 0-2007-130, 11/14/07) (Ord. No. 0-2008-143, 11/12/08)

Sec. 2-58 – 2-59. Reserved.

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PASSED AND APPROVED this 12th day of November, 2008.


BARBARA BASS, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:


CASSANDRA BRAGER, CITY CLERK

APPROVED:


GARY C. LANDERS, CITY ATTORNEY

