

ORDINANCE NO. O-2009-84

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, (PFIA) (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, (the "PFIA") 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) (Ord. No. 0-2009-84, 8/12/09)

Sec. 2-47. Investment Strategy.

The City shall use a pooled cash and investment approach commingling money from various fund types for market efficiency 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 projected and matched with maturities. 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:

Suitability - Any investment eligible in the Investment Policy is suitable for Pooled Fund

Groups.

Safety of Principal - All investments shall be of high quality securities with no perceived default risk. Market price fluctuations will occur. However, managing the weighted average days to maturity of each fund's portfolio to less than 270 days and restricting the maximum allowable maturity to two years using the final stated maturity dates of each security will minimize the price volatility of the portfolio.

Marketability - Securities with active and efficient secondary markets are necessary in the event of an unanticipated cash flow requirement. Historical market "spreads" between the bid and offer prices of a particular security-type of less than a quarter of a percentage point will define an efficient secondary market.

Liquidity - Pooled Fund Groups require short-term liquidity to adequately fund any unanticipated cash outflow. Short-term investment pools and money market mutual funds will provide daily liquidity and may be utilized as a competitive yield alternative to fixed maturity investments.

Diversification - Investment maturities should be staggered throughout the budget cycle to provide cash flow based on the anticipated operating needs of the City. Diversifying the appropriate maturity structure up to the two-year maximum will reduce interest rate risk.

Yield - Attaining a competitive market yield for comparable security-types and portfolio restrictions is the desired objective. The yield of an equally weighted, rolling three-month Treasury Bill portfolio will be the minimum yield objective.

At times special project and bond proceed funds may be better suited invested outside the Pooled Fund Group. In those cases the following strategy shall be applicable:

Suitability - Any investment eligible in the Investment Policy is suitable for Special Project and Bond Proceeds Funds.

Safety of Principal - All investments will be of high quality securities with no perceived default risk. Market price fluctuations will occur. However, by managing Special Project and Bond Proceeds to not exceed the anticipated expenditure schedule the market risk of the overall portfolio will be minimized.

Marketability - Securities with active and efficient secondary markets are necessary in the event of an unanticipated cash flow requirement. Historical market "spreads" between the bid and offer prices of a particular security-type of less than a quarter of a percentage point will define an efficient secondary market.

Liquidity - Special Project and Bond Proceeds Funds used for capital improvements programs have reasonably predictable draw down schedules. Therefore investment maturities should generally follow the anticipated cash flow requirements. Investment pools and money market mutual funds will provide readily available funds generally equal to one month's anticipated cash flow needs, or a competitive yield alternative for short term fixed maturity investments. A singular repurchase agreement may be utilized if disbursements are allowed in the amount necessary to satisfy any expenditure request. This investment structure is commonly referred to as a flexible repurchase agreement.

Diversification - Market conditions and arbitrage regulations influence the attractiveness of staggering the maturity of fixed rate investments for Special Project and Bond Proceeds Funds. Generally, when investment rates exceed the applicable cost of borrowing, the City is best served by locking in most investments. If the cost of borrowing cannot be exceeded, then concurrent market conditions will determine the attractiveness of diversifying maturities or investing in shorter and larger amounts. At no time shall the anticipated expenditure schedule be exceeded in an attempt to bolster yield.

Yield - Achieving a positive spread to the cost of borrowing is the desired objective, within the limits of the Investment Policy's risk constraints. The yield of an equally weighted, rolling six-month Treasury bill portfolio will be the minimum yield objective for non-borrowed funds.

(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) (Ord. No. 0-2009-84, 8/12/09)

Sec. 2-48. Objectives.

Principal investment objectives in order of priority are:

- a. Preservation of capital and the protection of investment principal.
- b. Maintenance of sufficient liquidity to meet anticipated disbursement and cash flows.
- c. 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.
- d. Conformance with all Federal statutes, State statutes, City Charter requirements, City ordinances, and other legal or policy requirements.
- e. Diversification to avoid incurring unreasonable risks regarding investments owned.
- f. Attainment of a market rate of returns which is consistent with risk limitations and cash flow characteristics of the City's investments. (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) (Ord. No. 0-2009-84, 8/12/09)

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.

In order to ensure qualified and capable investment management, 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.

The City maintains the right to hire Investment Advisers to assist City staff in the investment of funds. Investment Advisers shall adhere to the spirit, philosophy and specific terms of this Policy and shall invest within the same objectives. The Investment Officers shall establish criteria to evaluate Investment Advisers, including:

1. Adherence to the City's policies and strategies;
2. Investment strategy recommendations within accepted risk constraints;
3. Responsiveness to the City's request for services and information;
4. Understanding of the inherent fiduciary responsibility of investing public funds; and
5. Similarity in philosophy and strategy with the City's objectives.

Selected Investment Advisors must be registered under the Investment Advisers Act of 1940 or with the State Securities Board. A contract with an Investment Adviser may not be for a term longer than two years and any contract, renewal or extension must be approved by the City Council.

(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) (Ord. No. 0-2009-84, 8/12/09)

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

As provided for in the PFIA, 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.

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. Investment Officers and employees of the City involved in the investment process shall not utilize investment advice concerning specific securities or classes of securities obtained in the transaction of the City's business

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) (Ord. No. 0-2009-84, 8/12/09)

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 the PFIA), the following are the only ones permitted as investments for the City's funds:

a. Direct obligations of the United States government, 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 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. 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 and other evidences of deposit at a financial institution that, a) has its main office or a branch office in Texas and is guaranteed or insured by the Federal Deposit Insurance Corporation or its successor, b) is secured by obligations in a manner and amount provided by law for deposits of the City, or c) is executed through a depository institution that has its main office or a branch office in Texas that participates in the Certificate of Deposit Account Registry Service (CDARS) and meets the requirements of the PFIA. 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 the PFIA and have been specifically approved and authorized by the City Council.

f. Direct obligations of the State of Texas or its agencies

g. No load "government" money market mutual funds that meet the requirements of the PFIA. Money market mutual funds must maintain a AAAM, or equivalent rating from at least one nationally recognized rating agency; and be specifically approved by the City Council or purchased through the City's primary depository as an overnight investment tool.

h. Repurchase agreements entered into in compliance with the PFIA.

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

No investment type approved by the PFIA for public investment will be authorized by the City without specific City Council approval and adoption in this Investment Policy. And investments authorized at the time of purchase, which become unauthorized need not be liquidated immediately. All prudent measures shall be taken to liquidate an investment that is downgraded to less than its required minimum rating. The Investment Officer will make specific suggestions as to the possible liquidation or retention in either situation.

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) (Ord. No. 0-2009-84, 8/12/09)

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. O-2006-93, 11/8/06) (Ord. No. 0-2007-130, 11/14/07) (Ord. No. 0-2008-143, 11/12/08) (Ord. No. 0-2009-84; 8/12/09)

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 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
Coastal Securities
Morgan Keegan & Company, Inc.

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 analysis reveals that other firms are adequately experienced 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 Financial Industry Regulatory Authority (FINRA) certification

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 create a competitive environment for all individual purchases and sales financial institution deposits, 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) (Ord. No. 0-2009-84, 8/12/09)

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) (Ord. No. 0-2009-84; 8/12/09)

Sec. 2-55. Reporting and Audits.

At least quarterly, the Investment Officer shall submit a written report of all investments in compliance with PFIA. The market valuations obtained by the City shall be from independent 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, with the result of the review reported to the City Council by that auditor.

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) (Ord. No. 0-2009-84, 8/12/09)

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) (Ord. No. 0-2009-84; 8/12/09)

Sec. 2-57. Selection of Depositories.

The primary depository 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 the primary depository, 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.

The City may also utilize other financial institutions to maintain back-up checking or other transactional accounts, and to place interest bearing deposits.

All deposits placed with the City's primary 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. 0-2006-93, 11/8/06) (Ord. No. 0-2007-130, 11/14/07) (Ord. No. 0-2008-143, 11/12/08) (Ord. No. 0-2009-84, 8/12/09)

Sec. 2-58. Authorized Collateral

The City shall accept only the following as collateral:

a. A bond, certificate of indebtedness, or note of the United States, its agencies or instrumentalities, or other evidence of indebtedness of the United States, its agencies or instrumentalities that is guaranteed as to principal and interest by the United States, its agencies or instrumentalities.

b. Obligations, the principal and interest on which, are unconditionally guaranteed or insured by the State of Texas.

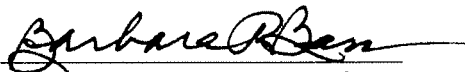
c. bond of the State of Texas or a county, city or other political subdivision of the State of Texas having been rated no less than "A" or its equivalent by a nationally recognized rating agency with a remaining maturity of ten (10) years or less.

d. Letters of credit issued by the United States or its agencies and instrumentalities. (Ord. No. 0-2009-84, 8/12/09)

Sec. 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 the 12th day of August, 2009.


BARBARA BASS, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:


CASSANDRA BRAGER, CITY CLERK



APPROVED:


CITY ATTORNEY