

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE DEER PARK CODE OF ORDINANCES BY REPLACING CHAPTER 2 (ADMINISTRATION), ARTICLE VII (FINANCE), ALL OF DIVISION 2 (INVESTMENT POLICY).

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEER PARK: That Chapter 2, Article VII, Division 2 (Investment Policy) is to be amended to conform with all current State and Federal regulations by replacing all of Division 2 as follows:

2-266 POLICY

It is the policy of the CITY OF DEER PARK (the "City") to invest funds in a manner that will ensure the preservation of capital, meet the daily cash flow needs of the City, conform to all applicable state statutes and City ordinances governing the investment of public funds, and provide reasonable investment returns.

The Texas Public Funds Investment Act, Government Code Ch. 2256 as amended (the "Act") prescribes that each city shall adopt rules to govern its investment practices and to define the authority of the investment officer(s). This policy addresses the methods, procedures, and practices established to ensure effective and judicious fiscal management of the City's funds worthy of the public trust.

2-267 SCOPE

This investment policy shall apply to all financial assets and funds under control of the City, other than those expressly excluded herein or by applicable law or valid agreement. The City commingles its funds into one pooled investment fund for efficiency and maximum investment opportunity, except for monies held in demand and time deposits as provided under Chapter 105 of the Local Government Code or as stipulated by applicable laws, bond covenants or contracts. These funds are accounted for in the City's Comprehensive Annual Financial Report ("CAFR") and include the following:

- General Funds
- Capital Project Funds
- Debt Service Funds
- Enterprise Funds
- Internal Service Funds
- Special Revenue Funds
- Trust and Agency Funds

This policy shall also apply to any new funds created by the City unless specifically exempted by the City Council and this policy.

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

2-268 OBJECTIVES AND STRATEGY

The City strives to invest funds in a manner where the rate of return is secondary to safety and liquidity. To accomplish this, the City's principal investment objectives, in priority order, are as follows:

- (a) *Suitability.* Each investment must be in conformance with all Federal regulations, state statutes, and other legal requirements—including the City Charter, City ordinances, and this investment policy.
- (b) *Preservation and safety of principal.* Investments of the City shall be handled in a manner that seeks to ensure the preservation of capital and the protection of investment principal in the overall portfolio. All participants in the investment process shall act responsibly as custodians of the public trust.
- (c) *Liquidity.* The City's investment portfolio will remain sufficiently liquid to enable the City to meet operating requirements that might be reasonably anticipated. Liquidity shall be achieved by maintaining appropriate cash equivalent balances, matching investment maturities with forecasted cash flow requirements, and investing in securities with active secondary markets.
- (d) *Marketability.* The City's policy is to buy and hold investments until maturity; however, marketability is of great importance should the need arise to liquidate an investment before maturity.
- (e) *Diversification.* Investments shall be diversified, as appropriate, by type and maturity to eliminate the risk of loss resulting from the concentration of assets in a specific maturity, a specific issuer or a specific class of securities. While investments of the City shall be selected to provide for stability of income and reasonable liquidity, the investments shall be structured to meet the projected cash flow needs of the City first, and then to enhance interest income. Ideally, portfolio maturities shall be ladderred in a way that stabilizes interest income from market volatility. The stated maturity of any investment in the City's portfolio shall not exceed five years and the weighted average maturity of the City's overall portfolio shall not exceed 365 days.
- (f) *Yield.* The City's investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the City's risk constraints and the cash flow characteristics of the portfolio. Given this strategy, the basis used to determine whether reasonable yields are being achieved shall be the rolling average yield of the three-month U.S. Treasury Bill or such other index that most closely matches the average maturity of the portfolio.

2-269 AUTHORIZATION

The authority of the City to manage the investment program is derived from the Act, specifically, Section 2256.005(f)-(h). Management responsibility for the investment program is hereby delegated to the Director of Finance of the City, including responsibility for all investment transactions and the related system of controls to regulate the activities of subordinate officials. The Director of Finance shall serve as the primary investment officer and shall invest City funds in legally authorized and adequately secured investments in accordance with this policy and the Act. The City Manager and Assistant City Manager shall also serve as investment officers of the City. The investment officers shall be bonded.

2-270 RESPONSIBILITY AND CONTROL

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 their own affairs, not for speculation, but for investment, considering the safety of capital and the income to be derived.

In determining whether investment decisions were made exercising prudence, consideration shall be given to the following: the investment of all funds, or funds under the City's control, taken as a whole, rather than the prudence of a single investment; and whether the investment decision is consistent with the written investment policy of the City at that time. Occasional measured losses are inevitable and must be considered within the context of the overall portfolio's return.

An investment officer acting as a "prudent person" exercising due diligence in accordance with written procedures and the investment policy shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely manner and appropriate action is taken to control adverse market effects.

The Director of Finance shall establish written procedures for the operations of the investment program consistent with this investment policy, bond resolutions, or other authorizing instruments securing the City's outstanding bonds or other instrument securing indebtedness of the City issued after the adoption of this policy. Procedures shall address safekeeping, wire transfer agreements, collateral/depository agreements, banking services contracts, and monitoring of credit rating changes in investments. Further, procedures shall address explicit delegation of authority to persons responsible for investment-related duties. No person may engage in an investment-related duty except as provided under the terms of this policy or the procedures established by the Director of Finance.

2-271 ETHICS AND CONFLICTS OF INTEREST

In addition to any other requirements of law, the investment officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution of the investment program, or which could impair their ability to make impartial investment decisions. An investment officer who has a personal business relationship with a business organization offering to engage in an investment transaction with the City or who is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the City shall file a statement with the City Council and with the Texas Ethics Commission disclosing that relationship.

An investment officer has a personal business relationship with a business organization if the investment officer owns 10 percent or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization, the investment officer receives funds from the business organization exceeding 10 percent of the investment officer's gross income for the previous year, or the investment officer has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the investment officer.

2-272 INVESTMENT TRAINING

The City shall provide periodic training in investments for the investment officers through courses and seminars offered by independent professional organizations and associations approved by the City Council. The objective of this training is to ensure the quality and capability of the investment officer making investment decisions in compliance with the Act. An investment officer shall attend at least one training session relating to the investment officer's responsibilities under the Act within 12 months after taking office or assuming the duties of investment officer and accumulate not less

than 10 hours of instruction relating to investment responsibilities under the Act. Further, an investment officer shall attend at least one investment training session not less than once in a two-year period (beginning on the first day of the City's fiscal year and consisting of the two consecutive fiscal years after that date) and accumulate not less than 8 hours of instruction relating to investment responsibilities under the Act.

Designated training sponsored by any of the following organizations is approved:

- (a) Government Finance Officers Association of Texas
- (b) Government Treasurers' Organization of Texas
- (c) Texas Municipal League
- (d) The University of North Texas Center for Public Management

Training must include education in investment controls, security risks, strategy risks, market risks, diversification of the investment portfolio, and compliance with the Act.

2-273 AUTHORIZED INVESTMENTS

In accordance with Federal and state laws, including Section 2256.005(b) of the Act, the following are authorized investments:

- (a) Obligations of the United States or its agencies and instrumentalities, including the Federal Home Loan Banks;
- (b) Direct obligations of the State of Texas or its agencies and instrumentalities;
- (c) Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, the State of Texas or the United States or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the FDIC or by the explicit full faith and credit of the United States;
- (d) Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent;
- (e) A certificate of deposit, or other form of deposit, that is placed and secured in accordance with Section 2256.010 of the Act;
- (f) An investment pool to the extent and manner provided by law if the City by rule, ordinance, order or resolution authorizes investment in the particular pool and if the investment pool conforms to the requirements of the Act. To maintain eligibility, an investment pool must conform to the requirements of the Act. Further, the investment pool must be continuously rated no lower than AAA or AAA-m or its equivalent by at least one nationally recognized rating service and must post on their website the specific disclosures required by the Act.

Currently, the following investment pools are approved: TexPool, TexSTAR, and Texas CLASS.

2-274 AUTHORIZED AND SUITABLE INVESTMENTS – BOND PROCEEDS

Bond proceeds may be invested in accordance with the provisions of the respective bond ordinance, resolution or Trust Agreement authorizing the issuance of the bonds, notes or other obligations. To the extent of any inconsistency between the provisions of this investment policy and the bond instrument, the more restrictive investment terms contained in the bond instrument shall control, provided however, that no such investment of bond proceeds shall be made in an investment that is prohibited by policy

2-275 PROHIBITED INVESTMENTS

The following are not authorized investments and are prohibited under this investment policy:

- (a) Obligations for which the payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal (interest only bond);
- (b) Obligations for which the payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest (principal only bond);
- (c) Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years;
- (d) Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index (inverse floaters);
- (e) A securities lending program of the nature permitted by Section 2256.0115 of the Act; and
- (f) Commercial paper, including pools which invest in commercial paper.

2-276 EXISTING INVESTMENTS AND MINIMUM RATING REQUIREMENTS

Investments held on the effective date of this investment policy that are no longer authorized investments under the Act and/or this investment policy do not need to be liquidated before the final stated maturity of the investment. An investment that requires a minimum rating does not qualify as an authorized investment during the period the investment does not have the minimum rating. The investment officers shall take all prudent measures that are consistent with this investment policy to liquidate any investment that becomes a prohibited investment (e.g., through a rating downgrade after the purchase of the investment). In the event that the credit rating of any investment is publicly placed under review by the credit rating agency maintaining the rating, the investment officer shall closely monitor the investment and take such action as he/she deems prudent to protect the value of the investment.

2-277 INVESTMENT ADVISORS

The City Council may from time to time employ qualified individuals or firms as an Investment Advisor to assist the investment officers in carrying out the investment program and complying with the requirements of this investment policy and the Act.

2-278 INVESTMENT LIMITS AND DIVERSIFICATION

The asset allocation in the portfolio should be flexible and responsive to the outlook for the economy and the securities markets. Risk management shall be addressed through portfolio diversification, as appropriate, by:

- (a) Limiting investments to avoid over concentration by credit risk and maturity;
- (b) Limiting investments in issuers that have higher credit risks;
- (c) Investing in varying maturities; and
- (d) Maintaining a minimum 10 percent (10%) of the total portfolio in cash equivalent instruments to meet ongoing obligations.

2-279 INVESTMENT MANAGEMENT

The investment officers shall exhibit prudence and discretion in the selection and management of investments in order that no individual or group of transactions undertaken shall jeopardize the total capital of the portfolio. The City will not allow speculation (e.g., anticipating an appreciation of capital through changes in market interest rates) in the selection of any investments. The investment officers shall monitor financial market indicators, study financial trends, and utilize available educational tools in order to maintain appropriate managerial expertise.

The investment officers are authorized to solicit quotes for investments orally, in writing, electronically, or in any combination of these methods. Each investment transaction – exclusive of cash equivalent transactions – must be based upon quotations received from multiple qualified financial institutions or authorized broker/dealers. Competing broker/dealers may not have access to the same securities in the secondary market. Therefore, competitive offerings may be evaluated for similar investments and/or a target maturity period rather than for a specific investment or maturity date.

While the City primarily utilizes a buy and hold strategy, active portfolio management may from time to time dictate the sale of securities to better position the overall portfolio. The City Manager or Assistant City Manager must approve the sale of any security prior to maturity or any sale of a security for less than the book value of the security.

2-280 QUALIFIED FINANCIAL INSTITUTIONS AND BROKER/DEALERS

Qualified financial institutions shall include financial institutions, broker/dealers, and other business organizations (e.g., investment pools and discretionary investment management firms) doing business in the State of Texas and licensed or otherwise registered and in good standing, as applicable, with the Texas Department of Securities, the Securities and Exchange Commission, the Financial Industry Regulatory Authority, Inc. ("FINRA"), or other applicable state or national regulatory organizations. If otherwise acceptable, the wholly owned subsidiary or affiliated companies of such regulated firms shall also be deemed qualified. Qualified financial institutions must have an office in Texas. Specifically, the City's depository bank, and any wholly owned subsidiary or affiliated company, is a qualified and authorized financial institution.

The investment officers shall maintain a list of security broker/dealers authorized by the investment policy. All broker/dealers shall maintain complete records of all transactions conducted on behalf of the City and shall make those records available for inspection at the City's request. At least annually, the investment officers shall review the list of broker/dealers authorized to engage in investment transactions with the City and shall make a recommendation as part of the City Council's

review of the investment policy. As part of this process, the investment officers shall review the quality of service of each broker/dealer. The investment officers may remove an authorized broker/dealer from the list if, in the opinion of the investment officers, the firm has not performed adequately or its financial condition has become unacceptable.

The following broker/dealers are authorized to engage in investment transactions with the City:

- (a) FTN Financial (formerly Coastal Securities, Inc.)
- (b) Duncan-Williams, Inc.
- (c) Hilltop Securities
- (d) Wells Fargo Securities, LLC.

Nothing in this section relieves the City of the responsibility for monitoring the investments made by the City to determine that they are in compliance with this investment policy.

2-281 REPORTING

The investment officers shall prepare and submit to each member of the City Council an investment report describing in detail the investment position of the City, signed by the investment officers, no less than on a quarterly basis. The report shall contain sufficient information to provide for a comprehensive review of investment activity, current investments and performance for the period, including any variations from the investment strategy of the City. The investment report shall include a description of the investment, the maturity date, the beginning and ending book and market values, the accrued interest, and the changes during the period as well as a summary by pooled fund group. The investment officers may use any generally accepted method to monitor the market price of investments, including, but not limited to, periodic reports from any of the approved broker/dealers or any nationally recognized market source that provides market valuations on individual securities. Additionally, the Director of Finance shall verify the credit ratings of investments and shall describe any changes in credit ratings as part of the report. Each report shall include a statement of compliance with the City's investment policy and the Act. The annual audit shall include a review of the quarterly reports and a compliance audit of management controls on investments and adherence to the City's established investment policy and procedures.

The report shall include the weighted average yield to maturity, which shall serve as the City's performance measurement standard.

2-282 INTERNAL CONTROLS

A system of internal controls shall be documented in writing and shall be designed to prevent losses of public funds arising from fraud, employee error, misrepresentation by third parties, unanticipated changes in financial markets, or imprudent actions by employees and management of the City. Controls deemed most important shall include: control of collusion, separation of duties, separation of transaction authority from accounting and recordkeeping, independent safekeeping and custodial duties, avoidance of bearer-form securities, clear delegation of authority, specific limitations regarding securities losses, written confirmation of telephone transactions, and limiting the number of authorized investment officials. These controls shall be reviewed by the City's independent audit firm as part of the annual audit.

2-283 DEPOSITORIES

Consistent with the requirements of the Texas Public Funds Collateral Act, Government Code Ch. 2257 as amended ("Public Funds Collateral Act"), the City shall require all depository institution deposits to be federally insured or collateralized. Any financial institution serving the City as a depository institution will be required to sign a depository agreement ("Agreement"). The Agreement shall define the City's rights to collateral in case of default, bankruptcy, or closing and shall establish a perfected security interest in compliance with Federal and state regulations, including:

- (a) The Agreement must be in writing;
- (b) The Agreement has to be executed by the Depository and the City contemporaneously with the acquisition of the asset;
- (c) The Agreement must be approved by the Board of Directors or Designated Committee of the Depository and a copy of the meeting minutes must be delivered to the City; and
- (d) The Agreement must be part of the Depository's "official record" continuously since its execution.

2-284 COLLATERAL

Eligible securities for collateralization of deposits are defined by the Public Funds Collateral Act. For pledged securities, the market value of the principal portion of collateral pledged for deposits must at all times be equal to or greater than 102 percent of the total amount of deposits plus any accrued interest, less the insurance amount provided by the Federal Deposit Insurance Corporation ("FDIC"). For certificates of deposit or other forms of deposit, the City may accept a letter of credit issued by a U.S. Agency or Instrumentality. The value of the letter of credit must be equal to or greater than 100 percent of the total amount of deposits plus any accrued interest, less the insurance amount provided by the FDIC.

Depository institutions with which the City maintains collateralized deposits shall require the custodian to provide a monthly report of the pledged securities. The investment officers shall monitor collateralization levels to verify market values and total collateral positions. If the value of the securities pledged falls below the required collateral level, the depository institution holding the deposit must pledge additional securities no later than the end of the next succeeding business day.

2-285 CUSTODY AND SAFEKEEPING

To protect against fraud, the deposits and investments of the City shall be secured in accordance with third-party custody and safekeeping procedures approved by the City.

A written collateral or custodial agreement shall be approved by the City with each custodian bank, such custodian being a permitted institution under the Public Funds Collateral Act. Upon receipt of pledged collateral, the custodian shall promptly issue and deliver to the City a pledge receipt identifying and evidencing receipt of the collateral.

All security transactions shall be completed on a delivery versus payment ("DVP") basis with the City's safekeeping agent. Securities shall be held with the safekeeping agent until liquidation or maturity.

The investment officers shall maintain the original pledge and safekeeping receipts. The investment officers shall routinely monitor that all securities owned by or collateral pledged to the City are held in an account(s) in the City's name. These records shall also be subject to an annual compliance audit of management controls on investments and adherence to the City's established investment policy and procedures.

2-286 PROXY VOTING

The investment officer shall execute and deliver any proxies to be voted on behalf of the City based upon his or her judgment, as a prudent investor, as to the outcome of the voting that would be most beneficial to the City.

2-287 CERTIFICATION FORM

A written copy of the investment policy shall be provided to any person or business organization (local investment pool or discretionary investment management firm) offering to engage in investment activities with the City. Every business organization must execute a certificate in favor of the City in a form acceptable to the City and the business organization substantially to the effect that the business organization has:

(a) Received and reviewed the City's investment policy; and

(b) Acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the City and the organization that are not authorized by the City's investment policy, except to the extent that this authorization is dependent on an analysis of the makeup of the City's entire portfolio or requires an interpretation of subjective investment standards or relates to investment transactions of the City that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

The investment officers may not acquire or otherwise obtain any authorized investment from any business organization until a signed document meeting the above stated requirements (e.g., certification form) has been delivered to the City.

2-288 ANNUAL REVIEW

The City Council shall review the investment policy and investment strategies not less than annually. The City Council shall adopt a written instrument by ordinance or resolution stating that it has reviewed the investment policy and investment strategies and the written instrument so adopted shall record any changes made to either the investment policy or investment strategies.

It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551 of the Government Code of the State of Texas.

The City Council finds that this Ordinance relates to the immediate preservation of the public peace, health, safety and welfare, in that it is necessary that the Investment Policy be amended so that the City's Investment Policy conform to current State and Federal regulations, take effect for the protection of persons and property, thereby creating an emergency, for which the Charter requirement providing for the reading of Ordinances on three (3) several days should be dispensed with, and this Ordinance be passed finally on its introduction; and, accordingly, such requirement is dispensed with, and this Ordinance shall take effect upon its passage and approval by the Mayor.

PASSED, APPROVED AND ADOPTED on the first and final reading, this _____ day of _____, 2017, by a vote of _____ "ayes" and _____ "noes", this Ordinance having been read in full prior to such vote.

MAYOR, City of Deer Park, Texas

ATTEST:

City Secretary

APPROVED:

City Attorney