

**ORDINANCE NO. 12-014**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLAIRE, TEXAS, REVIEWING THE INVESTMENT POLICY OF THE CITY OF BELLAIRE, TEXAS, AND AMENDING *CHAPTER 2, ADMINISTRATION, ARTICLE I, IN GENERAL, SECTION 2-10, INVESTMENT POLICY*, OF THE *CODE OF ORDINANCES OF THE CITY OF BELLAIRE, TEXAS*, BY REPEALING THE EXISTING *SECTION 2-10* AND ADOPTING A NEW *SECTION 2-10, INVESTMENT POLICY*, FOR THE PURPOSE OF UPDATING SAID POLICY IN COMPLIANCE WITH HB 2226 PASSED DURING THE 82<sup>ND</sup> TEXAS LEGISLATIVE SESSION.**

**WHEREAS**, the City Council of the City of Bellaire, Texas, has previously adopted *Chapter 2, Administration, Article I, In General, Section 2-10, Investment Policy*, of the *Code of Ordinances of the City of Bellaire, Texas*, in order to comply with the requirements of the *Texas Public Funds Investment Act, Texas Government Code, Chapter 2256*, as amended (the "Act"); and

**WHEREAS**, the Act requires that a governing body, such as the City Council of the City of Bellaire, Texas, (1) review its investment policy and investment strategies not less than annually, and (2) adopt a written instrument by rule, order, ordinance or resolution stating that it has reviewed the investment policy and investment strategies with the written instrument so adopted recording any changes made to either the investment policy or investment strategies; and

**WHEREAS**, in compliance with the requirements of the Act, the City Council of the City of Bellaire, Texas, has annually reviewed its investment policy and investment strategies by ordinance recording any changes as necessary; and

**WHEREAS**, in conjunction with the annual review of the investment policy and strategies, the City's Chief Financial Officer has recommended certain revisions to same in compliance with HB 2226 passed during the 82<sup>nd</sup> Texas Legislative Session; **NOW THEREFORE**,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
BELLAIRE, TEXAS THAT:**

**Section 1.** The recitals set forth above are found to be true and correct.

**Section 2.** The City Council of the City of Bellaire, Texas, having conducted its annual review of the investment policy and investment strategies, finds that same should be amended in accordance with the recommendations of the City's Chief Financial Officer.

**Section 3.** *Chapter 2, Administration, Article I, In General, Section 2-10, Investment Policy*, of the *Code of Ordinances of the City of Bellaire, Texas* ("Code"), is hereby amended by repealing the existing *Section 2-10* and adopting a new *Section 2-10, Investment Policy*, for the purpose of updating and reorganizing said policy. The amended Code shall read as set out in Appendix A, attached hereto. All other portions of *Chapter 2* of the City's Code not specifically amended hereby shall remain in full force and effect.

**Section 4.** All ordinances and parts of ordinances in conflict with this Ordinance are repealed to the extent of the conflict only.

**Section 5.** If any word, phrase, clause, sentence, paragraph, section or other part of this Ordinance or the application thereof to any person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction neither, the remainder of this Ordinance, nor the application of such word, phrase, clause, sentence, paragraph, section or other part of this Ordinance to any other persons or circumstances, shall be affected thereby.

**Section 6.** The City Council officially finds, determines, and declares that a sufficient written notice of the date, hour, place, and subject of each meeting at which this Ordinance was discussed, considered, or acted upon was given in the manner required by the Texas Open Meetings Act, as amended, and that each such meeting has been open to the public as required by law at all times during such discussion, consideration, and action.

The City Council ratifies, approves, and confirms such notices and the contents and posting thereof.

**Section 7.** This Ordinance shall be effective immediately upon its passage and adoption.

**PASSED, APPROVED and ADOPTED** this 2<sup>nd</sup> day of April, 2012.

---

Philip L. Nauert, Mayor  
City of Bellaire, Texas

ATTEST:

---

Tracy Dutton, TRMC  
City Clerk  
City of Bellaire, Texas

APPROVED AS TO FORM:

---

Alan P. Petrov, City Attorney  
City of Bellaire, Texas

## **Appendix A**

### **Sec. 2-10. Investment policy.**

(a) *Policy statement.* It is the policy of the city to invest public 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, V.T.C.A., 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 officers. 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.

(b) *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. The funds are defined in the city's Comprehensive Annual Financial Report ("CAFR") and include the General Fund, Special Revenue Funds, Debt Service Funds, Capital Project Funds, Enterprise Funds, and any new funds created by the city unless specifically exempted by the city council and this policy.

This Policy shall not supersede the restrictions on investment and use applicable to any specific fund and, in the event of any conflict between this policy and the requirements of any fund subject hereto, the specific requirement applicable to such fund shall be followed as well as all other provisions of this policy other than those in conflict.

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.

(c) *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 order of priority are as follows: 1) suitability, 2) preservation and safety of principal, 3) liquidity, 4) marketability, 5) diversification, and 6) yield.

(1) *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.

(2) *Preservation and safety of principal.* Investments 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.

- (3) *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 matching investment maturities with forecasted cash flow requirements and by investing in securities with active secondary markets.
- (4) *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.
- (5) *Diversification.* Investments shall be diversified 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. Portfolio maturities should be laddered in a way that protects interest income from the volatility of market and avoids the concentration of assets in a specific maturity sector. The majority of the city's funds will be invested in maturities of 12 months or less targeted to the projected cash flow needs of the city. Investments with maturities in excess of 12 months can be made to match specific cash flow requirements (e.g., funds held for future capital projects may be invested to meet anticipated cash flow requirements). The stated maturity of any investment in the city's portfolio will not exceed 36 months and the weighted average maturity of the city's portfolio will not exceed 365 days.
- (6) *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 average yield of the current three-month U.S. Treasury Bill or such other index that most closely matches the average maturity of the portfolio.

(d) *Authorization.* Authority 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 chief financial officer including responsibility for all investment transactions and the related system of controls to regulate the activities of subordinate officials. The chief financial officer and the finance manager shall serve as the investment officers of the city and shall invest

city funds in legally authorized and adequately secured investments in accordance with this policy and the Act. In the event the position of chief financial officer becomes vacant, the city manager shall serve as an investment officer during such vacancy. The city investment officers shall be bonded.

(e) *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.

The chief financial officer shall establish written procedures for the operation of the investment program consistent with this investment policy. Procedures shall address safekeeping, repurchase agreements, wire transfer agreements, collateral/depository agreements, banking services contracts, and explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the chief financial officer.

(f) *Ethics and conflicts of interest.* In addition to any other requirements of law, 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 disclosing that relationship with the city and the Texas Ethics Commission. 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.

(g) *Investment training.* The City shall provide periodic training in investments for the investment officers through courses and seminars offered by professional organizations and associations in order to insure the quality and capability of the City's investment officers making investment decisions in compliance with the Act. The investment officers 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. Further,

the investment officers shall attend an investment training session not less than once in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than 10 hours of instruction relating to investment responsibilities under the Act from an independent source approved by the governing body of the city. The designated training may be sponsored by the Government Finance Officers Association of Texas, the Government Treasurer's Organization of Texas, the Texas Municipal League, or the University of North Texas. Training must include education in investment controls, security risks, strategy risks, market risks, diversification of the investment portfolio, and compliance with the Act.

(h) *Authorized investments.* Authorized investments include the following:

- (1) Obligations of the United States or its agencies and instrumentalities;
- (2) Direct obligations of the state or its agencies and instrumentalities;
- (3) Other obligations, the principal of and interest on which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, the state or the United States or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation or by the explicit full faith and credit of the United States;
- (4) Certificates of deposit issued by a depository institution that has its main office or branch office in the state that are for the full amount of the principal and accrued interest that are guaranteed or insured by the Federal Deposit Insurance Corporation, or its successor or the National Credit Union Share Insurance Fund or its successor, secured by an obligation issued directly by a federal agency or instrumentality, including any mortgage backed securities not disallowed by the Act, having a market value of not less than the principal amount of the certificates, or secured in any other manner and amount provided by the Act;
- (5) Fully collateralized repurchase agreements with a defined termination date of 90-days or less, secured by a combination of cash and an authorized investment, pledged to the city, held in the city's name and deposited at the time the investment is made with the city or with a third party selected and approved by the city. A repurchase agreement is a simultaneous agreement to buy, hold for a specified time, and sell back at a future date at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The repurchase agreement shall be placed through a primary government securities dealer, as defined by the Federal

Reserve, or a financial institution doing business in the state only after a Master Repurchase Agreement has been executed between the city and the securities dealer or the financial institution;

- (6) 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 has furnished to the chief financial officer an offering circular or similar disclosure document conforming to the requirements of the Act. To maintain eligibility, an investment pool must furnish to the city a confirmation of all investment transactions and a monthly report conforming 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
- (7) Such other investments as permitted by the Act and not specifically prohibited by this policy.

All investment transactions will be completed on a delivery versus payment ("DVP") basis. The investment officers are authorized to solicit bids for investments orally, in writing, electronically, or in any combination of these methods. No investment of city funds shall be authorized unless it conforms to this investment policy and the seller of the investment has executed a Certification Form in favor of the city as set forth in this policy.

When the City invests in an investment that requires a minimum rating, it must establish at the time of the investment procedures to monitor rating changes. If an investment's rating falls below the required minimum rating, it is no longer an authorized investment. The city shall take all prudent measures consistent with this policy to liquidate any investment that does not have the minimum rating.

The city shall verify prior to participation in an investment pool, that the pool's investment policy has established, satisfactory procedures for monitoring investment rating changes sufficient for the City to determine whether investments in the pool have the required minimum rating.

(i) *Prohibited investments.* The following are not authorized investments under this policy:

- (1) Obligations for which the payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and which pays no principal;
- (2) Obligations for which the payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;



- (3) Collateralized mortgage obligations that have a stated final maturity greater than 10 years; and
- (4) Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to changes in a market index.

Further, the city will not invest in derivatives including instruments with embedded features that alter their character or income stream or allow holders to hedge or speculate on a market or spreads between markets that are external to the issuer, or are not correlated on a one-to-one basis to the associated index or market. Prohibited derivatives include arrangements in which an investor has swapped the natural cash flows or some portion of the natural cash flows of an instrument for a different set of cash flows. (e.g., interest rate swaps), over-the-counter exchange traded options or futures (e.g., option contracts or future contracts), inverse floating rate notes, range index notes, non-money market index based notes, dual index notes, index amortizing notes, inverse multi-index bonds, inverse index bonds, and stepped inverse index bonds.

(j) *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 shall be controlled through portfolio diversification achieved by:

- (1) Limiting investments to avoid over concentration in securities from a specific issuer or business sector, U. S. Treasury securities being the only exception;
- (2) Limiting investment in securities that have higher credit risks;
- (3) Investing in securities with varying maturities; and
- (4) Maintaining the liquidity necessary to meet ongoing obligations.

The following standards shall be applied: the city shall maintain at least 10 percent of the total portfolio in investments maturing in 90-days or less; the city shall invest no more than 50 percent of the portfolio in federal agencies or instrumentalities or in certificates of deposit; and the city may invest any amount of funds in U. S. Treasury securities or in repurchase agreements backed by U. S. Treasury securities.

(k) *Authorized broker/dealers.* The chief financial officer 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 annual review of the investment policy. As part of this process, the chief financial officer shall review the quality of service and financial stability of each broker/dealer. The chief financial officer may remove

an authorized broker/dealer from the list, if in the opinion of the chief financial officer, the firm has not performed adequately or its financial condition has become unacceptable. Currently, the following broker/dealers are authorized to engage in investment transactions with the city: Coastal Securities, Inc.; Duncan-Williams, Inc.; First Southwest Company; SAMCO Capital Markets; and Vining Sparks.

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.

(l) *Investment management.* The investment officers shall exhibit prudence and discretion in the selection and management of securities 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 chief financial officer shall monitor financial market indicators, study financial trends, and utilize available educational tools in order to maintain appropriate managerial expertise.

Each investment transaction – exclusive of investment pool transactions – must be based upon competitive quotations received from at least three broker/dealers authorized by this policy. An exception is a new issue debenture or discount note still in the primary market. In this case, the competitive offering process is not possible because competing broker/dealers do not have access to the security or all broker/dealers have access to the security at par. For these types of securities only, investment officers are authorized to purchase the security without seeking competitive offerings if the investment is deemed to be in the best interest of the city.

While the city 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 chief financial officer must approve the sale of any security prior to maturity. Any sale of a security for less than the book value of the security must be approved by the chief financial officer.

(m) *Reporting.* The investment officers shall submit to each member of the city council an investment report no less than on a quarterly basis signed by each investment officer. The report shall contain sufficient information to provide a comprehensive review of investment activity and current investments and shall address any variations noted from the investment strategy of the city. The report must contain a summary statement of each pooled fund group that states the beginning and ending market value and accrued interest for the period. It must state the maturity date, book value and market value of each separately invested asset at the end of the reporting period by type of asset and fund type invested and the fund or pooled group which acquired the investment. The chief financial officer 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 (whether or not that broker/dealer actually sold the security to the City) or nationally recognized business publications that provide daily market valuations on individual securities. 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 policies.

(n) *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:

- (1) Control of collusion;
- (2) Separation of duties;
- (3) Separation of transaction authority from accounting and recordkeeping;
- (4) Custodial safekeeping;
- (5) Avoidance of bearer-form securities;
- (6) Clear delegation of authority;
- (7) Specific limitations regarding securities losses;
- (8) Written confirmation of telephone transactions; and
- (9) Limiting the number of authorized investment officials.

These controls shall be reviewed periodically by the city's independent audit firm.

(o) *Depositories.* Consistent with the requirements of the Texas Public Funds Collateral Act, V.T.C.A., Government Code Ch. 2257 as amended ("Public Funds Collateral Act"), the city shall require all depository institution deposits to be federally insured or collateralized with eligible securities. Any financial institution serving the city as a depository institution will be required to sign a depository agreement and a tri-party safekeeping agreement. The safekeeping 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.

(p) *Collateral.* Eligible securities for collateralization of deposits are defined by the Public Funds Collateral Act and must meet the constraints of this policy. The market value of the principal portion of collateral pledged for deposits must at all times be equal to or greater than 105 percent of the total amount of deposits plus any accrued interest, less the insurance amount provided by the Federal Deposit Insurance Corporation ("FDIC").

Depository institutions with which the city maintains collateralized deposits shall provide a monthly report of market values for the pledged securities. The chief financial officer 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.

Collateralized deposits may require substitution of securities. Any depository institution requesting substitution of collateral must contact the chief financial officer for approval. Written approval is required before any pledged security is released. The value of the substituted security will be calculated and substitution approved if the substitution maintains the required collateral level.

(q) *Custody and safekeeping.* Investment securities purchased for the city, *except* investment pool funds and mutual funds, will be on a delivery versus payment basis. To protect against fraud, the cash and investments of the city shall be secured in accordance with third-party custody and safekeeping procedures approved by the city. Securities shall be held in a third-party safekeeping account at a custodian bank. A written safekeeping agreement shall be executed with each custodian bank, such bank being a permitted institution under the Public Funds Collateral Act. Upon receipt of purchased or pledged securities, the custodian bank shall promptly issue and deliver to the city a safekeeping receipt identifying and evidencing receipt of the security. The chief financial officer or their designee shall maintain the original safekeeping receipts. All securities shall be confirmed in the name of the city and shall be held in an account naming the city as the customer. The market value of purchased or pledged securities shall be independently monitored by the custodian bank on a monthly basis and reported directly to the city. At least quarterly, the chief financial officer shall verify that all securities owned by or pledged to the city are documented and held in safekeeping in the city's account. These records shall also be subject to an annual compliance audit of management controls on investments and adherence to the city's established investment policies.

(r) *Certification form.* A written copy of the investment policy shall be provided to any person or organization offering to engage in an investment transaction with the city. Every seller of investments to the city must execute a certificate in favor of the city substantially in the form set out herein below, and the investment officers may not acquire or otherwise obtain any authorized investment from any seller until a signed certification form has been delivered to the city.

CERTIFICATION FORM

as required by V.T.C.A., Government Code § 2256.005(k)

CITY OF BELLAIRE, TEXAS (the "City")

The undersigned hereby acknowledges and certifies as follows:

1. The undersigned is a qualified representative of \_\_\_\_\_, a business organization (the "Organization"), offering to engage in an investment transaction with the City.

The Organization has received and reviewed the investment policy of the City.

3. The 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 entity's entire portfolio or requires an interpretation of subjective investment standards.

\_\_\_\_\_  
Signature

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

(s) *Other policy considerations.* The city is not required to liquidate investments that were authorized investments at the time of purchase.

(t) *Annual review.* The city council shall review this 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.

(Ord. No. 96-020, 3-18-1996; amended by Ord. No. 98-008)

**State law references:** Public Funds Investment Act, V.T.C.A., Government Code § 2256.001 et seq.