

ORDINANCE NO. 3747

**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. 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.

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 officer 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 matching investment maturities with forecasted cash flow requirements and by 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 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 achieve the highest return of interest. Ideally, portfolio maturities shall 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 stated maturity of any investment in the City's portfolio shall not exceed five years and the weighted average maturity of the City's 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 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.

## 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 investment officer 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 Director of Finance becomes vacant, the City Manager, or his/her "Authorized Designee", shall serve as an investment officer during such vacancy. The investment officer 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 transactions. No person may engage in an investment transaction 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 officer 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.

## **2-272 INVESTMENT TRAINING**

The City shall provide periodic training in investments for the investment officer through courses and seminars offered by professional organizations and associations in order 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 receive not less than 10 hours of instruction relating to investment

responsibilities under the Act from an independent source approved by the City Council. Further, the investment officer shall attend an 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 receive not less than 8 hours of instruction relating to investment responsibilities under the Act from an independent source approved by the City Council.

Designated training sponsored by any of the following organizations is approved: Government Finance Officers Association of Texas, Government Treasurer's Organization of Texas, Texas Municipal League, and 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.

## **2-273 AUTHORIZED INVESTMENTS**

In accordance with Federal and state laws, including Section 2256.005(b) of the Act, Trust Agreements, the City's depository contract and other approved collateral provisions, the following are authorized investments:

- (a) Obligations of the United States or its agencies and instrumentalities;
- (b) Direct obligations of the State of Texas or its agencies and instrumentalities;
- (c) Collateralized mortgage obligations directly issued by a Federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;
- (d) 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;
- (e) 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;
- (f) A certificate of deposit, or other form of deposit, issued by a state or national bank that has its main office or branch office in the State of Texas and that is purchased and secured in accordance with Section 2256.010 of the Act;
- (g) 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 Director of Finance 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, a monthly report conforming to the requirements of the Act, and upon request, an annual audited financial statement. 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; and
- (h) Such other investments as permitted by the Act and not specifically prohibited by this policy.

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

All investment transactions will be completed on a delivery versus payment ("DVP") basis. The investment officer is 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.

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 Director of Finance shall take all prudent measures consistent with this policy to liquidate any investment that does not have the minimum rating.

#### **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 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. The list of authorized financial institutions to be used for purposes of this section may be set forth in the resolution authorizing the bonds, notes or other obligations or in any other resolution of the City Council and may be different from the financial institutions used for other investments.

#### **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**

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. The investment officer 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 ADVISOR**

The City Council may from time to time employ qualified individuals or firms as an Investment Advisor to assist the investment officer 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 shall be controlled through portfolio diversification achieved by:

- (a) Limiting investments to avoid over concentration in securities from a specific issuer or business sector, U.S. Treasury securities being the only exception;
- (b) Limiting investments in securities that have higher credit risks;
- (c) Investing in securities with varying maturities; and
- (d) 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.

## **2-279 INVESTMENT MANAGEMENT**

The investment officer 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 Director of Finance 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 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 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 Director of Finance 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 Director of Finance.

## **2-280 QUALIFIED FINANCIAL INSTITUTIONS AND BROKER/DEALERS**

Qualified financial institutions shall include banks, broker/dealers, primary dealers, insurance companies and other financial institutions 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 banking or insurance regulatory organizations. If otherwise acceptable, wholly owned subsidiary or affiliated companies of such regulated financial institutions shall also be deemed qualified. Qualified financial institutions and broker/dealers 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 Director of Finance 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 Director of Finance 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 Director of Finance shall review the quality of service and financial stability of each broker/dealer. The Director of Finance may remove an authorized broker/dealer from the list if, in the opinion of the Director of Finance, 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., and First Southwest Company. As an affiliate of the depository bank, Wells Fargo Securities, LLC is also an authorized broker/dealer.

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 officer 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 officer, 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 Director of Finance 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 business publication that provides daily 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.

## **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, custodial safekeeping, 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 periodically by the city's independent audit firm.

## **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 with eligible securities. Any financial institution serving the City as a depository institution will be required to sign a depository agreement. The depository 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.

## **2-284 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 102 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 Director of Finance 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 Director of Finance 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.

## **2-285 CUSTODY AND SAFEKEEPING**

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 Director of Finance or their designee shall maintain the original safekeeping receipts. All securities shall be confirmed in the name of the City of Deer Park 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 Director of Finance 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 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 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 officer may not acquire or otherwise obtain any authorized investment from any seller until a signed Certification Form has been delivered to the City.

**CITY OF DEER PARK  
CERTIFICATION FORM  
As Required By Government Code § 2256.005(k)**

This acknowledgment and certification is executed on behalf of \_\_\_\_\_ (the "Financial Institution") pursuant to the Investment Policy (the "Investment Policy") of the City of Deer Park (the "City") in connection with investment transactions between the City and the Financial Institution.

The undersigned is a qualified representative ("Representative") of the Financial Institution offering to engage in investment transactions with the City and hereby acknowledges and represents that:

- 1) The Representative is an authorized officer of the Financial Institution.
- 2) The Financial Institution has received and reviewed the Investment Policy of the City and the Financial Institution has determined that it is a qualified financial institution under the Investment Policy.
- 3) The Financial Institution has implemented reasonable procedures and controls in an effort to preclude investment transactions with the City that are not authorized under the 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.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (Printed)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

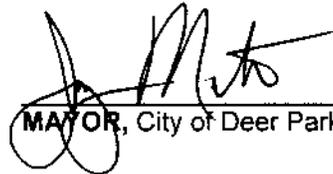
**2-288 ANNUAL REVIEW**

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.

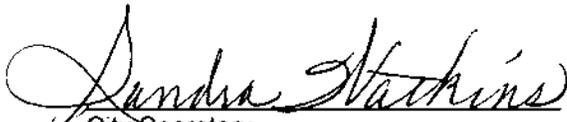
It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551 of the Government Code of the State of Texas.

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.

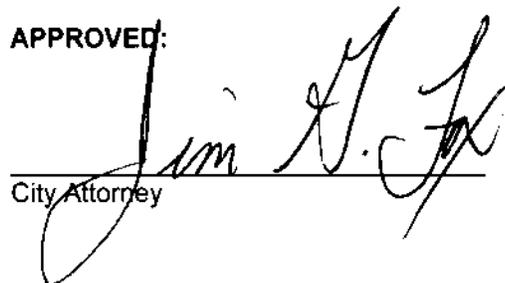
**PASSED, APPROVED AND ADOPTED** on the first and final reading, this 15 day of September, 2015, by a vote of 5 "ayes" and 0 "noes", this Ordinance having been read in full prior to such vote.

  
\_\_\_\_\_  
MAYOR, City of Deer Park, Texas

**ATTEST:**

  
\_\_\_\_\_  
City Secretary

**APPROVED:**

  
\_\_\_\_\_  
City Attorney