

ORDINANCE NO. 04012019-1

AN ORDINANCE OF THE CITY OF ELKHART, TEXAS ADOPTING AN INVESTMENT POLICY, INCLUDING INVESTMENT STRATEGY AND GUIDELINES FOR THE INVESTMENT OF CERTAIN PUBLIC FUNDS; IDENTIFYING THE GOALS OF THE CITY'S INVESTMENT POLICY; PROVIDING FOR DIVERSIFICATION AND INTERNAL CONTROLS; MAKING CERTAIN FINDINGS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

Whereas, Section 2256.005 of the Texas Government Code requires the governing body of an investing agency to adopt a written investment policy regarding the investment of its funds and funds under its control; and

Whereas, the City of Elkhart desires to adopt an investment policy that prescribes means and methods of prudent investment, including due diligence regarding potential investments or securities, internal and external controls to prevent losses and reporting criteria; and

Whereas, the City Council has reviewed the Public Funds Investment Policy attached hereto as Exhibit "A" and the investment strategies contained therein and finds that it is consistent with prudent fiscal policy.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELKHART, TEXAS, AS FOLLOWS:

**SECTION I.
Policy Adopted.**

The City of Elkhart hereby adopts the Public Funds Investment Policy, attached hereto as Exhibit "A" and incorporated herein as though fully transcribed herein for all purposes, as the City of Elkhart Public Funds Investment Policy (the "Investment Policy"), including the investment strategies contained therein.

**SECTION II.
Statutory Authority.**

The City Council adopts the Investment Policy in accordance with the statutory requirements of the Texas Government Code, Chapter 2256, the Public Funds Investment Act.

**SECTION III.
Repealer.**

All parts of any ordinances in conflict herewith are hereby repealed to the extent of such

EXHIBIT "A"

CITY OF ELKHART, TEXAS - PUBLIC FUNDS INVESTMENT POLICY

I. Purpose and Governing Authority

The purpose of this Public Funds Investment Policy (hereafter the "Investment Policy") is to set specific investment policy and strategy guidelines for the City in order to achieve the goals of safety, liquidity, diversity and yield for all investment activity. In keeping with the state statute, the City Council of the City of Elkhart ("City") shall review its investment strategies and policy no less than annually. This policy satisfies the statutory requirements of the Texas Government Code, Chapter 2256, the Public Funds Investment Act (the "Act").

II. Scope

Funds Covered. This Investment Policy shall govern the investment of all funds and assets of the City, excluding certain trust and pension funds contractually invested by outside managers or funds otherwise excluded by contract. These funds are reported in the City's Annual Financial Statement Report and include:

- General Fund
- Special Revenue Funds
- Debt Service and Debt Reserve Funds
- Capital Projects Funds
- Enterprise Funds

III. General Objectives

The City shall manage and invest its cash and assets with four major objectives, listed in order of priority: safety, liquidity, diversification and yield. All investments shall be undertaken in a manner responsive to the public trust and consistent with state and local law.

- A. **Safety.** Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio.
- B. **Liquidity.** The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated.
- C. **Diversification.** In order to attain the objects of safety, diversification is required in order that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.

D. Yield. The city's investment strategy is conservative. The City's investment portfolio shall be designed with the objective of attaining a market rate of return, taking into account the City's risk constraints and the cash flow needs of the portfolio. "Market rate of return" may be defined as the average yield of the current six month U.S. Treasury Bill.

IV. Standards of Care

A. Prudence. The standard of care to be used by the City regarding the investment of public funds.

The "prudent person" standard states that, "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived."

B. Ethics and Conflicts of Interest. Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose to the Mayor or highest ranking Administrative Employee any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio.

C. Delegation of Authority.

- (1) The City Secretary, acting on behalf of the City Council, is designated as the Investment Officer of the City and is responsible for investment management decisions and activities. The City Secretary is also responsible for considering the quality and capability of staff, investment advisors, and consultants involved in investment management and procedures. All participants in the investment process shall seek to act responsibly as custodians of the public trust. Other investment officers may be so designated by the City Council.
- (2) Responsibility for the operation of the investment program is hereby delegated to the Investment Officer, who shall develop and monitor written procedures and internal controls for the operation of the investment program consistent with this investment policy. Procedures should include references to: safekeeping, delivery vs. payment, investment accounting, repurchase agreements, wire transfer agreements, and collateral/depository agreements.
- (3) The City may elect to contract with an investment management firm registered under the Investment Advisers Act of 1940 or with the State Securities Board for the investment and management of its public funds under its control. Such

contract shall not have a term in excess of two years, and any renewal or extension of the contract must be made by the City Council by ordinance.

(4) No officer or designee may engage in an investment transaction except as provided under the terms of this Policy and the procedures established.

D. Investment Advisors. Investment advisors shall adhere to the spirit, philosophy and specific terms of the Policy and shall invest with the same objectives. The Investment Officer shall establish criteria to evaluate prospective Investment Advisors, including:

- (1) Adherence to the City's policies and strategies
- (2) Investment strategy recommendations within approved risk constraints
- (3) Responsiveness to the City's request for services and information.
- (4) Understanding of the inherent fiduciary responsibility of investing public funds;

V. Responsibility and Control

A. Internal controls. The City Council shall establish a system of internal controls, which shall be documented in writing. The internal controls shall be reviewed by the City's auditor. The controls shall be designed to prevent the loss of public funds arising from fraud, employee error, misrepresentation by third parties, unanticipated changes in financial markets, or imprudent actions by employees and officers. The internal control structure shall be designed to provide reasonable assurance that these objectives are met.

B. Internal Controls issues. The following points should be considered in the development of an internal controls system or policy:

- Control of collusion;
- Separation of transaction authority from accounting and recordkeeping;
- Custodial safekeeping;
- Avoidance of physical delivery securities;
- Clear delegation of authority to subordinate staff members;
- Written confirmation of transactions for investments and wire transfers;
- Dual authorizations of wire transfers; and
- Development of a wire transfer agreement with the depository bank and third-party custodian.

C. Compliance Audit. As part of the annual audit, the City's auditor shall formally review internal controls, compliance with the Policy, and the and the quarterly investment reports prepared in accordance with the Act, and report the

results of such review to the City Council as part of its regular audit report.

VI. Safekeeping and Custody

- A. Legal basis.** The laws of the State and prudent treasury management require that all purchased securities be bought on a delivery versus payment basis and be held in safekeeping by either the City, an independent third party financial institution, or the City's designated banking services depository.

- B. Third Party Bank.** All securities pledged to the City for certificates of deposit or demand deposits shall be held by an independent third party bank doing business in Texas. The safekeeping bank may not be within the same holding company as the bank from which the securities are pledged.

VII. Suitable and Authorized Investments

- A. Investment Types.** The City is authorized to invest in the following types of securities, as specified in the Act. Eligible investments include the following:
 - (1) Obligations of or guaranteed by governmental entities, excluding mortgage backed securities, but including:
 - a. Obligations, including letters of credit, of the United States or its agencies or instrumentalities;
 - b. Direct obligations of the State of Texas or its agencies and instrumentalities;
 - c. Other obligations, the principal of and interest on which are unconditionally guaranteed, 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; or
 - d. Obligations of states, agencies, counties, cities, and other political subdivisions of any state having been rated as to investment quality by a nationally recognized investment rating firm and having received a rating of not less than A or its equivalent.

 - (2) Certificates of Deposit, issued by a depository institution that has its main office or a branch office in the State of Texas if such certificates of deposit are guaranteed or insured by the FDIC or its successor, or the National Credit Union Share Insurance Fund or its successor;

 - (3) Fully Collateralized Repurchase Agreements having a defined termination date, and are secured by a combination of cash and obligations as described in the Act, pledged to the City, held in the City's name, and deposited, at the time the investment is made with the City, with the City's custodial bank. Repurchase Agreements shall only be placed through primary government securities dealers, as defined by the Federal Reserve, or financial institution doing business in the State of Texas;

 - (4) Commercial paper, having a stated maturity of 270 days or fewer, rated in the

highest tier (e.g., A-1, P-1, F-1, or D-1 or higher) by at least two nationally recognized rating agencies or which is recognized by one nationally recognized credit rating agency and fully secured by an irrevocable letter of credit issued by a domestic bank.

- (5) Investment pools approved by the Act, which have an advisory board and are continuously rated no lower than AAA by at least one nationally recognized rating agency, upon approval by City Council. Such pools must provide an offering circular, investment transaction confirmations and quarterly reports.
- (6) SEC registered no-load money market mutual funds that have a dollar rated average stated maturity of 90 days or less and which include in its investment objective the maintenance of a stable asset value of \$1.00 for each share.

An investment that requires a minimum rating under this Policy does not qualify as an authorized investment during any period that the investment does not have the minimum rating. The City will take all prudent measures consistent with this Policy to liquidate an investment that does not have the minimum rating; however, the City is not required to liquidate investments that were authorized investments at the time of purchase.

B. Collateral Defined. The City of Elkhart shall accept only the following securities as collateral:

- (1) FDIC and FSLIC insurance coverage.
- (2) A bond, certificate of indebtedness, or Treasury Note of the United States, or other evidence of indebtedness of the United States that is guaranteed as to principal and interest by the United States.
- (3) Obligations, the principal and interest on which, are unconditionally guaranteed or insured by the State of Texas.
- (4) A bond of the State of Texas or of a county, city or other political subdivision of the State of Texas having been rated as investment grade (investment rating no less than "A" or its equivalent) by a nationally recognized rating agency with a remaining maturity of ten (10) years or less.

C. Subject to Audit. All collateral shall be subject to inspection and audit by the City's auditors.

VIII. Prohibited Investments

A. Investment Types. The City is specifically prohibited from investing in any of the following:

- (1) Structured notes, investments with inverse-floaters, collateralized mortgage obligations, or any other form of derivative;
- (2) Any investment not authorized by this Policy or the Act.

- (3) Any instrument for which there would not be a ready market for immediate resale;
- (4) Any investment pool in which the City would own more than 20 % of the market value of the pool;
- (5) Highly sophisticated investments not freely conducted in the marketplace, e.g. derivatives; and
- (6) Any one mutual fund in which the City would own more than 10 % of the total assets of the mutual fund.

B. Borrowed Funds. The City is also specifically prohibited from borrowing funds for the purpose of reinvesting the funds to leverage return.

IX. Investment Strategy

A. Highest trust. It is the policy of the City of Elkhart that the administration of its funds and the investment of those funds shall be handled as its highest public trust. The investment strategies herein are deemed essential to meeting the stated policy goals.

B. Risk Management. Each investment transaction shall be conducted in a manner intended to avoid capital losses, whether from security defaults, safekeeping, or erosion of market value. In order to achieve this goal the following strategies will be utilized to mitigate credit risk and interest rate risk.

(1) Credit Risk. The City will minimize credit risk, which is the risk of loss due to the failure of the security issuer or backer, by:

- (a) Limiting investments to the types of securities listed in Section VII of this Investment Policy;
- (b) Pre-qualifying the financial institutions, broker/dealers, intermediaries, and advisers with which the City will do business and
- (c) Diversifying the investment portfolio so that the impact of potential losses from any one type of security or from any one individual issuer will be minimized.

(2) Interest Rate Risk. The City will minimize interest rate risk, which is the risk that the market value of securities in the portfolio will fall due to changes in market interest rates, by:

- (a) Structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity; and
- (b) Investing operating funds primarily in shorter-term securities, money market mutual funds, or similar investment pools and limiting the average maturity of the portfolio in accordance with this policy.

C. Selection. The choice of high-grade government investments and high-grade money market instruments is designed to ensure the marketability of such investments should unforeseen liquidity needs arise.

D. Diversification. It is the policy of the City to diversify its investment portfolios. To eliminate risk of loss resulting from the over-concentration of assets in a specific maturity, issuer, or class of securities, all cash and cash equivalent assets in all City funds shall be diversified by maturity, issuer, and class of security.

X. Policy Considerations.

A. Exemptions. Any investment currently held that does not meet the guidelines of this policy shall be exempted from the requirements of this policy. At maturity or liquidation, such monies shall be reinvested only as provided by this policy.

B. Amendments. This policy shall be reviewed on an annual basis. Any changes must be approved by the City Council and any other appropriate authority, as well as the individuals charged with maintaining internal controls.

X. Approval of Investment Policy. The Policy must be reviewed not less than annually by the City Council.

conflict only. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the City, the terms and provisions of the most restrictive ordinance shall govern.

SECTION IV.

Severability.

Should any provision, word, sentence, paragraph, clause, phrase, or section of this Ordinance or its application to any person or circumstances be adjudged or held invalid, void, or unconstitutional, the invalid, void or unconstitutional portion shall not affect the validity of the remaining portions of this Ordinance which shall remain in full force and effect.

SECTION V.

Effective Date.

This Ordinance shall become effective immediately following its passage and approval by the City Council of the City of Elkhart, Texas.

PASSED AND APPROVED this the 1st day of April 2019.

CITY OF ELKHART, TEXAS


Mike Gordon, Mayor

ATTEST:


Carla Sheridan, City Secretary