



CITY COUNCIL AGENDA

NOTICE IS GIVEN THAT THE CITY COUNCIL OF THE CITY OF LAMESA, TEXAS, WILL MEET IN A SPECIAL CALLED MEETING AT 5:30 P.M. ON TUESDAY, NOVEMBER 13, 2018, 601 SOUTH FIRST STREET, FOR THE PURPOSE OF CONSIDERING AND TAKING OFFICIAL ACTION ON THE FOLLOWING ITEMS:

1. CALL TO ORDER:

2. INVOCATION:

- 3. CONSENT AGENDA:** All consent agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member so requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda. Information concerning consent agenda items is available for public review.

- a. **APPROVAL OF THE MINUTES:** Approval of the minutes of the council meeting held on October 16, 2018.
- b. **PROCLAMATION:** Observing November-12th, 2018 as "Veteran's Day".

- 4. AWARD EMPLOYEE HEALTH INSURANCE:** City Council to discuss and consider awarding bid for the FY 2018/2019 City's health insurance to TMLIEBP, as recommended by City's Health Insurance consultant. (*Cris Norris*)

- 5. LEDC/LEAP QUARTERLY REPORT:** City Council to hear from LEDC/LEAP Executive Director Sean Overeynder regarding LEDC/LEAP Quarterly Report. (*LEDC/LEAP Director*)

- 6. CONSIDER/DISCUSS/APPROVE AWARD OF PROFESSIONAL SERVICE CONTRACT TO GRANT MANAGEMENT FIRM FOR APPLICATION PREPARATION AND GENERAL ADMINISTRATION OF A 2019/2020 Tx CDBG Grant:** City Council to consider passing a Resolution to Award of Professional Service Contract to Grant Management Firm for Application Preparation and General Administration of a 2019/2020 Tx CDBG Grant. (*City Manager*)

- 7. ADOPT CITY FINANCIAL POLICY:** City Council to consider passing a resolution approving the City's Financial Policy for Fiscal Year 2018-2019. (*Finance Director*)

- 8. OPEN REQUEST FOR QUALIFICATIONS FOR REDISTRICTING SERVICES AND AWARD CONTRACT:** City Council to open Requests for Qualifications for Redistricting Services and award contract. (*City Manager*)

- 9. OPEN BIDS FOR ADA RESTROOM RENOVATION AT CITY HALL AND AWARD CONTRACT:** City Council to open bids for ADA restroom renovation and award contract. (*City Manager*)

10. CALL FOR REQUESTS FOR QUALIFICATIONS FOR LEGAL SERVICES FOR CHARTER COMMISSION: City Council to call for Requests for Qualification for professional Legal Services for the facilitation of the City of Lamesa's Citizen Charter Commission. (City Manager)

11. CALL FOR BIDS FOR JANITORIAL SERVICES (CITY HALL & POLICE DEPARTMENT): City Council to call for bids for janitorial services for City Hall and the Police Department. (City Manager)

12. CALL FOR BIDS CITY DEPOSITORY: City Council to call for bids for City Depository. (City Manager)

13. ACCEPTANCE OF 2018 TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT: City Council to accept the 2018 Texas Community Development Block Grant of \$291,540 for water infrastructure improvements. (City Manager)

14. LEASE OF TORO GREENMASTER TRIFLEX FOR LAMESA MUNICIPAL GOLF COURSE: City Council to consider a resolution approving a lease of a Toro Greenmaster Triflex for the Lamesa Municipal Golf Course (Buyboard). (Golf Course Superintendent)

15. CITY STAFF REPORTS:

- a. **PARKS, STREETS, SANITATION/LANDFILL REPORT:** Director to report on the city's recent events. (Parks and Street/Director)
- b. **UTILITIES DIRECTOR REPORT:** Utilities Director to report on the city's recent events. (Utilities Director)

16. CITY MANAGER REPORT: City Manager to report on current activities and answer questions from the City Council. (City Manager)

- a. City Hall Closed for Thanksgiving – November 22 & 23 2018
- b. City Hall Christmas Open House – December 7, 2018 from 11 a.m. to 4 p.m.
- c. City Hall Closed for Christmas – December 24 & 25, 2018
- d. City Hall Closed for New Year's Day – January 1, 2019
- e. PFIA Training (Denton, TX) – December 11-13, 2018

17. ADJOURNMENT: *The next regularly scheduled meetings of the City Council of the City of Lamesa will be December 18, 2018 at 5:30 P.M.*




Open Meetings Information



CLOSED MEETINGS

The City Council reserves the right to adjourn into closed session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Section 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development).

PUBLIC PARTICIPATION

 The meeting will be held pursuant to the provisions of the Texas Open Meetings Act (Govt. Code, Chapter 551). Discussion and actions are limited to the agenda items listed above. Persons desiring to address the City Council or express their opinion about a particular item on this agenda should notify the City Secretary before the meeting. Persons desiring to present other business or discuss matters not on this agenda should submit a request in writing to the City Secretary by the end of business hours on the Wednesday before the next meeting in order to be considered for inclusion on that agenda.

MEETING ACCESSIBILITY

Upon request, auxiliary aids and services will be provided to an individual with a disability in order to allow them to effectively participate in the city council meeting. Those requesting auxiliary aids or services should notify the contact person listed below at least twenty-four hours prior to the meeting by mail, telephone or RELAY Texas (1-800-735-2989)

Contact: Betty Conde at 806-872-4322

✉ 601 South First Street, Lamesa, Texas 79331

☎ **Telephone - (806) 872-4322**

☎ **Fax - (806) 872-4338**

CERTIFICATION OF NOTICE



I certify this agenda was posted at the City Hall, 601 South First Street, Lamesa, Texas at **4:45 p.m., November 9, 2018** in accordance with Chapter 551.041 of the Government Code.

Betty Conde, City Secretary

City Council Agenda

City of Lamesa, Texas

DATE OF MEETING: NOVEMBER 13, 2018

AGENDA ITEMS: 1 & 2

1. **CALL TO ORDER:** *Announcement by the Mayor.* "This meeting is being held in accordance with the provisions of the Texas Open Meetings Act (Govt. Code, Chapter 551). Discussion and actions are limited to the agenda items as posted. Persons desiring to address the City Council or express their opinion about a particular item on this agenda should complete a request at this time. Persons desiring to present other business or discuss matters not on this agenda should submit a request in writing to the City Secretary in order to be considered for inclusion on the agenda of the next meeting. A quorum being present as evidenced by the presence of ____ members of the City Council, this meeting is hereby called to order."

The following members are present:

| | |
|-------------------|--|
| JOSH STEVENS | Mayor |
| BRANT STEWART | Mayor Pro-tem /Council Member – District 1 |
| MARIE A. BRISENO | Council Member – District 2 |
| RICK MORENO | Council Member – District 3 |
| JASON MORENO | Mayor Pro-tem - District 4 |
| BOBBY G. GONZALES | Council Member – District 5 |
| DOUG MORRIS | Council Member – District 6 |

City Staff members present at the meeting:

| | |
|---------------------|----------------|
| SHAWNA D. BURKHART | City Manager |
| BETTY CONDE | City Secretary |
| RUSSELL CASSELBERRY | City Attorney |

Members of the press present at the meeting:

Members of the public present at the meeting:

2. **INVOCATION:**
AND PLEDGE OF ALLEGIANCE.



City Council Agenda

City of Lamesa, Texas

DATE OF MEETING: NOVEMBER 13, 2018

AGENDA ITEM: 3

SUBJECT: **CONSENT AGENDA ITEMS**
PROCEEDING: Action
SUBMITTED BY: City Staff

SUMMARY STATEMENT

All consent agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member so requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda. Information concerning consent agenda items is available for public review.

- a. **APPROVAL OF THE MINUTES:** Approval of the minutes of the council meeting held on October 16, 2018.
- b. **PROCLAMATION:** Observing November-12th, 2018 as "Veteran's Day".
- c. **BILL FOR OCTOBER 2018:** Approval of the bills paid by the City of Lamesa for the month of October, 2018.

COUNCIL ACTION

DISCUSSION _____

Motion by Council Member _____ to approve Item 3a,b and c. Motion seconded by Council Member _____ and upon being put to a vote the motion _____.

VOTING: "AYE" _____ "NAY" _____ "ABSTAIN" _____

CITY MANAGER'S MEMORANDUM

These items are considered non-controversial but do require formal council approval. If a council member objects to a consent item, it is removed from the list and separate action is taken on the item(s). If a council member questions a consent item, but not so strongly as to require that it be removed from the list, his/her "no" vote or abstention can be entered in the minutes when the consent vote is taken. **Recommend approval.**

THE STATE OF TEXAS }
COUNTY OF DAWSON }
CITY OF LAMESA }

MINUTES OF THE CITY COUNCIL REGULARLY CALLED MEETING:

October 16, 2018

On this the 16th day of October, 2018 at 5:30 P.M., there came on and was held a regularly called meeting of the City Council of the City of Lamesa, Dawson County, Texas. Notice of such meeting having been posted at the City Hall at 601 South First Street in the City of Lamesa, Texas in accordance with the provisions of the Texas Open Meetings Act (Texas Govt. Code, Chapter 551). The following items were listed on the notice and the following proceedings were had, viz.:

CALL TO ORDER: Mayor Stevens announced that the meeting was being held in accordance with the provisions of the Texas Open Meetings Act (Texas Govt. Code, Chapter 551), and that discussion and actions are limited to the agenda items as posted. A quorum being present as evidenced by the presence 6 City Council Members were present:

| | |
|----------------------------|-----------------------------|
| JOSH STEVENS | MAYOR |
| BRANT STEWART | COUNCIL MEMBER-DISTRICT 1 |
| MARIE BRISENO | MAYOR PRO-TEM |
| ARRIVED @ 5:33 RICK MORENO | COUNCIL MEMBER – DISTRICT 2 |
| JASON MORENO | COUNCIL MEMBER – DISTRICT 3 |
| (ABSENT) BOBBY G. GONZALES | COUNCIL MEMBER – DISTRICT 4 |
| DOUG MORRIS | COUNCIL MEMBER – DISTRICT 5 |
| | COUNCIL MEMBER- DISTRICT 6 |

City staff members present at the meeting:

| | |
|---------------------|----------------|
| SHAWNA D. BURKHART | CITY MANAGER |
| BETTY CONDE | CITY SECRETARY |
| RUSSELL CASSELBERRY | CITY ATTORNEY |

Members of the press present at the meeting:

Herrel Hallmark

Members of the public present at the meeting:

| | | |
|--------------|----------------|------------------|
| Victor Dimas | Holly Holder | Dionicio Grza Jr |
| Dale Alwan | Terri Stayl | Wayne Chapman |
| Larry Duyck | Robert Ramirez | Sandy Trevino |

INVOCATION: Josh Stevens

CONSENT AGENDA: All consent agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member so requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda. Information concerning consent agenda items is available for public review.

- a) **APPROVAL OF THE MINUTES:** Approval of the minutes of the council meetings held on September 18th, 2018.
- b) **BILLS FOR SEPTEMBER 2018:** Approval of the bills paid by the City of Lamesa for the month of September 2018.

Motion by Council Member Briseno to approve Item 3a and b. Motion seconded by Council Member Stewart and upon being put to a vote the motion passed.

VOTING: "AYE" 5 "NAY" "ABSTAIN"

Rick Moreno arrived at 5:33 after vote on Agenda # 3

APPROVAL OF FY 2017/2018 BUDGET CARRYFORWARD TO FY 2018/2019 BUDGET: City Council to consider approving on Second reading a FY 2017/2018 budget carryforward of \$2,155 for rental of mini-excavator for repair of potholes throughout the City.

Motion by Council Member Stewart to approve on Second reading a FY 2017/2018 budget carryforward of \$2,155 for rental of mini-excavator for repair of potholes throughout the City. Motion seconded by Council Member Briseno and upon being put to a vote the motion passed.

VOTING: "AYE" 6 "NAY" "ABSTAIN"

RESOLUTION APPROVING A FIVE-YEAR LEASE OF A CATERPILLAR 120M2 MOTOR GRADER AS OF OCTOBER 1, 2018 FROM WARREN CAT: City Council to consider passing a Resolution approving a five-year lease of a Caterpillar 120M2 motor grader from Warren CAT for the Streets and Sanitation Departments as of October 1, 2018.

Motion by Council Member Jason Moreno to. approve passing a Resolution approving a five-year lease of a Caterpillar 120M2 motor grader from Warren CAT for the Streets and Sanitation Departments as of October 1, 2018. Motion seconded by Council Member Stewart and upon being put to a vote the motion .

VOTING: "AYE" 6 "NAY" "ABSTAIN"

RESOLUTION APPROVING A THREE-YEAR LEASE OF A CATERPILLAR 232D SKID STEER LOADER AS OF OCTOBER 1, 2018 FROM WARREN CAT: City Council to consider passing a Resolution approving a three-year lease of a Caterpillar 232D skid steer loader from Warren CAT for the Streets Department as of October 1, 2018.

Motion by Council Member to approve passing a Resolution approving a three year lease of a Caterpillar 232D skid steer loader from Warren CAT for the Streets Department as of October 1, 2018. Motion seconded by Council Member Jason Moreno and upon being put to a vote the motion passed.

VOTING: "AYE" 6 "NAY" "ABSTAIN"

PUBLIC HEARING REGARDING THE TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM CONTRACT NO. 7216280 – WATER DISTRIBUTION SYSTEM IMPROVEMENTS: City Council shall conduct a public hearing regarding the Texas Community Development Block Grant Program Contract No. 7216280 – Water Distribution System Improvements. *(City Manager and Kay Howard, HOWCO Services)*

PUBLIC HEARING

The Mayor will ask if anyone wishes to speak regarding Texas Community Development Block Grant Program Contract No. 7216280 – Water Distribution System Improvements

No one spoke at the public hearing It started at 5:36 p.m. and ended at 5:37p.m.

ADOPT FINANCIAL POLICY: City Council to consider passing a resolution approving the City's Financial Policy for Fiscal Year 2018-2019.

Moved to November Agenda

CALL FOR RFP FOR REDISTRICTING SERVICES: City Council to consider authorizing an all for Request for Proposals for Redistricting Services, to include a description of qualifications, cost breakdown of demographic survey services and legal services with timeline for completion and estimated payments for services by year.

Motion by Council Member Morris to . authorize a call for Request for Proposals for Redistricting Services, to include a description of qualifications, cost breakdown of demographic survey services and legal services with timeline for completion and estimated payments for services by year. Motion seconded by Council Member Stewart and upon being put to a vote the motion passed.

VOTING: "AYE" 6 "NAY" "ABSTAIN"

CALL FOR BIDS FOR RENOVATION OF CITY HALL RESTROOMS TO ADA STANDARDS: City Council to consider submitting a request/call for bids for the renovations of the City Hall restrooms to ADA standards.

Motion by Council Member Stewart to consider submitting a request/call for bids for the renovations of the City Hall restrooms to ADA standards. Motion seconded by Council Member Jason Moreno and upon being put to a vote the motion passed.

VOTING: "AYE" 6 "NAY" "ABSTAIN"

EMERGENCY PURCHASE OF 2005 ENGINE/PUMPER FOR FIRE DEPARTMENT:

City Council to consider purchasing a 2005 Freightliner Engine/Pumper (6,511 mileage) from Daco. This is a trade-in from the City of Stanton. The Weaver Foundation has agreed to finance the purchase.

Motion by Council Member Morris to consider purchasing a 2005 Freightliner Engine/Pumper (6,511 mileage) from Daco. This is a trade-in from the City of Stanton. The Weaver Foundation has agreed to finance the purchase. Motion seconded by Council Member Jason Moreno and upon being put to a vote the motion passed.

VOTING: "AYE" 6 "NAY" "ABSTAIN"

DISCUSSION OF REVISITING AND RE-ESTABLISHING A CHARTER COMMISSION TO REVIEW THE CITY CHARTER FOR FUTURE AMENDMENTS: City Council to discuss and give

direction to staff in regards to revisiting and re-establishing a Charter Commission to review the City Charter for future amendments.

REQUEST FOR ZONE CHANGE 11.2 ACRES BETWEEN AVE Q. AND AVE R. AND NORTH 11TH: City Council to consider approving an Ordinance on Second reading approving a zone change for the following property:

A 11.2 ACRES BETWEEN AVE Q. & AVE R. NORTH 9TH
AND NORTH 11TH

located at 11.2 ACRES BETWEEN AVE Q.& AVE R., NORTH 9TH AND NORTH 11TH
from zoning district R-1 to zoning district SPECIFIC USE PERMIT FOR
MANUFACTURED HOME PARK (M-1) for use as SPECIFIC USE PERMIT FOR
MANUFACTURED HOME PARK.

Motion by Council Member Morris to pass an Ordinance on Second reading to change the zoning designation of the following described property from Zoning District R-1 to Zoning District SPECIFIC USE PERMIT FOR MANUFACTURED HOME PARK (M-1) for use as SPECIFIC USE PERMIT FOR MANUFACTURED HOME PARK. upon recommendation of the Planning and Zoning Commission to-wit:

**A 11.2 ACRES BETWEEN AVE Q. & AVE R. NORTH 9TH
AND NORTH 11TH**

Motion seconded by Council Member Briseno and upon being put to a vote the motion passed.

VOTING: "AYE" 6 "NAY" "ABSTAIN"

FINANCIAL REPORT: Finance Director to report on the city's finances.

INVESTMENT REPORT: Finance Director to report on City's investments through the 4th quarter of FY 2017/2018.

CITY STAFF REPORTS:

- a. **POLICE CHIEF REPORT:** Police Chief to report on the city's recent events:
- b. **FIRE CHIEF REPORT:** Fire Chief to report on the city's recent events:
- c. **UTILITIES DIRECTOR REPORT:** Utilities Director to report on the city's recent events:

CITY MANAGER REPORT: City Manager to report on current activities and answer questions from the City Council.

MAYORS REPORT: Mayor to report on future plans and goals.

ADJOURNMENT: *The next regularly scheduled meetings of the City Council of the City of Lamesa will be November 13, 2018 at 5:30 P.M.*

Pursuant to the provisions of the Texas Open Meetings Act, the City Council certifies that the items above are a full record of the subject matter of each deliberation and indicates each vote, order, decision or other action taken by the City Council of the City of Lamesa, Texas at the meeting held on the date indicated above. Ratified and approved at the regularly called meeting of the City Council of the City of Lamesa, Texas held on October 16, 2018.

ATTEST:

APPROVED:

Betty Conde
City Secretary

Josh Stevens
Mayor

Veteran's Day Proclamation

As so eloquently written by President Dwight D. Eisenhower on October 8, 1954, "WHEREAS it has been our custom to commemorate November 11th, the anniversary of the ending of World War I, by paying tribute to the heroes of that tragic struggle and by rededicating ourselves to the cause of peace;

WHEREAS in the intervening years the United States has been involved in (many) other great military conflicts, which have added millions of veterans living and dead to the honor rolls of this Nation; and

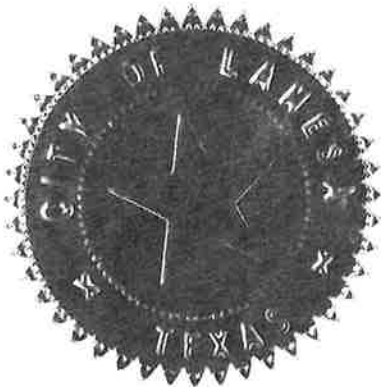
WHEREAS the Congress passed a concurrent resolution on June 4, 1928 calling for the observance of November 11th with appropriate ceremonies, and later provided in an act approved May 13th, 1938 that the eleventh of November should be a legal holiday and should be known as Armistice Day; and

WHEREAS in order to expand the significance of that commemoration and in order that a grateful nation might pay appropriate homage to the veterans of all its wars who have contributed so much to the preservation of this Nation, the Congress, by an act approved June 1, 1954 changed the name of the holiday to Veterans Day..."

NOW, THEREFORE, I, Josh Stevens, Mayor of the City of Lamesa, on behalf of the City of Lamesa City Council and jointly sponsored by the Lamesa Rotary Club and the Kiwanis Club of Lamesa, do hereby call upon all of our citizens of Lamesa to observe Sunday, November 11th, 2018 as Veterans Day. "...On that day let us solemnly remember the sacrifices of all those who fought so valiantly, on the seas, in the air and on foreign shores, to preserve our heritage of freedom, and let us reconsecrate ourselves to the task of promoting and enduring peace so that their efforts shall not have been in vain.

GIVEN UNDER MY HAND

and seal of the City of Lamesa
this ____th day of November, 2018



Mayor

City Council Agenda

City of Lamesa, Texas

DATE OF MEETING: NOVEMBER 13, 2018

AGENDA ITEM: 4

SUBJECT: **AWARD EMPLOYEE HEALTH INSURANCE**
PROCEEDING: Action
SUBMITTED BY: City Staff

SUMMARY STATEMENT

Discuss and consider approving the award of FY 2018/2019 health insurance bid as recommended by Cris Norris, City's Health Insurance consultant.

COUNCIL ACTION

DISCUSSION _____

Motion by Council Member _____ to approve the health insurance FY 2018/2019 City's Health Insurance bid as recommended by Cris Norris. Motion seconded by Council Member _____ and upon being put to a vote the motion _____.

VOTING: "AYE" _____ "NAY" _____ "ABSTAIN" _____

CITY MANAGER'S MEMORANDUM

Recommend approval.

City Council Agenda

City of Lamesa, Texas

DATE OF MEETING: NOVEMBER 13, 2018

AGENDA ITEM: 5

SUBJECT: LEDC/LEAP QUARTERLY REPORT
SUBMITTED BY: LEDC/LEAP Director
EXHIBITS: LEDC/LEAP Report

SUMMARY STATEMENT

City Council to hear from LEDC/LEAP Executive Director Sean Overeynder regarding LEDC/LEAP Quarterly Report. *(LEDC/LEAP Director)*

COUNCIL ACTION

No City Council action required.

CITY MANAGER'S MEMORANDUM

LEDC/LEAP Director will provide report at City Council meeting.

City Council Agenda

City of Lamesa, Texas

DATE OF MEETING: NOVEMBER 13, 2018

AGENDA ITEM: 6

SUBJECT: CONSIDER/DISCUSS/APPROVE AWARD OF PROFESSIONAL SERVICE CONTRACT TO GRANT MANAGEMENT FIRM FOR APPLICATION PREPARATION AND GENERAL ADMINISTRATION OF A 2019/2020 Tx CDBG GRANT:

PROCEEDING: Resolution

SUBMITTED BY: City Staff

SUMMARY STATEMENT

City Council to consider passing a Resolution to Award of Professional Service Contract to Grant Management Firm for Application Preparation and General Administration of a 2019/2020 Tx CDBG Grant. *(City Manager)*

COUNCIL ACTION

DISCUSSION _____

Motion by Council Member _____ to pass a Resolution awarding of Professional Service Contract Management Firm for Application Preparation and General Administration of a 2019/2020 Tx CDBG Grant. Motion seconded by Council Member _____ and upon being put to a vote the motion _____.

VOTING: "AYE" _____ "NAY" _____ "ABSTAIN" _____

CITY MANAGER'S MEMORANDUM

Recommend approval.

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAMESA AUTHORIZING THE MAYOR OF THE CITY OF LAMESA TO ENTER INTO AGREEMENT FOR ADMINISTRATION SERVICES FOR THE 2019/2020 TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT (TXCDBG) PROGRAM OF THE TEXAS DEPARTMENT OF AGRICULTURE (TDA).

WHEREAS, the City Council of the City of Lamesa is applying for a Grant from the Texas Community Development Block Grant (TxCDBG) Program of the Texas Department of Agriculture (TDA).

WHEREAS, The City of Lamesa is seeking to contract with Pre-Qualified Administrators to provide Administration services associated to Application Preparation and Project Implementation for the continuance of this Texas Community Development Block Grant (TxCDBG) application;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAMESA, TEXAS;

That the Mayor be authorized to sign a contract with _____ of _____, Texas for the City of Lamesa, Texas for contract with Pre-Qualified Administrators to provide Administration services associated to Application Preparation and Project Implementation for the 2019/2020 Texas Community Development Block Grant (TxCDBG) Program of the Texas Department of Agriculture (TDA).

PASSED AND APPROVED THIS 13th OF NOVEMBER, 2018.

Josh Stevens, Mayor

ATTEST:

Betty Conde, City Secretary

City Council Agenda

City of Lamesa, Texas

DATE OF MEETING: NOVEMBER 13, 2018

AGENDA ITEM:7

SUBJECT: ADOPT FINANCIAL POLICY
PROCEEDING: Resolution
SUBMITTED BY: City Staff

SUMMARY STATEMENT

City Council to consider passing a resolution approving the City's Financial Policy for Fiscal Year 2018-2019. (*Finance Director*)

COUNCIL ACTION

DISCUSSION _____

Motion by Council Member _____ to pass a resolution approving the City's Financial Policy for Fiscal Year 2018-2019. Motion seconded by Council Member _____ and upon being put to a vote the motion _____.

VOTING: "AYE" _____ "NAY" _____ "ABSTAIN" _____

CITY MANAGER'S MEMORANDUM

Recommend approval.

RESOLUTION NO. R-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAMESA, TEXAS,
ADOPTING A FINANCIAL POLICY**

On the 16th day of October, 2018, there came on and was held at the regular meeting place, the City Hall, an open meeting of the City Council of the City of Lamesa, Texas, held pursuant to the provisions of the Texas Open Meetings Act, and there being a quorum present and acting throughout the meeting, the following resolution was formally submitted by motion and duly seconded for the consideration and action of the meeting, to-wit:

WHEREAS, the City Council of the City of Lamesa deems it in the best interest of the City of Lamesa to have a sound financial policy leading to better accountability, sustainability, and transparency in the financial management of the City

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAMESA, TEXAS:

That the City of Lamesa, Texas, adopt a Financial Policy for the Fiscal Year 2018-2019 to provide better accountability, sustainability, and transparency in the financial management of the City.

Upon being put to a vote, the resolution was Passed, Approved, and Adopted the 16th day of October, 2018, by a majority vote.

PASSED AND APPROVED the 16th day of October, 2018.

ATTEST

APPROVED:

Betty Conde
City Secretary

Josh Stevens
Mayor

CITY OF LAMESA

FINANCIAL POLICY STATEMENT

FISCAL YEAR 2018-2019

| | |
|---------------|-------------------------------|
| Section 1.00. | In General |
| Section 2.00. | Budgets |
| Section 3.00. | Accounting |
| Section 4.00. | Financial Management |
| Section 5.00. | Fund Balance |
| Section 6.00. | Investments |
| Section 7.00. | Audit and Financial Reporting |
| Section 8.00. | Purchasing and Contracting |

SECTION 1.00. In General.

- 1.1. Scope.
- 1.2. Purpose and Objectives.

References

State Law - General fiscal powers of a home rule municipality, Local Government Code, Sec 101.022.

Library Reference -Governmental Accounting, Auditing and Financial Reporting, G.F.O.A.; City Financing, Chapter 13, Municipal Law & Practice (Singer).

1.1. Scope.

- A. This Financial Policy Statement applies to the budgeting, accounting, financial management, investment, auditing and financial reporting aspects of all operating funds, departments, programs, and activities of the City of Lamesa for Fiscal Year 2015-2016 beginning on October 1, 2015 and ending on September 30, 2016.
- B. The financial assets of all other funds shall be administered in general accordance with the provisions of this policy, except when otherwise required by federal or state law, the city charter or ordinances, or by contractual obligation.

1.2 Purpose and Objectives.

- A. **Purpose.** This policy is intended to provide a framework for the efficient and effective allocation and management of the financial resources of the City of Lamesa.
- B. **Objectives.** In order to achieve this purpose, these policies have the following objectives:
 - (1) to ensure that important policy making decisions are handled in a consistent manner and not controlled by financial problems or emergencies;
 - (2) to provide sound principles to guide the decision making process of the city council and administration;
 - (3) to set forth operational guidelines which minimize the cost of the city government while ensuring an effective level of services; and
 - (4) to employ revenue policies which fairly distribute the cost of services and provides adequate funds to operate municipal services.

SECTION 2.00. Budgets.

- 2.1. General Policy.
- 2.2. Budget Formulation.
- 2.3. Budget Execution
- 2.4. Special Revenue Funds.

References

City Charter - Budget, .Art. IV, Sec. 30.

State Law - Municipal Budget, Local Government Code, Chapter 102.

Library Reference - City Financing, Chapter 13, Municipal Law & Practice (Singer).

2.1. General Policy.

- A. Current operating revenue should be sufficient to support current operating expenditures.
- B. Debt or bond financing will not be used to finance current operating expenditures.
- C. The budget will be prepared in a format consistent with the requirements of state law and in a manner that clearly reflects the operational plans for the forthcoming year. In addition, the city may submit its budget document for consideration for the Award for Distinguished Budget Presentation from the Governmental Finance Officer's Association.

2.2. Budget Formulation.

- A. **Budget Preparation.** As set forth in the City Charter, the City Council shall on the first day of July of each year or as soon thereafter as practicable prepare a budget to cover all proposed expenditures of the city for the succeeding year. The budget shall be prepared in conformity with the provisions of State (Local Government Code, Chapter 102) which requires that the budget be prepared in such a form as to:
 - (1) Make clear a comparison between the proposed expenditures, the estimated expenditures for the current year, and the actual expenditures for the preceding year.
 - (2) Show each of the various programs and projects for which appropriations are set up on the proposed budget.
 - (3) Show a complete financial statement of the city, including:
 - (a) all outstanding obligations of the city;
 - (b) cash on hand to the credit of each fund;
 - (c) the funds received from all sources during the preceding year;
 - (d) the funds available from all sources during the ensuing year;
 - (e) the estimated revenue available to cover the proposed budget; and
 - (f) the estimated tax rate required to cover the proposed budget.

B. Budget Enactment

- (1) **Public Hearings.** At least 15 days prior to the time when the City Council enacts the budget for the fiscal year beginning October 1st, the city manager, as budget officer, shall file a proposed operating budget, including proposed expenditures and the means of financing them, with the city secretary. Such budget shall be available for the inspection of any taxpayer. Public hearings shall be conducted not less than 15 days subsequent to the time of filing.
- (2) **Budget Ordinance.** Prior to October 1st, the budget shall be legally enacted through passage of an ordinance.

2.3. Budget Execution.

A. Budget Control

- (1) **City Charter Provisions.** The City Charter provides that no public money shall ever be spent or appropriated, except in case of public calamity, unless funds are currently in the possession of the city to cover said expenditures or appropriations; and that no expenditure shall ever be made by the city except upon checks drawn upon the account for which a previous appropriation shall have been made, signed by the city treasurer, and countersigned by the city manager or mayor.
- (2) **City Officers.** The director of finance shall keep all books in a manner as will clearly show the financial condition of the city at all times, keep all moneys belonging to the city, give receipts therefore, and disburse the same upon checks or warrants. The treasurer shall sign all checks and warrants as prepared by the director of finance upon city funds and be countersigned by the city manager or mayor. The city manager shall monitor the financial condition of the city, including the expenditures of the various departments.

- B. Transfers of Allocations.** The city manager is authorized to transfer allocated amounts between classifications, departments, and unappropriated surpluses if such transfers do not significantly change the work program contemplated in the approved budget; however any expenditures that alter the total amounts must be approved by the City Council.

2.4. Special Revenue Funds.

The City does not fully budget for the individual Special Revenue Funds, since budgetary control is maintained on an individual grant or need basis. Since grant periods may differ from the City's fiscal year, a comparison of budgetary information for the Special Revenue Funds would not be meaningful; however, an estimate of revenues and expenditures is presented in the operating budget for informational purposes.

Section 3.00. Accounting

- 3.1. General Policy.
- 3.2. Basis of Accounting.
- 3.3. Fund Accounting Policy.
- 3.4. Account Groups: Fixed Assets and Long term Liabilities.

References

City Charter - Budget Art. IV, Sec. 30.

State Law - Municipal Budget, Local Government Code, Chapter 102.

Library Reference -Governmental Accounting, Auditing and Financial Reporting, G.F.O.A.

3.1. General Policy.

- A. The city will establish and maintain the accounting systems according to the generally accepted principles and standards of the Government Finance Officer's Association and the National Committee on Governmental Accounting.
- B. The city manager, through his appointee, the director of finance, will be responsible for maintaining an adequate and effective system of accounts and for adhering to an internal accounting control system that gives reasonable assurance that assets are being safeguarded against loss from unauthorized use and disposition, and that the financial records can be relied upon for preparing financial statements and maintaining accountability for assets.
- C. The annual audit will be performed by an independent public accounting firm which will issue an official opinion on the financial statements, with a management letter detailing areas that need improvement if required.
- D. Full disclosure will be provided in the financial statements and bond representations.
- E. Expenditures and revenues will be monitored on a monthly basis.
- F. All bills paid by the city will be presented to the city council for review on a monthly basis.
- G. The city may submit documentation to obtain the Certificate of Achievement in Financial Reporting from the Governmental Finance Officer's Association.

3.2. Basis of Accounting

- A. **Modified Accrual Basis of Accounting.** Basis of accounting refers to the timing of when revenues and expenditures or expenses are recognized in the accounts and reported in the financial statements. All governmental funds are accounted for using the modified accrual basis of accounting. Revenues are recognized when they become measurable and available as net current assets. Sanitation collection fees are recorded as revenue when billed, which is on a cycle billing basis. Major revenues that are determined to not be susceptible to accrual because they are either not available soon enough to pay liabilities of the current period or are not objectively measurable include paving assessments, hotel-motel occupancy taxes, licenses, permits, fines, and forfeitures.
- B. **Exceptions.** Expenditures are generally recognized under the modified accrual basis of accounting when the related fund liability is incurred. Exceptions to this rule include:
 - (a) accumulated unpaid sick pay, vacation, and other employee benefits which are not accrued; except in the Water and Wastewater Enterprise Fund.
 - (b) principal and interest on general long-term debt which is recognized when due; and

- C. **Accrual Basis of Accounting.** All proprietary funds are accounted for using the accrual basis of accounting. Their revenues are recognized when they are earned, and their expenses are recognized when they are incurred. Unbilled Water and Wastewater Fund services are accrued at year-end.

3.3. Fund Accounting Policy

The accounts of the city are organized on the basis of funds or groups of accounts, each of which is considered to be a separate accounting entity. The operations of each fund are accounted for with a separate set of self-balancing accounts which include its assets, liabilities, fund equity, revenues, and expenditures. The resources available to the city are allocated to and accounted for in individual funds based upon the purposes for which they are intended and are the means by which spending activities are controlled. The various funds are grouped into three broad categories as follows:

A. Governmental Funds

These funds are grouped together because of their similarity in their source and disposition, expendability, or government-type nature. They account for the acquisition, use, and balances of expendable financial resources and the related current liabilities.

(1) General Fund (01)

The General Fund is the general operating fund of the City. It is used to account for all financial resources except those to be accounted for in other specific funds. This fund includes all general tax revenues and other receipts that are not restricted by law or contractual agreement to some other fund. General operating expenditures, fixed charges, and capital improvement costs not paid through other funds are paid from this fund.

General Fund Capital Reserve Account

This restricted assets account holds funds accumulated and retained for future capital improvement needs or contingencies; or to be held for future bond reserve requirements.

(2) Special Revenue Funds

Special Revenue Funds are used to account for the proceeds of specific revenue resources (other than special assessments, expendable trusts, or major capital projects) that are legally restricted to expenditures for specified purposes.

(a) Hotel-Motel Occupancy Tax Fund (12)

Accounts for moneys collected from Hotel-Motel Occupancy Tax and distributed by the Hotel-Motel Tax Committee for purposes allowed by state law.

(b) Housing Assistance Program Fund (08)

Accounts for moneys received from the federal government for Section 8, housing assistance and distributed as rent subsidies.

(c) Community Development Grant Fund (15)

Accounts for moneys received from the state and spent on specified activities related to community development block grants.

B. Proprietary Funds

(1) Enterprise Funds

Enterprise funds are used to account for operations that are financed and operated in a manner similar to a private business and which provides services to the general public primarily on a user charge basis. They account for all

assets, liabilities, and equities and match revenues and expenses to determine net income.

(a) Water and Wastewater Enterprise Fund (02)

The Water and Wastewater Enterprise Fund accounts for the operations of the Water and Wastewater Systems, which provides services to the general public on a user charge basis.

Water & Wastewater Capital Reserve Account

This restricted assets account holds funds retained from the 1962 Series Water Improvement Bonds Debt Service Account that are to be retained for future capital improvement needs or contingencies; or to be held for future bond reserve requirements.

Water & Wastewater Construction Account

This restricted assets account is used to account for construction liabilities for projects funded by long-term debt obligations.

Water & Wastewater Debt Service Account

This restricted assets account is used to account for the accumulation of financial resources for, and the payment of principal and interest on long-term debt (Certificate of Obligations) to be paid from revenues generated by utility extensions.

Customer's Deposits Account

This restricted assets account holds the deposits posted by water & sewer customers, the earnings thereon, forfeited deposits, and the return of deposits upon termination of service.

Well Drilling Permit Fee Account

This restricted assets account holds the fees collected for well drilling permits, which fees are designated for the purposes of repayment of the City's CRMWA obligation.

(b) Solid Waste Management Enterprise Fund (03)

The Solid Waste Management Enterprise Fund accounts for the operation of the Solid Waste Collection and Disposal Systems, which provides services to the general public on a user charge basis.

Solid Waste Capital Reserve Account

This restricted assets account holds funds accumulated and retained for future capital improvement needs or contingencies; or to be held for future bond reserve requirements.

SWMF Post Closure

This restricted assets count holds funds accumulated and retained for future landfill closures.

Water Tower Reserved Account

This restricted assets account holds funds accumulated and retained for future water tower maintenance

(2) Internal Service Fund

Internal service funds are used to account for the financing of goods and services provided by one department or agency to other departments or agencies of the governmental unit, or to other governmental units, on a cost reimbursement basis.

(a) Risk Management Fund (21)

Accounts for moneys set aside to provide funds for future Worker's Compensation claims, fund safety programs, and for the self-funded employee medical benefits program.

Risk Management & Safety Account

This account holds funds accumulated and retained for future Liability Insurance, Worker's Compensation claims and to fund safety programs covering all departments. (Combines funds from old Worker's Compensation and Social Security Funds)

Self-Funded Employee Medical Benefits Account

This account holds funds accumulated and retained for the self-funded employee medical benefits program.

C. Trust and Agency Funds

Trust and Agency Funds account for assets held by the City in a trustee or agency capacity or as an agent for individuals, private organizations, or other governmental units.

(1) Expendable Trust Funds

Expendable Trust Funds account for assets that may only be expended for purposes designated by a trust agreement or by state law.

(a) Forfeited Property Expendable Trust Fund (24)

Accounts for all funds that are forfeited in accordance with Chapter 59 of the Code of Criminal Procedure (Article 59.06, C.C.P.) and the Texas Controlled Substances Act (Article 4476-15, Section 5:08 V.A.T.C.S.) and any other statute providing for the use of seized and/or forfeited property by the city or any of its agencies.

General Account

This account holds funds forfeited in accordance with the provisions of Chapter 59 of the Code of Criminal Procedure (Article 59.06, C.C.P.).

Special Account

This account holds funds forfeited in accordance with the provisions of the Texas Controlled Substances Act (Article 4476-15, Section 5:08 V.A.T.C.S.).

(2) Agency Funds

Agency Funds are used to account for assets held for other funds, governments, or individuals and are custodial in nature and do not involve measurement of operations.

(a) State Agency Fund (05)

Accounts for state court costs collected by the municipal court (Governor's Tax).

(b) Deferred Compensation Agency Fund (23)

Accounts for deferred employee compensation and investment income which are temporarily held in accordance with State Law and Section 457 of the Internal Revenue Code.

3.4. Account Groups: Fixed Assets and Long Term Liabilities

Fixed assets used in governmental fund type operations are accounted for in the General Fixed Assets Account Group, rather than in governmental funds. Long-term liabilities expected to be financed from governmental funds are accounted for in the General Long-Term Debt Account Group. The two account groups are not "funds." They are concerned only with the measurement of financial position. They are not involved with measurement of results or operations, and do not reflect available financial resources or related liabilities.

A. General Fixed Assets Account Group

The General Fixed Assets Account Group is a self-balancing account group and represents a summary of the fixed assets of the city, other than assets of the Proprietary Funds. It is used to show the value of the city's general fixed assets. Capital outlays in funds other than Proprietary Funds are recorded as expenditures of those funds at the time of purchase and are subsequently recorded for control purposes in the General Fixed Assets Account Group. Public domain or infrastructure general fixed assets including roads, curbs and gutters, streets and sidewalks, and drainage systems are capitalized along with other general fixed assets. All fixed assets are valued at historical cost or at estimated fair market value at date received, if donated. No depreciation is provided on such assets.

B. General Long-Term Debt Account Group

The General Long-Term Debt Account Group is a self-balancing account group and represents a summary of the city's debt which is to be paid by taxes levied by the city. This account group does not include debt accounted for in the Proprietary Funds.

SECTION 4.00. Financial Mangement

- 4.1. Revenue Policy.
- 4.2. Reserve Policy.
- 4.3. Cash Management Policy.
- 4.4. Capital Improvement Policy.
- 4.5. Debt Policy.
- 4.6. Enterprise Fund Policy.
- 4.7. Miscellaneous.

References

City Charter -. Depository, Art. IV, Sec. 22. The city council is authorized to select a depository for city funds in accordance with Chapter 3 of Title 47 of the Revised Statutes of 1925, as amended (Local Government Code, Chapter 105) and to follow all the terms and provisions of same.

State Law - General fiscal powers of a home rule municipality, Local Government Code, Sec 101.022; Depositories for Municipal Funds, Local Government Code, Chapter 105; Financing capital improvements, Local Government Code, Chapter 395;

Library Reference - City Financing, Chapter 13, Municipal Law & Practice (Singer).

4.1. Revenue Policy

A. General Policy

- (1) The city will maximize the utilization of user charges in lieu of ad valorem taxes for services that can be individually identified and where costs are directly related to the level of service.
- (2) The cumulative increase of revenue from the levy of the Ad Valorem property tax will not exceed five percent from the preceding fiscal year:
 - (a) excluding taxable value gained through annexation or new construction;
 - (b) excluding increases in the property tax rate mandated by the voters or by court order.

B. Estimates and Projections

- (1) Estimated revenues and fee schedules are to be reviewed as a part of the budget process.
- (2) Revenue estimates are to be based upon the following:
 - (a) Staff judgment based upon local and outside economic and factors.
 - (b) Trend projections based upon historical data.

C. Basis for General Fund Service Charges and Fees

Service charges and fees provided from the General Fund will be based upon:

- (1) Fee policies applicable to each fund or activity.
- (2) The related costs of the service provided.
- (3) The impact of projected or past inflation on the provision of services.
- (4) The equability of comparable fees.

4.2. Reserve Policy

A. In General

- (1) **Purpose.** The City of Lamesa shall have such reserve funds available that may be needed to meet any unexpected operating expenditures or expenses that may arise. In addition, each fund shall accumulate reserve funds as may be necessary to meet substantial planned or expected future expenditures or expenses.
- (2) **Types of Reserves.** There shall be four primary types of reserves; operating reserves, contingency reserves, capital reserves, and debt reserves.

B. Operating Reserves

- (1) **Purpose.** Operating reserves provide for unexpected or unanticipated expenditures during the year. A sufficient amount shall be appropriated as part of the operating budget to cover personnel contingencies such as merit pay, extra help, and overtime.
- (2) **Policy.** Operating Reserves are to be appropriated as part of the departmental or program budget and are utilized as needed in amounts that reflect previous patterns of activity and reasonably possible circumstances that may arise. Any unappropriated funds shall not be carried over into the next fiscal year.

C. Contingency Reserves

- (1) **Purpose.** Contingency Reserves are established in order to:
 - (a) provide for temporary funding on unforeseen needs of an emergency or non-recurring nature;
 - (b) permit orderly budget adjustments when revenues are lost thorough the action of other government bodies or due to unforeseen climatic or economic fluctuations;
 - (c) provide a local match for public or private grants;
 - (d) meet unexpected increases in service delivery costs.
 - (e) provide funds in order to maintain adequate short term cash flow and to reduce the demand for short term borrowing between the time the budget is adopted and the property tax revenues become due.
- (2) **Policy.** Contingency Reserves shall be constituted from the remaining fund balance or unreserved retained earnings of each operating fund. It is the goal of the city to maintain a year-to-year remaining fund balance in each fund in an amount necessary to maintain adequate short term cash flow and to reduce the demand for short term borrowing. The remaining fund balance or unreserved retained earnings should be at least five percent (5%) of general operating revenues; except in those years when such reserves are utilized to provide for adjustments due to economic or climatic fluctuations.

D. Capital Reserves.

- (1) **Purpose.** Capital Reserves are established in order to provide for normal replacement of existing capital equipment and additional capital improvements financed on a "pay as you go" basis.
- (2) **Policy.** Capital Reserves will be budgeted and held in appropriate restricted assets accounts. The reserve will be maintained in an amount adequate to finance the replacement of equipment. The replacement of equipment will be based upon an approved equipment replacement schedule.

E. Debt Reserves

- (1) **Purpose.** Debt Reserves will be established as needed to protect bond holders from payment defaults. Adequate bond reserves are essential in maintaining good bond ratings and the marketability of bonds. Debt reserves are established by bond ordinance and normally provide for reserve equal to the debt service requirements.
- (2) **Policy.** No debt reserves are currently budgeted or operational.

F. Landfill Post-Closure Care Reserve

- (1) **Purpose.** The Landfill Post-Closure Reserves is established in accordance with federal and state mandates and is intended to provide for adequate capital reserves to meet future cash outflows to cover post-closure maintenance costs and closure costs for the landfill operated by the City.
- (2) **Policy.**
 - (a) Reserves will be budgeted and held in an appropriate restricted assets account.
 - (b) The reserve will be maintained in an amount adequate to meet minimum state and federal funding requirements.
 - (c) The transfer from the Capital Equipment Reserve Account to the Landfill Post-Closure Reserve Account is authorized and all future transfers on an annual basis are authorized in an amount to cause the reserves to accumulate in an amount necessary to maintain compliance with appropriate federal and state requirements.

4.3. Cash Management Policy.

A. Depository

- (1) **Selection of Depository.** The selection of a depository for the city is governed by the provisions of the investment policy as contained in this policy statement (see Section 5.04(B)), State Law (Local Government Code, Chapter 105) and the City Charter (Art IV, Sec 22).
- (2) **Contract Provisions.** The contracted bank will be used as the depository for all funds other than those restricted in bond covenants and as provided in the investment policy.
- (3) **Payment of Funds.** The funds of the city may be paid out of the depository only at the direction of the city treasurer in accordance with procedures provided in the City Charter (Art IV, Sec 30). The payment of obligations of the city shall be made by check, draft, wire transfer, or other method of payment mutually acceptable to the city and the depository.

B. Investments

The city will invest idle funds only in compliance with the City's investment policy as approved by the City Council. (see Section 5.00)

4.4. Capital Improvement Policy

The capital replacement and expansion program is included as a part of the annual operating budget. The following policies will apply for Fiscal Year 2015-2016:

A. Capital Replacements. Capital replacements are those capital expenditures relating to the normal replacement of worn or obsolete fixed assets of the city.

- (1) Expenditures relating to normal replacement will be budgeted and paid for from appropriated funds.

- (2) In those cases where the life expectancy of the asset being replaced is more than two years, capital equipment warrants and/or lease purchase financing will be considered.

B. Capital Expansion. Significant capital expansion projects relate to the construction of new or expanded facilities. The policy of the city is to pay for these projects by debt financed over the life of the improvement and the annual debt service funded from current rates; or by use of State or Federal grants.

4.5. Debt Policy

A. General Policy. The following general policies will apply:

- (1) The total general obligation debt will not exceed ten percent (10%) of the assessed valuation.
- (2) The city will use special assessment revenue or self supporting bonds, certificates of obligation, tax anticipation notes or any other method allowed by law, where appropriate, instead of general obligation bonds.

B. Capital Debt Decisions. The following will be considered in any capital debt decisions:

- (1) A determination of the project's acceptability from the standpoint of a positive cost-benefits ratio and long term goals of the comprehensive plan.
- (2) An evaluation of the project's cash flow to determine its financial viability.
- (3) The project's priority in relation to other projected capital improvements.

C. Long Term Debt Financing

- (1) The city will utilize long term debt financing when the following conditions exist:
 - (a) Non-continuous capital improvements are required.
 - (b) The proposed improvement will benefit future citizens.
- (2) Long-term debt will be handled by:
 - (a) Conservatively projecting the revenue sources that will be utilized to pay the debt.
 - (b) Financing the improvement over a period not greater than the usual life of the improvement.
 - (c) Determining that the cost benefit of the improvements not including interest costs is positive.

D. Short or Intermediate Term Capital Equipment Financing. The city will attempt to utilize lease/purchase, seven-year term or less warrant financing for capital equipment replacement when the terms of the lease/purchase or warrant financing are advantageous to the city.

4.6. Enterprise Fund Policy

A. Enterprise Funds

The Water and Wastewater Enterprise Fund and the Solid Waste Management Enterprise Fund are the only current enterprise funds. They are completely self-supported through user charges.

B. Enterprise Fund Service Charges

- (1) **Rate Requirements.** Water and Wastewater and Solid Waste Disposal service charges shall be set at a level to provide for the net income requirement in each fiscal year and shall be sufficient to finance all operating, capital and debt service costs to the enterprise funds.

- (a) **Net Income.** The excess of total revenue over total expenses for the fiscal year. (Also called net profit) The net income of the enterprise fund activities shall be at least equal to the annual costs of the principle reductions of outstanding bonds.
 - (b) **Operating Ratio.** Enterprise fund income shall be sufficient to maintain an operation ratio of at least 1.00. The operating ratio shall be calculated by dividing the total operating revenues by the total operating expenses.
 - (c) **Exceptions.** As a means to smooth out fluctuations in income and to return to the customer rates collected in excess of operating costs; an exception to the net income level and operating ratio goals, as stated above, may be made in those years when the projected unreserved retained earnings balance from the previous year is in excess of five percent (5%) of the total projected revenues for the next fiscal year, if:
 - (i) the excess retained earnings are the result of unforeseen climatic or economic fluctuations;
 - (ii) the remaining operating ratio does not fall below 0.93; and
 - (iii) the decreased operating ratio and net income levels will not unfavorably affect the city's ability to obtain a favorable bond rating or unduly affect the future financial condition of the fund.
- (2) **Basis for Service Charges.** Charges for services provided from Enterprise Funds will be based upon:
- (a) **Full Cost Recovery.** All costs associated with delivering any service provided by an enterprise fund shall be fully recovered by appropriate charges to those using the service.
 - (b) **Cost of Delivery.** The cost of delivering any service provided by an enterprise fund shall be based upon the cost of manpower, capital, time, and materials used to provide for the service.
 - (c) **Out of City Limits Charges.** All charges to out of city limits customers shall be set according to city ordinance. The current level of charges for out of city limits customers is two hundred percent (200%) of normal rates.
- (4) **Service Charge Rate Structures.**
- (a) **Water Service Charges.** Water service charges shall be based upon a measured and graduated service rate structure. The rate shall be determined by metering the volume of water consumed within a billing cycle (one month) and billing the customer according to a graduated rate structure that decreases at specified points as volume increases.
 - (b) **Wastewater Service Charges.** Wastewater service charges shall be based upon a flat rate structure for residential and small commercial customers. Users of larger volumes of water will be charged according to a measured rate based upon a percentage of the volume of water consumed during the period.
 - (c) **Sanitation Service Charges.** Sanitation service charges shall be based upon an incremental rate structure. The rate shall be based upon the level of service provided to the customer and shall take into consideration such variables as frequency of collection, volumes of wastes collected, and number and types of collection containers required. Additional charges may be made according to additional costs associated with the handling of specific types of wastes.

- (d) **Landfill Service Charges.** Landfill service charges shall be based upon an incremental rate structure. The rate shall be based upon the origin of the wastes, the volumes to be deposited, and the types involved.
- (e) **Vector Control Service Charges.** Vector control service charges shall be based upon a flat rate structure to be charged during the months the service is required and delivered.

C. General Fund Transfers. The following transfers are allowed to the General Fund:

- (1) **Gross Receipts Fees.** The city charges an estimate of the amount street use franchise fees that will be charged to the fund activities as if they were privately owned. The Gross receipts fee shall not be more than five percent (5%) of the gross receipts of the enterprise funds. These fees will be recognized as revenues in the General Fund.
- (2) **Payment in Lieu of Taxes (P.I.L.O.T.).** The city charges an estimate of the amount of property taxes that will be charged to the fund activities as if they were privately owned. They shall be based upon the current property tax rate. These fees will be recognized as revenues in the General Fund.
- (3) **Administrative Reimbursements.** Departments operated out of the General Fund provide services to the enterprise fund activities. These services are reimbursed to the General Fund at actual or estimated costs.
- (4) **Operating Transfer.** An additional transfer of funds to the General Fund to cover operating expenses as may be authorized by the city council.

4.7. Miscellaneous

A. Employee Retirement Benefits

- (1) **Texas Municipal Retirement System.** The city is a member of the Texas Municipal Retirement System. The rate of contribution for the city is based upon a periodic actuarial analysis for the normal cost and unfunded liability and the number of employees participating in the system.
- (2) **Deferred Compensation Plan.** In addition to the T.M.R.S. benefits, the city offers its employees a deferred compensation plan created in accordance with Section 457 of the Internal Revenue Code. The plan allows employees to defer a portion of their salary until future years with the related Federal income taxes deferred until the funds are paid to the participating employee or beneficiary under the terms of the agreement. The current plan is administered by the ICMA Retirement Corporation.

B. Worker's Compensation. The city is self insured under the TML Worker's Compensation Self-Insurance Pool. Premium payments are made from the Risk Management and Safety Fund, an internal service fund. This program is self-funded from charges to each department based upon the number of employees.

C. Inventories. Inventories consist primarily of supplies, valued at cost using the first-in, first-out method. Water and Wastewater Department inventory supplies are purchased on a yearly bid and charged out as used.

D. Employee Health Insurance. The city is self-insured for employee health insurance. The city pays medical costs and claims from the Risk Management and Safety Fund, an internal service fund. This program is self-funded from charges to each department based upon the number of employees.

SECTION 5.00. Fund Balance

- 5.1. In general
- 5.2. Definitions
- 5.3. Committed Fund Balance
- 5.4. Assigned Fund Balance
- 5.5. Minimum Unassigned Balance
- 5.06 Replenishment of Minimum Fund Balance Reserves
- 5.7. Order of Expenditure of Funds
- 5.8. Appropriation of Unassigned Fund Balance
- 5.9. Monitoring and Reporting

References

Governmental Accounting Standards Board (GASB) Statement No. 54
City of Lamesa: Resolution No. R-21-11

5.1 In General

- A. **Purpose.** This policy is to establish a key element of the financial stability of the City of Lamesa by setting guidelines for fund balance. Unassigned fund balance is an important measure of economic stability and it is essential that the City maintain adequate levels of unassigned fund balance to mitigate financial risk that can occur from unforeseen revenue fluctuations, unanticipated expenditures, and other similar circumstances. This policy will ensure the City maintains adequate fund balances in the City's various operating funds with the capacity to:
- 1. Provide sufficient cash flow for daily financial needs,
 - 2. Secure and maintain investment grade bond ratings,
 - 3. Offset significant economic downturns or revenue shortfalls, and
 - 4. Provide funds for unforeseen expenditures related to emergencies

5.2. Definitions

- A. **Fund Equity.** A funds equity is generally the difference between it assets and its liabilities.
- B. **Fund Balance.** The fund equity of a governmental fund for which an accounting distinction is made between the portions that are spendable and non-spendable. Fund balance is classified into five categories:
- (1) **Nonspendable fund balance** – includes the portion of net resources that cannot be spent because of their form (i.e. inventory, long-term loans, or prepaids) or because they must remain in-tact such as the principal of an endowment.
 - (2) **Restricted fund balance** – includes the portion of net resources on which limitations are imposed by creditors, grantors, contributors, or by laws or regulations of other governments (i.e. externally imposed limitations). Amounts can be spent only for the specific purposes stipulated by external resource providers or as allowed by law through constitutional provisions or enabling legislation. Examples include grant awards and bond proceeds.
 - (3) **Committed fund balance** – includes the portion of net resources upon which the City Council has imposed limitations on use. Amounts that can be used only for the specific purposes determined by a *formal action* of the City Council. Commitments may be changed or lifted only by the Council taking the same *formal action* that originally imposed the constraint. The formal action must be approved before the end of the fiscal year in which the commitment will be reflected on the financial statements.

- (4) **Assigned fund balance** – includes the portion of net resources for which an *intended* use has been established by the City Council or the City Official authorized to do so by the City Council. Assignments of fund balance are much less formal than commitments and do not require formal action for their imposition or removal. In governmental funds other than the general fund, assigned fund balance represents the amount that is not restricted or committed which indicates that resources are, at a minimum, intended to be used for the purpose of that fund.
- (5) **Unassigned fund balance** – includes the amounts in the general fund in excess of what can properly be classified in one of the other four categories of fund balance. It is the residual classification of the general fund and includes all amounts not contained in other classifications. Unassigned amounts are technically available for any purpose. Negative residual amounts for all other governmental funds are reported in this classification.

- 5.3. **Committed Fund Balance.** The City Council is the City's highest level of decision-making authority and the formal action that is required to be taken to establish, modify, or rescind a fund balance commitment is a resolution approved by the Council at the City's Council meeting. The resolution must either be approved or rescinded, as applicable, prior to the last day of the fiscal year for which the commitment is made. The amount subject to the constraint may be determined in the subsequent period (i.e. the Council may approve the calculation or formula for determining the amount to be committed).
- 5.4. **Assigned Fund Balance.** The City Council authorizes the City Manager as the City Official responsible for the assignment of fund balance to a specific purpose as approved by this fund balance policy.
- 5.5. **Minimum Unassigned Fund Balance.** The City's goal is to achieve and maintain an unassigned fund balance in the general fund equal to 16.67% of expenditures. The City considers a balance of less than 8.34% to be cause for concern, barring unusual or deliberate circumstances. In the event that the unassigned fund balance is calculated to be less than the policy stipulates, the City shall plan to adjust budget resources in subsequent fiscal years to restore the balance.
- 5.6. **Replenishment of Minimum Fund Balance Reserves.** If unassigned fund balance unintentionally falls below 8.34% or if it is anticipated that at the completion of any fiscal year the projected unassigned fund balance will be less than the minimum requirement, the City Manager shall prepare and submit a plan to restore the minimum required level as soon as economic conditions allow. The plan shall detail the steps necessary for the replenishment of fund balance as well as an estimated timeline for achieving such. These steps may include, but are not limited to:
- (1) identifying new, nonrecurring, or alternative sources of revenue;
 - (2) increasing existing revenues, charges and/or fees; use of year end surpluses;
 - (3) and/or enacting cost saving measures such as holding capital purchases, reducing departmental operating budgets, freezing vacant positions, and/or reducing the workforce.

The replenishment of fund balance to the minimum level shall be accomplished within a three-year period. If restoration of the reserve cannot be accomplished within such a period without severe hardship to the City, then the Council shall establish an extended time line for attaining the minimum balance.

- 5.7. Order of Expenditure of Funds.** When multiple categories of fund balance are available for expenditure (for example, a construction project is being funded partly by a grant, funds set aside by the City Council, and unassigned fund balance), the City will first spend the most restricted funds before moving down to the next most restrictive category with available funds.
- 5.08 Appropriation of Unassigned Fund Balance** Appropriation from the minimum unassigned fund balance shall require the approval of the Council and shall be utilized only for one-time expenditures, such as capital purchases, and not for ongoing expenditures unless a viable revenue plan designed to sustain the expenditure is simultaneously adopted. The Council may appropriate unassigned fund balances for emergency purposes, as deemed necessary, even if such use decreases the fund balance below the established minimum.
- 5.09. Monitoring and Reporting.** The Director of Finance shall be responsible for monitoring and reporting the City's various reserve balances. The City Manager is directed to make recommendations to the Council on the use of reserve funds both as an element of the annual operating budget submission and from time to time throughout the fiscal year as needs may arise. Compliance with the provisions of the policy shall be reviewed as a part of the annual operating budget adoption process and subsequent review will be included in the annual audit and financial statement preparation procedures.

SECTION 6.00. Investments

- 6.1. In General.
- 6.2. Investment Authorities
- 6.3. Investment Policy
- 6.4. Investment Plan

References

City Charter -. Depository, Art. IV, Sec. 22. The city council is authorized to select a depository for city funds in accordance with Chapter 3 of Title 47 of the Revised Statutes of 1925, as amended (Local Government Code, Chapter 105) and to follow all the terms and provisions of same.

State Law - Public Funds Investment Act, Government Code, Chapter 2256; Depositories for Municipal Funds, Local Government Code, Chapter 105.

Library Reference – Municipal Law & Practice (Singer), Sec. 308, The City Depository.

6.1. In General.

- A. Purpose.** This policy is intended to cover all aspects of public fund investments under the authority of the City of Lamesa. It is enacted to guide the implementation and compliance with the Public Funds Investment Act, Government Code, Chapter 2256, as amended.
- B. Objective.** It is the policy of the City of Lamesa to invest public funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow demands on the city and conforming to all state statutes governing the investment of public funds.
- C. Basis and Authority for Investment Policy.** This policy is enacted to implement the stated purpose of Public Funds Investment Act, Government Code, Chapter 2256, as amended.
- D. Applicability of Investment Policy.** The provisions of this chapter shall apply to all financial assets of the City of Lamesa, Texas except for its deferred compensation plan which is separately administered by the ICMA Retirement Corporation. The investments of all of the city's funds shall be placed in a pooled fund group in order to maximize the investment potential of the city's investments. Funds included in the pooled fund group are:

(1) Governmental Funds

(a) General Fund (01)

General Fund Capital Reserve Account

General Fund Investments

2014A Debt Service/Tax Notes

(b) Special Revenue Funds

(1) Hotel-Motel Occupancy Tax Fund (12)

(2) Housing Assistance Program Fund (08)

(3) Community Development Grant Fund (15)

- (4) Special Revenue Fund (17)
- (2) **Proprietary Funds**
 - (a) **Enterprise Funds**
 - (1) **Water and Wastewater Enterprise Fund (02)**
 - Water & Wastewater Capital Reserve Account
 - Water Tower Reserve
 - 2013 Debt Service/Tax Notes
 - 2014A Debt Service/Tax Notes
 - Water & Wastewater Debt Service Account USDA
 - Treatment Plant Debt Service Reserve C/O Series 2006
 - Capital Improvement Project-Water Elevated Tanks
 - Customer's Deposits Account
 - (2) **Solid Waste Management Enterprise Fund (03)**
 - Solid Waste Post Closure Reserve Account
 - Solid Waste Equipment Reserve Account
 - 2012 Debt Service/Tax Notes
 - (3) **Municipal Golf Course**
 - (b) **Internal Service Fund**
 - (1) **Risk Management Fund (21)**
 - Risk Management & Safety Account
 - Self-Funded Employee Medical Benefits Account
- (3) **Trust and Agency Funds**
 - (a) **Expendable Trust Funds**
 - (1) **Forfeited Property Expendable Trust Fund (24)**
 - General Account
 - Special Account
 - (b) **Agency Funds**
 - (1) **State Agency Fund (05)**

E. Standard of Care.

- (1) **Prudence.** The standard of prudence to be used by the investment officers so named in this policy shall be the "prudent person" standard and shall be applied in the context of managing an overall portfolio. Said officers acting in accordance with written procedures and the investment policy and exercising due care 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 fashion and appropriate action is taken to control adverse developments.
- (2) **Investment Objectives.** Investment of funds shall be governed by the following investment objectives, in order of priority:

- (a) Preservation and safety of principal.
- (b) Liquidity
- (c) Yield

(3) **Determination of Standard.** In determining whether an investment officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:

- (a) the investment of all funds, or funds under the city's control, over which the officer had responsibility rather than a consideration as to the prudence of a single investment; and
- (b) whether the investment decision was consistent with the provisions of this policy.

F. **Annual Policy Review and Approval by City Council.** The city council of the City of Lamesa shall review and approve this investment policy and investment strategies not less than annually. Said review may be included within the financial policy statement or annual budget as approved by the city council.

G. **Definitions.**

Amortization. To liquidate (a debt) by installment payments.

Accretion. Growth or increase in size by gradual external addition.

Book Value. The face or par value of an investment plus accrued interest or minus amortization or plus the accretion.

Certificate of Deposit (CD). A time deposit with a specific maturity evidenced by a certificate.

Collateral. Securities, evidence of deposit or other property which a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public moneys.

Demand Deposit. A deposit of funds that may be withdrawn on the demand of the depositor, city checking account).

Funds. Public funds in the custody of the city that:

- (a) are not required by law to be deposited in the state treasury; and
- (b) the city has authority to invest.

Liquidity. A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow and reasonable size can be done at those quotes..

Market Value. The price at which a security is trading and could presumably be purchased or sold.

Maturity. The date upon which the principal or stated value of an investment becomes due and payable.

Pooled Fund Group. An internally created fund of the city in which one or more institutional accounts of the city are invested.

Prudent Person Rule. An investment standard that requires investments to 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.

Public Funds Investment Act. Shall refer to the Texas Public Funds Investment Act codified as Chapter 2256 of the Government Code of Texas.

Rate of return. The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond the current income return.

Safety. Refers to the ability if the issuer to redeem the instrument at maturity. U.S. Government guaranteed obligations are considered risk free and all other instruments are evaluated against this standard.

Time Deposit. A deposit of funds subject to a contract between the depositor and the depository under which the depositor may not withdraw any of the funds by check or by another manner until the expiration of a certain period following written notice of the depositor's intent to withdraw the funds.

Treasury Bills. A non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months, or one year.

Treasury Bond. Long-term U.S. Treasury securities having initial maturities of more than ten years.

Treasury Notes. A non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months, or one year.

Yield. The rate of annual income return on an investment, expressed as a percentage.

(a) Income yield is obtained by dividing the current dollar income by the current market price for the security.

(b) Net yield or yield to maturity is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.

Treasury Bill. A U.S. government short-term security sold to the public each week, maturing in 91 to 182 days.

6.2. Investment Authorities.

- A. **Delegation of Authority.** Authority to manage the City of Lamesa's investment program is derived from the authority granted by the city council in this policy and the Public Funds Investment Act. The investment officials of the city shall be the investment officer, director of finance and the city treasurer. Management responsibility for the investment program is hereby delegated to the investment officer who shall institute written procedures for the operation of the investment program consistent with this investment policy. The director of finance and the city treasurer are designated as subordinate investment officials. The investment officer shall establish a system of controls to regulate the activities of subordinate investment officials.
- B. **Limitation of Authority.** A person may not deposit, withdraw, invest, transfer, or manage in any other manner funds of the city without the express written authority of the city council, city manager, or director of finance of the city. No person may engage in investment transactions except as provided under the terms of this policy and the procedures established by the investment officer.
- C. **Investment Officer.** The City Manager of the City of Lamesa, and his or her successor, shall be and is hereby designated as the investment officer of the City of Lamesa for the purposes of this policy and the Public Funds Investment Act and shall be responsible for the performance of such obligations and duties as provided in this policy and state law.
- D. **Director of Finance/Assistant Finance Director.** The Director of Finance/Assistant Finance Director of the City of Lamesa, and his or her successor, shall be and is hereby designated as the chief financial officer of the City of Lamesa for the purposes of this policy and the Public Funds Investment Act and shall be responsible for the performance of such obligations and duties as provided in this policy and state law.
- E. **City Treasurer.** The City Treasurer of the City of Lamesa, and his or her successor, shall serve as deputy investment officer with the authority to act in the absence of the investment officer, and shall be responsible for the performance of such obligations and duties as provided in this policy and state law.
- F. **Ethics and Conflict of Interest.**
 - (1) **In General.** Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions.
 - (2) **Disclosure of Material Financial Interests.** Investment officials, as designated under the provisions of this policy, shall disclose, by filing a statement, to the city council any personal business relationship or material financial interests in financial institutions that conduct business within the city or with an entity seeking to sell an investment to the city, and they shall further disclose any large personal financial/investment positions that could be related to the performance of the city, particularly with regard to the time of purchases and sales.

(3) Disclosure of Relationship. Any investment official, as designated under the provisions of this policy, who is related within the second degree of consanguinity, as determined under Chapter 573 of the Government Code of Texas, to an individual seeking to sell an investment to the city shall file a statement disclosing that relationship.

(4) Statement to be Filed. A statement required under this section must be filed with the Texas Ethics Commission and the City Council of the City of Lamesa, Texas.

G. Limitation of Investment Officer's Liability. The investment officials of the city, including the investment officer, director of finance/assistant finance director and the city treasurer, shall not be held responsible for any loss of city funds through the negligence, failure, or wrongful act of a financial institution providing investment services to the city. This section does not release said officers from responsibility for a loss resulting from the official misconduct of said officers, including a misappropriation of the funds, or from responsibility for the funds until an investment is made.

H. Training. The investment officials of the city, including the investment officer, director of finance, assistant finance director and the city treasurer, shall attend such training as may be required by the Public Funds Investment Act. Said officials shall also attend such training in investment controls, security risks, strategy risks and market risks as necessary for the prudent management of the city's investments.

6.3. Investment Policy.

A. Objective. The primary objectives, in priority order, of the City of Lamesa's investment activities shall be:

- (1) Preservation and Safety of Principal.** Safety of principal is the foremost objective of the investment program. Investments of the City of Lamesa shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio.
- (2) Liquidity.** The city's investment portfolio will remain sufficiently liquid to enable the city to meet all operating requirements which might be reasonably anticipated.
- (3) Yield or Return on Investments.** The city's investment portfolio shall be designed with the objective of attaining a rate of return throughout the budgetary and economic cycles, commensurate with the city's investment risk constraints and the cash flow characteristics of the portfolio.

B. Pooled Fund Group. A pooled fund group shall be created from the, governmental, proprietary, and trust and agency funds of the city. All funds of the city covered by this policy shall be invested in the pooled fund group.

C. Authorized and Suitable Investment Securities.

- (1) Authorized Securities and Investments.** The following are authorized investments under this policy:

- (a) **Certificate of Deposit.** A certificate of deposit is an authorized deposit under this policy if it is guaranteed or insured by the Federal Deposit Insurance Corporation or its successor; and secured by obligations that are secured in any other manner and amount provided by law for deposits of the city.
 - (b) **Time Deposits.** City funds not immediately required to pay obligations of the city may be invested in time deposits or interest bearing demand accounts with the city's depository, as provided in the depository contract, at a legal interest rate under federal law.
 - (c) **Public Funds Investment Pool.** Eligible public funds investment pools as defined by the Public Funds Investment Act, Chapter 2256 of the Texas Government Code, which meet criteria outlined in Sections 2256.016 and 2256.019 of the Texas Government Code upon approval by the City Council.
 - (d) **Obligations of the United States of America, its agencies, and instrumentalities** (i.e. Treasury Bills).
- (2) **Unauthorized Securities.** Any security designated, as an unauthorized investment under the provisions of the Public Funds Investment Act is not authorized under this policy:
- (3) **Maximum Allowable Maturity.** To the extent possible, the city will attempt to match its investment with anticipated cash flow requirements. Unless matched to a specific cash flow, the city will not directly invest in certificates of deposit or securities maturing more than one year from the date of purchase. Reserve funds may be invested in certificates of deposit or securities exceeding one year if the maturity of such investments are made to coincide as nearly as practicable with the expected use of the funds. The maximum weighted average maturity of six (6) months.
- (4) **Collateralization.** Collateralization will be required on all certificates of deposit. Collateral will always be held by an independent third party with whom the city has a custodial agreement. A clearly marked evidence of ownership shall be supplied to the city and retained. The right to collateral substitution is granted.

D. Selection and Purchase of Investment Securities.

- (1) **Authorized Financial Dealers and Institutions.** The City shall invest funds only with the following types of qualified financial institutions:
- (a) **City Depository.** The city may invest funds with a financial institution qualified as a depository for the City of Lamesa. All financial institutions that desire to provide investment services to the city shall qualify as a depository under the provisions of Chapter 105 of the Local Government Code of Texas.
 - (b) **Public Funds Investment Pools.** The City may invest in eligible public funds investment pools as defined by the Public Funds Investment Act, Chapter 2256 of the Texas Government Code, which meet criteria outlined in Section 2256.016 and 2256.019 of the Texas Government Code. The City Council shall authorize participation in a public funds investment pool by resolution. An investment pool must furnish to the City's investment officer or other authorized

representative, an offering circular or similar disclosure instrument that contains information required by Government Code 2256.016 (b).

(c) Other Financial Institutions. The city may invest funds with any financial institution that is guaranteed or insured by the Federal Deposit Insurance Corporation or its successor, (i.e. Certificate of Deposits).

- (2) Selection and Compliance of Brokers/Dealers - Certification Process.** The selection process for institutions authorized to provide investment services to the city shall comply with the provisions of Chapter 105 of the Local Government Code of Texas and Chapter 2256 of the Government Code of Texas.
- (3) Diversification Requirements.** The purpose of diversification of the city's investments shall be to reduce overall portfolio risks while attaining market average rates of return. The investments of the city may be invested in a single financial institution, provided that the investment portfolio is not concentrated in a single security type or specific maturity sector.

E. Internal Control, Evaluation and Reporting.

- (1) Internal Control/Compliance Audit.** The city, in conjunction with its annual financial audit, shall perform a compliance audit of management controls on investments and adherence to the city's investment policy.
- (2) Quarterly Reporting Requirements.** The investment officer is charged with the responsibility of preparing and presenting quarterly reports to the city council. The report shall include all funds covered by this policy for the preceding reporting period and shall:
 - (a)** describe in detail the investment position of the city on the date of the report;
 - (b)** be prepared jointly by all investment officers of the city;
 - (c)** be signed by each investment officer of the city;
 - (d)** contain a summary statement of the pooled fund group that states the:
 - (i)** beginning market value for the reporting period;
 - (ii)** additions and changes to the market value;
 - (iii)** ending market value for the period;
 - (e)** state the book value and the market value of each separately invested asset at the beginning and end of the reporting period by the type of asset and fund type invested;
 - (f)** state the maturity date of each separately invested asset that has a maturity date;

- (g) state the account or pooled fund group for which the investment was acquired;
- (h) state the compliance of the investment portfolio as it relates to;
 - (i) the investment strategy expressed in the city's investment policy; and
 - (ii) to relevant provisions of the Public Funds Investment Act.

6.4. Annual Investment Plan

- A. Applicability of Investment Plan.** This investment plan shall be effective from the date of adoption through Fiscal Year 2018-2019 ending on September 30, 2019. The investment policy shall apply in all matters pertaining to said plan. This investment plan is intended to satisfy the "separate written investment strategy" requirements of Section 2256.005 (d) of the Public Funds Investment Act.
- B. Selection of Authorized Financial Institutions.**
 - (1) **Authorized Financial Institutions.** The city may invest funds with any financial institution that is guaranteed or insured by the Federal Deposit Insurance Corporation or its successor, (i.e. Certificates of Deposits). A financial institution providing investment services to the city must qualify as a depository under the provisions of Chapter 105 of the Local Government Code of Texas.
 - (2) **Investment Duties of Depository.** The depository chosen by the City of Lamesa for the five year period beginning on January 1, 2019 and ending on December 31, 2021 shall be the designated financial institution authorized to provide investment services to the city during the period covered by this plan.
- C. Suitability of Investments.** This plan is intended to be non-speculative with the objective of preserving the safety of principal with sufficiently liquid, and attaining a satisfactory rate of return. Only investments allowed by the investment policy shall be deemed suitable during the term of this plan.
- D. Safety of Principal.** Safety of principal is the foremost objective of this plan. Investments of the City of Lamesa shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. Collateralization will be required on all certificates of deposit. Collateral will always be held by an independent third party with whom the city has a custodial agreement. A clearly marked evidence of ownership shall be supplied to the city and retained. The right to collateral substitution is granted
- E. Liquidity.** The city's investment portfolio will remain sufficiently liquid to enable the city to meet all operating requirements which might be reasonably anticipated. Time deposits will be utilized to satisfy this requirement.
- F. Investment Marketability Requirements.** No marketable investment will be held by the city. Only time deposits and certificates of deposit issued by the depository will be utilized.

- G. **Diversification.** The city's portfolio will be held by a single institution, the city's depository. The funds of the city may be invested in time deposits or certificates of deposit according to the anticipated need for such funds.
- H. **Yield Objectives.** The city's investment portfolio shall be designed with the objective of attaining a rate of return throughout the budgetary and economic cycles, commensurate with the city's investment risk constraints and the cash flow characteristics of the portfolio.
- I. **Maturity Requirements and Restrictions.** The time deposits of the city will structured in a manner to be available as needed to meet all operating requirements which might be reasonably anticipated

SECTION 7.00. Audit and Financial Reporting

- 7.1. Annual Audit and Financial Statement.
- 7.2. Scope of the Audit.
- 7.3. Auditing Standards to be Used.
- 7.4. Term of Audit Engagement.

References

City Charter - Audit and examination of the city books and accounts, Art. IV, Sec. 29..

State Law - Audit of municipal finances, Local Government Code, Chapter 103.

Library Reference -Governmental Accounting, Auditing and Financial Reporting, G.F.O.A.

7.1. Annual Audit and Financial Statement.

- A. General Policy.** The city shall have its records and accounts audited annually and shall have an annual financial statement prepared based on the audit.
- B. Auditor.** The City shall employ an independent certified public accountant who is licensed by the State of Texas as a public accountant to conduct the audit and to prepare the annual financial statement.
- C. Financial Statement.** The annual financial statement, including the auditor's opinion on the statement shall be filed in the office of the city secretary within 120 days after the first day of the City's fiscal year (July 29th). Said financial statement shall be available for public inspection.

7.2. Scope of the Audit.

- A.** The financial statement audit is to determine whether:
 - (1) the financial statements present fairly the financial position, results of operations and cash flows or changes in financial positions in accordance with generally accepted accounting principles, and
 - (2) whether the City of Lamesa has complied with laws and regulations for those transactions and events that may have a material effect on the financial statements.
- B.** The financial related audit will also include determining whether:
 - (1) financial reports and related items are fairly presented,
 - (2) financial information is presented in accordance with established or stated criteria, and
 - (3) the City of Lamesa has adhered to specific financial compliance requirements.
- C.** As a part of the audit of the general purpose financial statements, the annual audit will also include obtaining an understanding of the City's internal control structure and reporting any reportable conditions relating to the internal control systems coming to the attention of the auditors. To comply with Office of Management and Budget Circular A-128, a study and evaluation of the internal control structure will include internal accounting and administrative controls for all major federal financial assistance programs or 50% of all federal programs if expenditures for major programs are less than 50% of total federal program expenditures. Any material weakness noted during the study and evaluation of internal accounting and administrative controls will be reported.

- D. As part of the audit of the general purpose financial statements, transactions and records pertaining to federal laws, rules and regulations, and all instances of noncompliance will be reported to the City of Lamesa.

7.3. Auditing Standards to be Used.

The audit is to be performed in accordance with generally accepted auditing standards and Government Auditing Standards, issued by the Comptroller General of the United States; and the provisions of Office of Management and Budget Circular A-128, "Audits of State and Local Governments".

7.4. Term of Audit Engagement.

A contract for audit services shall be for one fiscal year. An initial agreement may be extended up to an additional four years, upon Council approval, following satisfactory delivery of the services as specified.

SECTION 8.00. Purchasing and Contracting

- 8.01. In General.
- 8.02. Competitive Bidding and Contracting
- 8.03. Cooperative Purchasing

References

City Charter - Competitive bidding, Art. III, Sec. 26.

State Law - Purchasing and contracting authority of municipalities, Local Government Code, Chapter 252; Authority of city council to elect to have state law supersede the charter as it relates to purchasing and contracting, , Local Government Code, Section 252.002., enacted by resolution, January 17, 1994; State cooperative purchasing program participation by city, Local Government Code Sections 271.081-271.083, enacted by resolution , May 2, 1989.

Library Reference - Municipal Law & Practice (Singer), Chapter 30, Contracts.

8.1. In general.

- A. **General policy.** It is the policy of the City to obtain all services, supplies, materials and equipment at the lowest cost to the City consistent with those standards of quality, performance, service and availability which will best meet the needs of the City.
- B. **Intent of policy.** It is the intent of this policy to:
 - (1) promote the practice of requiring competitive purchasing practices to keep costs at a minimum and to give interested vendors an equal opportunity to supply goods and services to the City and;
 - (2) Cover all aspects of purchasing and contracting under the authority of the City of Lamesa; and
 - (3) comply with the provisions of the City Charter and applicable provisions of State Law including Chapters 252 and 271 of the Local Government Code, as amended.
- C. **Legal guidelines.**
 - (1) **City Charter.** The provisions of Article III, Section 26 of the City Charter of the City of Lamesa shall govern the purchasing and contracting activities of the City of Lamesa.
 - (2) **State Law.** The provisions of Chapter 22 of the Local Government Code shall govern the purchasing and contracting activities of the City of Lamesa that are covers by said laws.
 - (3) **State law controls over city charter.** The provisions of Title 8, Chapter 252 of the Local Government Code of the State of Texas supersede the provisions of the Charter of the City of Lamesa relating to competitive bidding (Article III, Section 6) to the extent the provisions conflict with the City Charter of the City of Lamesa effective January 18, 1994.
- D. **Award standards.** In the procurement process, the award will be made to the vendor with the lowest responsible and responsive quotation or bid unless, in the judgment of the responsible authority, such an award would not serve the best interest of the City. Whenever practicable and in the best interest of the City, purchases will be grouped together to take advantage of quantity discounts.

- E. **Authorized purchases.** Only those employees specifically designated are authorized to make purchases in the name of the City. Authority to make purchases means the authority to sign purchase requests or specific delegation of authority by a department head or by the city manager.
- F. **Unauthorized purchases.** Unauthorized purchases become the obligation and financial responsibility of the individual who made the commitment.

8.2. Definitions

The following definitions shall apply:

- (1) **Bidder.** Refers to the person, firm or entity that submits a bid or proposal for in response to a solicitation..
- (2) **Competitive Procurement Process:** refers to all methods of obtaining prices from multiple vendors.
- (3) **Quotation:** refers to pricing obtained through a number of informal, generally rapid methods, including telephone, faxed or written quotations.
- (4) **Bid:** refers only to pricing obtained through a formal sealed bid process.
- (5) **Proposal:** refers only to information obtained from a vendor concerning goods and services through a formal sealed proposal process for high technology procurements under Section 252.021 of the Local Government Code.
- (6) **Purchase order:** refers to an order placed by the purchasing agent for the purchase of goods or services on the City's standard purchase order form.
- (7) **Request for Bid:** refers to the document issued to solicit bids and is used when product or services being procured can be precisely described.
- (8) **Request for Proposal:** refers to the document used to solicit proposal from vendors for high technology procurements under Section 252.021 of the Local Government Code.
- (9) **Responsible Authority:** refers to the City Council for purchases over \$50,000 and to the city manager for purchases under \$50,000.
- (10) **Responsible Bidder:** refers to a bidder or proposer who has the capability in all respects to perform the contract requirements in a manner which will assure reliability and good performance.

8.3. Authorized Procurement Processes.

A. In general.

- (1) **Advertisement.** All formal sealed bids must be publicly advertised as follows:
 - (a) **Publication of notice.** State law requires that if the formal sealed competitive process applies to the purchase, notice of the time and place at which bids will be publicly opened and read aloud must be published at least once a week for two consecutive weeks in a newspaper published in the municipality. The date of the first publication must be before the 14th day before the date set to publicly open the bids.
 - (b) **Request for proposals.** State law requires that if the competitive sealed proposals requirement applies to the purchase, notice of the request for proposal must be given in the same manner as that prescribed by Subsection (a) for the notice for the competitive sealed bids.
 - (c) **Road machinery specifications.** State law requires that if the contract is for the purchase of machinery for construction or maintenance of roads, streets, the notice for bids and the order for purchase must include a general specification of the machinery desire.

(2) **Non responsive bids.**

- (a) **In general.** The City will not consider non-responsive bids or proposals, i.e. those with material deficiencies, omissions, errors or inconsistencies.
- (b) **Bidder's responsibility.** Bidders are expected to examine all documents that make up the solicitation. The bidder has the responsibility to notify the City of any perceived ambiguity, inconsistency or error that they may discover upon examination of the specifications or solicitation.
- (c) **Clarification.** The City may make post-bid inquiries or requests for clarifications as to minor irregularities; and there may be additional discussion between the vendors and the City during the review of proposals.

(3) **Invoices.**

The person making a direct purchase or accepting a delivery is responsible for submitting an invoice to the department head. The department head is responsible for submitting the invoice to the director of finance. Failure to submit an invoice may result in the purchase becoming the obligation and financial responsibility of the individual who made the purchase.

B. Formal sealed bid competitive process.

- (1) **In general.** Purchases greater than \$50,000 require either a Request for Bid or Request for Proposal. Both require a formal sealed competitive bid process.
 - (a) The **Request for Bid** is used when goods or services being procured can be precisely described. Price is generally the determining factor in the award provided the criteria set forth in the Request for Bid are met. There is a public opening of the bids at a City Council meeting. The award is made to the lowest responsible and responsive bidder.
 - (b) The **Request for Proposal** is used for high technology procurements under Section 252.021 of the Local Government Code. The City during the review of proposals may seek clarification and additional information concerning the proposal. The following requirements of state law must be met:
 - (i) Requests for proposals made under Section 252.021 of the Local Government Code must solicit quotations and must specify the relative importance of price and other evaluation factors.
 - (ii) Discussions in accordance with the terms of a request for proposals and with regulations adopted by the City Council may be conducted with offerors who submit proposals and who are determined to be reasonably qualified for the award of the contract. Offerors shall be treated fairly and equally with respect to any opportunity for discussion and revision of proposals. TO obtain the best final offers, revisions may be permitted after submissions and before the award of the contract.
 - (iii) If the competitive sealed proposals requirement applies to the contract, the contract must be awarded to the responsible offer or whose proposal is determined to be the advantageous to the City considering the relative importance of price and the other evaluation factors included in the request for proposals.
- (2) **Bidding process.** All purchases in an amount of \$50,000.00 or more must be through the process of a competitive formal sealed bidding process and must be approved by the City Council prior to the issuance of a purchase order.
 - (a) **Specifications.** The mayor and city council shall approve all specifications and authorize the calling for bids. Pending advertisement

of such proposed bids, specifications shall be on file in the office of the city secretary, subject to the inspection of all persons desiring to bid.

- (b) **Notice.** The bid shall be advertised in the official newspaper at least once in each week for two consecutive weeks inviting competitive bids for labor and materials embraced in the proposed contract.
- (c) **Delivery of bids.** All bids submitted shall be sealed and delivered to the city secretary.
- (d) **Award of bids.** The City Charter provides the following process for the awarding of bids:
 - (i) At the time in the bid notice the bids shall be opened in the presence of a majority of the city council.
 - (ii) No bid shall be awarded except to one of the bidders.
 - (iii) The council shall determine the most advantageous bid for the city and shall award the bid to such bidder.
 - (iv) The council shall always have the right to reject any and all bids, and in the event all bids are rejected, may call for new bids, which shall be advertised in like manner as the original bids.
 - (v) No bid shall ever be awarded except by approval of a majority of the city council.

C. **Competitive Procurement Process**

- (1) **In general.** Except as otherwise provided herein, purchases of services, supplies, materials and equipment needed by the City must be based on the principle of competitive procurement.
- (2) **Competitive Procurement Process Thresholds**
 - (a) **Purchases over \$50,000.** The competitive procurement process may be used for purchases in an amount over \$50,000 for a purchase made under an exemption as provided in Section 252.022 of the Local Government Code.
 - (b) **Purchases under \$50,000 and more than \$3,000.**
 - (i) **In general.** All purchases in an amount under \$50,000 and more than \$3,000 must be made through a Competitive Procurement Process after solicitation of at least 3 quotations or following a formal sealed competitive process if required by the city manager. These quotations shall be documented on the purchase request form.
 - (ii) **Purchase order required.** All purchases in an amount under \$50,000 and more than \$3,000 must:
 - a. be approved by the department head and the city manager; and
 - b. be submitted to the purchasing agent on an approved purchase request form; and
 - c. have a purchase order issued prior to the purchase.
 - (c) **Purchases under \$3,000.**

All purchases in amounts less than \$3,000 must be made through a Competitive Procurement Process after solicitation of quotations. The purchasing agent or any authorized other person seeking quotations shall attempt to obtain at least 3 quotations if possible. These quotations shall be documented on the purchase

Request form. Approval of such purchases will be made in accordance with following guidelines:

- (i) Purchases in an amount under \$3,000.00 that are approved in the annual operating budget must:
 - a. be approved by the department head; and
 - b. be submitted to the purchasing agent on an approved purchase request form; and
 - c. have a purchase order issued prior to purchase.
- (ii) Purchases in an amount under \$3,000.00 and more than \$500.00 and not approved in the annual operating budget must:
 - a. be approved by the department head and the city manager prior to the purchase; and
 - b. be submitted to the purchasing agent on an approved purchase request form; and
 - c. have a purchase order issued prior to the purchase.
- (iii) Purchases in the amount under \$500.00 and not approved in the annual operating budget must:
 - a. be approved by the department head prior to the purchase; and
 - b. be submitted to the purchasing agent on an approved purchase request form; and
 - c. have a purchase order issued prior to the purchase.
- (d) **Exceptions may be made to the procurement process for:**
 - (i) **Purchases under \$250.00.** Authorized employees may make purchases in amounts less than \$250.00 without a purchase order according to the guidelines established by the department head and approved by the city manager (10/20/15, Agenda Item #17, City Council denied request to increase PO threshold from \$250.00 to \$500.00).
 - (ii) **Emergency purchases.** These may be made only to meet bona fide emergencies arising from unforeseeable causes. Emergency purchases should be made on the basis of competitive procurement whenever practicable. Appropriate documentation shall be maintained on the justification for any departure from the competitive process. After the emergency has abated, the employee making the purchase shall complete a purchase request and obtain ratification and approval of the purchase from the department head and purchasing agent.
Emergency purchases are authorized when:
 - a. There occurs a public calamity that requires the immediate appropriation of money to relieve the necessity of the city's residents or to preserve the property of the municipality.
 - b. Procurement is necessary to preserve or protect the public health or safety of the city's residents
 - c. Procurement is necessary because of unforeseen damage to public machinery, equipment, or other property.
 - (iii) **Sole source purchases.** Sole source purchases are made only when items are unique and possess specific characteristics that can only be filled by only one source. The authorization and justification for these

purchases shall be documented.

Examples of authorized procurement of items that are available from only one source, including:

- a. items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;
 - b. films, manuscripts, or books;
 - c. electricity, gas, water, and other utility services;
 - d. captive replacement parts or components for equipment;
 - e. books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and
 - f. management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits;
- (iv) **Cooperative purchases** with the State, a state agency, another governmental entity, or local governmental purchasing cooperative where there is sharing of responsibility or costs and where it is possible for the City to purchase from an established state contract.
- (v) **Professional services**
- a. **Definition.** A procurement for personal, professional, or planning services as defined in Section 2254.002 of the Government Code of the State of Texas. This includes the following services:
 - 1. accounting
 - 2. architecture
 - 3. land surveying
 - 4. medicine
 - 5. optometry
 - 6. professional engineering
 - 7. real estate appraising
 - b. **Authority for exemption.** Section 252.022(a)(4) exempts professional services from the bidding requirements.
 - c. **Selection.** The selection of a provider of professional services shall be made in accordance with the provisions of Section 2254.003 and .004 of the Government Code of the State of Texas
- (vi) **Land.** A purchase of land or a right-of-way.
- (vii) **Personal property.** Personal property that is sold:
- a. at an auction by a state licensed auctioneer;
 - b. at a going out of business sale held in the compliance with Subchapter F, Chapter 17, Business & Commerce Code;
 - c. by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or

D. Purchase orders.

- (1) **In general.** A purchase order is an order placed by the purchasing agent for the purchase of goods or services on the City's standard purchase order form. The purchase order becomes a contract when accepted by the bidder or person

making a proposal. The purchase order is the bidder's authority to deliver and invoice the City for goods and services specified and the City's commitment to accept the goods and services for an agreed upon price.

- (2) **Purchase order required.** No purchase shall be made in an amount over \$250.00 without an approved purchase order.
- (3) **Purchase request.** No purchase order shall be issued without the prior submission of a purchase request to the purchasing agent. The request must have an appropriate level of approval for the purchase.
- (4) **Approval required.** The purchasing agent shall process the purchase request and either order the item or instruct the purchaser to obtain the item following the appropriate guidelines.
- (5) **Authority to sign purchase orders.** The following persons have the authority to sign purchase orders:
 - (a) the Mayor
 - (b) the city manager
 - (c) the director of finance
 - (d) the city treasurer
 - (e) the purchasing agent
- (6) **Standing purchase orders**
 - (a) Standing purchase orders are to be used when a department intends to:
 - (i) Purchase repetitive, specified services of items, or category of items from the same supplier over a specified time (month, year, etc.).
 - (ii) Order standard materials or maintenance, repair, and operating supplies which require numerous shipments.
 - (iii) Obtain more favorable pricing or service through volume commitments.
 - (b) The purchasing agent shall review standing orders annually, solicit bids or quotes and obtain updated pricing when appropriate.

8.4. Purchasing Authority and Limits.

A. Purchasing agent.

- (1) **Authority.** The city manager may appoint a purchasing agent who shall have the responsibility to coordinate all purchasing and contracting activities of the City of Lamesa.
- (2) **Purchase requests.** The purchasing agent shall be responsible for approving all purchase requests submitted by employees with purchasing authority.

B. Department heads.

- (1) **Authority.** Each department head is responsible for approval of all purchases for the department. The department head may delegate the task to a subordinate or subordinates in the department.
- (2) **Purchase orders.** Employees shall be responsible for obtaining purchase requests to be submitted to the purchasing agent.

8.05. Cooperative Purchases.

The City, pursuant to the authority granted by Sections 271.081-271.083 Local Government Code as amended, is authorized to participate in the purchasing programs of the State Purchasing and General Services Commission and the Houston-Galveston Area Council of Governments. The city manager is authorized and directed to sign and deliver all necessary requests and other documents in connection therewith for and on behalf of the City of Lamesa.

8.06. Special conditions.

- A. Equipment Lease/Purchase Agreements.** Purchases made by lease are subject to the same competitive process as any other purchase at the same threshold.
- B. Hazardous Chemical Products.** All solicitations for the purchase of chemicals or compounds which may contain toxic or hazardous substances, i.e. cleaning supplies, and chemicals of all types, shall require the vendor to certify and warrant the items or products to be delivered shall be properly labeled as required by federal and state law and that by delivery of the items or products the vendor does not violate any of the prohibition of federal and state law. Whenever toxic or hazardous chemicals are purchased, the vendor shall provide Material Safety Data Sheets (MSDS) to the City.

8.7. Conflict of interest.

- A. In general.** No officer or employee of the City shall be pecuniary interest directly or indirectly in any contracts made in behalf of the City and any contract made in violation hereof is void. What constitutes a significant interest or a relationship that may give rise to an actual or apparent conflict of interest often must be judged on a case by case basis. If in doubt, the employee should consult the city manager or city attorney.
- B. Situations that must be avoided.** Certain situations must be avoided since even full disclosure would not satisfy legal requirements and approval of such actions could not be granted by the city. Examples of these situations include:
 - (1) Council members.** Purchase from businesses owned in whole or in part by members of the City Council.
 - (2) Personal gain.** Using for personal gain City supported work products, results, materials, property records, or non-public information without the right to do so.
 - (3) Contract negotiation.** Negotiating or giving final approval to contracts between the City and other organizations and individuals with which the employee has direct or indirect consulting or other significant relationships;
 - (4) Gratuities and special favors.** Employees may not accept gratuities or special favors from individuals and organizations which might reasonably be interpreted as having any possibility of influencing the recipients in the conduct of their duties. Acceptance of any gift of substance is strictly prohibited. Employees may accept minor advertising tokens such as caps, calendars and other small items with the company's logo if the item is of a nominal value and the acceptance of such cannot reasonably be interpreted as having any possibility of influencing the recipients in the conduct of their duties.
- C. Situations requiring disclosure.** The following situations may be undertaken only with full disclosure by the employee and approval from the city manager, in consultation with the City Attorney, if necessary. The existence of such situations should be on record and the reasons for approval documented in writing. Examples of situations requiring disclosure and approval in advance include:
 - (1) Outside Organization.** Undertaking, modifying, or orienting the employee's activities to serve the needs of an outside organization or individual;

- (2) **Purchases.** Recommending the purchase of equipment, instruments, materials, services, or other items from a private firm in which the individual has an interest, direct or indirect.

8.8. Shipments and Deliveries.

A. Deliveries.

- (1) **Purpose.** To outline responsibilities and procedures for the receipt and storage of materials and supplies, and processing of damage and other contractual claims arising from purchasing transactions.

- (2) **Responsibilities and procedures**

- (a) **Purchasing agent.** The purchasing agent is responsible for the receipt and distribution of all goods delivered unless arrangements have been made for direct delivery to a department point.

- (b) **Inspection of deliveries.** The person receiving deliveries will inspect shipments for obvious damage, irregularities, or other discrepancies. However, the requisitioning department is ultimately responsible for the acceptance of the merchandise. Individuals accepting direct shipments should follow these basic guidelines.

- (i) Do not sign the freight bill until after inspecting all incoming boxes or cartons.

- (ii) Verify the number of cartons listed on the freight bill with the actual number of cartons received.

- (iii) If a carton appears damaged:

- a. Insist the carton be opened and jointly inspected before the driver leaves.
 - b. Note any damage in writing on the freight bill and have the driver sign your copy.
 - c. Notify the purchasing agent immediately to arrange for damaged merchandise to be returned for proper replacement or credit.

- d. Retain all damaged cartons and packing materials.

- (iv) If upon further inspection, there appears to be a problem with the shipment (shortages, incorrect items, etc.) notify the purchasing agent immediately to arrange for return for proper replacement or credit.

- (c) **Invoices.** The person accepting a delivery is responsible for submitting any shipping invoice to the department head. The department head is responsible for submitting the shipping invoice to the director of finance.

B. Material return.

- (1) **Purpose.** To outline responsibilities and procedures for returning damaged or incorrect materials received.

- (2) **Responsibilities and procedures.**

- (a) It is the responsibility of the purchasing agent to arrange the filing of all claims for damaged materials, and to initiate requests for replacement shipments.
 - (b) The return of any supplies or materials to the vendor, whether resulting from damage, mis-shipment, or other reasons, should be arranged through the purchasing agent to assure applicable credits or refunds are received.
 - (c) Requisitioning departments should notify the purchasing agent immediately of any problems with the delivery. Provide the following information:
 - 1. Vendor name and purchase order number.
 - 2. Date received
 - 3. A list of the items damaged or affected by differences, irregularities, or non-conformity with specifications, and a detailed description thereof.
 - 4. Condition of the parcel(s) upon receipt.
 - 5. Location of the parcel(s).
 - (iv) After arrangements have been made with the purchasing agent to return the items to the vendor, the items may be delivered to the purchasing agent, or scheduled to be picked up as part of the shipper's normal delivery route. The purchase order reference number must be prominently displayed on all items being processed for return.
- (3) **Exceptions.** Goods may be returned for immediate exchange directly to the supplier. The exchange should be for the same item(s) at the same price(s).

City Council Agenda

City of Lamesa, Texas

DATE OF MEETING: NOVEMBER 13, 2018

AGENDA ITEM:8

**SUBJECT: OPEN REQUEST FOR QUALIFICATIONS FOR
REDISTRICTING SERVICES AND AWARD CONTRACT:**

PROCEEDING: Action

SUBMITTED BY: City Staff

SUMMARY STATEMENT

City Council to open Requests for Qualifications for Redistricting Services and award contract. *(City Manager)*

COUNCIL ACTION

DISCUSSION _____

Motion by Council Member _____ to consider to open Request for Qualification for Redistricting Services and award contract. Motion seconded by Council Member _____ and upon being put to a vote the motion _____.

VOTING: "AYE" _____ "NAY" _____ "ABSTAIN" _____

CITY MANAGER'S MEMORANDUM

Recommend approval.

The City of Lamesa

REQUEST FOR QUALIFICATIONS

PROFESSIONAL SERVICES (Redistricting)

NOTICE TO VENDORS

Request for Qualifications addressed to the City of Lamesa, 601 S. 1st Street, Lamesa, TX 79331 will be received until **2:00 P.M., November 9th, 2018.**

In accordance with the provisions of Texas Local Government Code 272 and Texas Government Code, Chapter 2254, The City of Lamesa is requesting responses to this solicitation to provide professional consulting services for perform all necessary data acquisition, analysis, presentation and planning for redistricting of City of Lamesa voting districts. This professional consulting service may include legal analysis regarding state and federal law pertaining to elections, voting rights, and knowledge of geographic information systems (GIS), to a sufficient degree to comply with state and federal law, and to produce efficient election administration of any political boundaries determined to serve the best interests of the residents of Lamesa, Texas, and to otherwise assist the City of Lamesa in completing the following necessary stages of work:

1. Data assembly, including identification of existing political boundaries, voting places, residence of incumbents.
2. Preparation of an initial analysis of existing political boundary demographics to determine constitutional and statutory compliance following the release of 2020 U.S. Census data.
3. Coordinate with the City Council or any appointed Citizens Committee in the formation of suitable plan or plans to achieve demographic balance between the city wards while complying with the federal Voting Rights Act of 1965.
4. Harmonize resulting city ward boundaries with Dawson County election precincts to the maximum extent practicable to avoid unnecessary duplication of scarce public resources regarding the administration of elections.
5. Prepare and assist in the presentation of one or more suitable plan or plans in public hearings that may be required by law or recommended as necessary for public information of new political boundaries and polling places.
6. Draft, provide and properly document all necessary correspondence, resolutions, decrees, orders or findings necessary to carry into effect any redistricting plan approved by the City Council of Lamesa, Texas, including the provision of both hard copy and digital files

necessary for proper implementation and administration of elections subsequent to the adoption of a redistricting plan for the City of Lamesa

The Respondent shall have the following minimum experience: (firms which fail to provide written detailed project experience as required shall be considered nonresponsive).

1. Twenty (20) years' experience with in delivering successful projects for a local government entity in the area of redistricting, or
2. A minimum of fifteen (15) redistricting projects successfully delivered to local government entities that exceed 10,000 persons in population that were subject to Section 5 preclearance requirements of the Voting Rights Act of 1965.
3. A statement identifying any GIS software to be used by the vendor, and a statement of whether or not the City of Lamesa will be given a full digital file of the resulting plan without restrictions, copyright, or other limitations on use by the City in a format that would be compatible with any GIS software currently in use by the City of Lamesa.
4. The Proposing Firm must be licensed or registered by the State of Texas in any professional field necessary to provide any services which are required to complete the identified service project, and the Firm must have all professional licensure required by the State to provide any services required to complete this project. Proof of this licensure or registration **must be included** as part of the submittal.
5. Budget: Please indicate your firm's projected budget and hourly fees associated with the development and implementation of a redistricting plan for our size community.
6. Incidental Costs: If the firm proposes that the City bear the costs of incidental expenses associated with these services, clearly state the type and estimated costs of such services.

RFQs will be received at the City Secretary's Office, City of Lamesa City Hall until **2:00 P.M., November 9th, 2018**. All RFQs will be evaluated on the basis of demonstrated knowledge, experience and ability. Negotiations may be held with the highest ranked offeror(s). The submitted response shall not be altered, withdrawn, or resubmitted within sixty (60) days from and after the date of the opening. Responses received later than the specified time (2:00 P.M.) and dates will be returned to the offeror unopened. All proposals must be delivered in a sealed package and plainly marked "RFQ to provide Redistricting Counsel."

Issuance of this RFQ does not commit the City of Lamesa to award a contract, to pay any costs incurred in preparation of a response to this Request, or to procure or contract for services. The City of Lamesa reserves the right to reject any and all submissions and re-issue an RFQ.

This advertisement to run: Sunday, October 21, 2018 & October 28, 2018,

Date: October 19, 2018

Shawna D Burkhardt
City Manager, Lamesa, Texas

City Council Agenda

City of Lamesa, Texas

DATE OF MEETING: NOVEMBER 13, 2018

AGENDA ITEM:9

**SUBJECT: OPEN BIDS FOR ADA RESTROOM RENOVATION AT CITY
HALL AND AWARD CONTRACT**

PROCEEDING: Action

SUBMITTED BY: City Staff

SUMMARY STATEMENT

City Council to open bids for ADA restroom renovation and award contract. *(City Manager)*

COUNCIL ACTION

DISCUSSION _____

Motion by Council Member _____ opened bids for ADA restroom renovation and awarded contract.
Motion seconded by Council Member _____ and upon being put to a vote the motion _____.

VOTING: "AYE" _____ "NAY" _____ "ABSTAIN" _____

CITY MANAGER'S MEMORANDUM

Recommend approval.

The City of Lamesa

REQUEST FOR PROPOSALS

ADA RESTROOM RENOVATIONS AT CITY HALL

NOTICE TO VENDORS


RFPs will be received at the City Secretary's Office, City of Lamesa City Hall until **2:00 P.M., November 9th, 2018**. Responses received later than the specified time (2:00 P.M.) and dates will be returned to the offeror unopened. All proposals must be delivered in a sealed package and plainly marked "RFP for ADA Restroom Renovation at City Hall."

Issuance of this RFP does not commit the City of Lamesa to award a contract, to pay any costs incurred in preparation of a response to this Request, or to procure or contract for services. The City of Lamesa reserves the right to reject any and all submissions and re-issue an RFP.

Blueprints for the City Hall ADA Restroom Renovations can be obtained by contacting Mr. Holly Holder at Parkhill Smith and Cooper, Lubbock, TX at (806) 473-3526.

This advertisement to run: **Sunday, October 21, 2018 & October 28, 2018,**

Date: October 19, 2018


City Manager, Lamesa, Texas

City Council Agenda

City of Lamesa, Texas

DATE OF MEETING: NOVEMBER 13, 2018

AGENDA ITEM:10

SUBJECT: CALL FOR REQUESTS FOR QUALIFICATIONS FOR LEGAL SERVICES FOR CITY CHARTER COMMISSION

PROCEEDING: Action

SUBMITTED BY: City Staff

SUMMARY STATEMENT

City Council to call for Requests for Qualification for professional Legal Services for the facilitation of the City of Lamesa's Citizen Charter Commission. (*City Manager*)

COUNCIL ACTION

DISCUSSION _____

Motion by Council Member _____ to call for Requests for Qualification for professional Legal Services for the facilitation of the City of Lamesa's Citizen Charter Commission. Motion seconded by Council Member _____ and upon being put to a vote the motion _____.

VOTING: "AYE" _____ "NAY" _____ "ABSTAIN" _____

CITY MANAGER'S MEMORANDUM

Recommend approval.

CITY OF LAMESA
REQUEST FOR PROPOSALS
ATTORNEY SERVICES FOR CITY CHARTER REVIEW

The City of Lamesa is soliciting sealed proposals from law firms to provide attorney services for a City Charter Review with citizen commission and City Council, consultation/research regarding proposed charter amendments, and development of amendments and preparation of ballot. In order to be considered, proposals must address the request for information included in the attached document. Information regarding rates and fees must be submitted on the sheet included in the RFP.

Any questions regarding this RFP should be addressed to Shawna D. Burkhart, City Manager, (806) 872-4321. In order to be considered, proposals must be received no later than **2 p.m. on Friday, December 14th, 2018** and must be sealed and addressed to:

Sandy Trevino, Purchasing Agent

City of Lamesa

601 S. 1st

Lamesa, TX 79331

The scope of services for which fees and rates are requested is divided into three component parts:

1. General Representation

- a. Attendance of all City Charter Commission meeting and designated City Council meetings regarding the proposed amendment(s) to the City Charter.
- b. Consultation with City staff via telephone during normal business hours.
- c. Research, preparation and review of relevant changes in the law that should be addressed, and recommendation for changes to the Charter
- d. Research, preparation and review issues of concern to the Charter Review Commission.

2. Development of Charter Amendments

- a. Assist City Secretary in preparation of proposed amendment(s) and in meeting all requirements necessary for a Charter election.
- b. Preparation of election ballot and advertisement of Charter election.

Statement of Qualifications

Please attach responses to the following request for information:

1. Name of firm and year organized (include address and telephone number).
2. Attach a list of Principals in the firm; include a biographical sketch of each. Include education, years of legal experience, years of municipal legal experience, and any areas of specialty within municipal law.
3. Provide the name of the principal in the firm who will have responsibility for City of Lamesa Charter Review.
4. Provide a list of current municipal clients and phone number that have requested similar services in the past.

Fees and Rates

Hourly Fee _____

Travel / Per diem _____

Project Timeline

Start date estimated as January 1 , 2019

Estimated ending date of _____.

Issuance of this RFP does not commit the City of Lamesa to award a contract, to pay any costs incurred in preparation of a response to this Request, or to procure or contract for services. The City of Lamesa reserves the right to reject any and all submissions and re-issue an RFP.

City Council Agenda

City of Lamesa, Texas

DATE OF MEETING: NOVEMBER 13, 2018

AGENDA ITEM:11

SUBJECT: CALL FOR BIDS FOR JANITORIAL SERVICES (CITY HALL & POLICE DEPARTMENT)
PROCEEDING: Action
SUBMITTED BY: City Staff

SUMMARY STATEMENT

City Council to call for bids for janitorial services for City Hall and the Police Department. (*City Manager*)

COUNCIL ACTION

DISCUSSION _____

Motion by Council Member _____ to call for bids for janitorial services for City Hall and the Police Department. Motion seconded by Council Member _____ and upon being put to a vote the motion _____.

VOTING: "AYE" _____ "NAY" _____ "ABSTAIN" _____

CITY MANAGER'S MEMORANDUM

Recommend approval.

CITY OF LAMESA
NOTICE TO BIDDERS

Sealed bids addressed to the mayor and City Council of the City of Lamesa, Texas will be received at the office of Sandy Trevino, Purchasing Agent, 601 South 1st Street, Lamesa, Texas 79331 until 2 p.m. December 14th, 2018 for providing Janitorial Services for City Hall (1st floor), Police Department (basement level). Bid forms are available at City Hall, 601 South 1st Street.

The owner reserves the right to reject any and all bids and to waive formalities. In case of ambiguity or lack of clearness instating the prices in the bid, the Owner reserves the right to consider the most advantageous construction thereof, or to reject the bid.

The bids will be opened at 5:30 p.m., Tuesday, December 18th, 2018 and read in open meeting. The City Council reserves the right to accept the bid most advantageous to the City.

ATTEST:

SIGNED:

Betty Conde, City Secretary

Josh Stevens, Mayor

Publish Dates: November 18th, 2018

November 25th, 2018

December 2nd, 2018

EXHIBIT A

CITY OF LAMESA JANITORIAL CONTRACT CITY HALL

JANITORIAL SERVICES WORK OUTLINE:

A. DAILY SERVICES:

1. The contractor shall empty and return to their appropriate location all wastebaskets, cigarette ash receptacles and other trash containers. The contractor shall collect all trash in a leak proof container and keep trash in another container for one day in the janitorial room. Then dispose that container of trash the next day.
2. Replace all soiled, torn, or wet trash receptacle liners with new liners. Plastic liners must be correctly sized for the receptacle. Clean and deodorize the interior and exterior of all soiled containers.
3. Clean, disinfect, and polish drinking fountain.
4. Sweep and mop all hard surface floors.
5. Vacuum all carpeted areas in the building. This will include but not limited to entry mats, hallways and offices. Vacuuming will include moving chairs and trashcans and returning them to their original location upon completion.
6. Spot clean all carpets and entry mats to remove daily stains, spills or foreign matter (grease, gum, ink, etc) use appropriate sport remover or equipment.
7. Restroom Cleaning:
 - a. Restrooms require cleaning every day.
 - b. Clean disinfect and deodorize toilet room floors.
 - c. Clean, disinfect and deodorize all plumbing fixtures, toilets, and urinal stall partitions.
 - d. Clean, disinfect and deodorize all dispensers, mirrors and counter.
 - e. Clean, disinfect and deodorize all restroom entry area walls and doors.
 - f. Maintain adequate supplies of toilet paper, toilet and urinal deodorizers and room deodorizers, paper towels and soap in restrooms.
8. Clean all interior office windows.

9. Break Room:

- a. Clean, disinfect, and deodorize sinks, counter tops and surrounding areas in the break room.
- b. Clean table surfaces. Use only non-abrasive cleaners.
- c. Clean coffee area and coffee pots.
- d. Clean the exterior surface of all the vending machines.

10. All collected waste shall be taken to the dumpster. Make sure all waste is in the dumpster not on the ground.

B. Weekly Service:

1. Sand in ashtrays at all entrances should be kept clean and changed on a regular basis.
2. Check the condition of vacuum bag. Clean or replace vacuum bag.
3. Dust all wall surfaces.

C. Monthly Service:

1. Clean baseboards with a neutral cleaner.
2. Clean all carpet protectors (chair desk mats) with a neutral detergent.
3. Dust and/or clean air vent grills (both ceiling and wall).
4. Clean janitorial storage room.
5. Clean all exterior office windows.
6. Clean all doors and door glass all entry door way.
7. Wax floors in restrooms, hallways and basement.

D. Report maintenance problems or any other problems to the Purchasing Agent, Sandy Trevino.

CONTRACTOR

DATE

**CITY OF LAMESA
JANITORIAL DUTIES
POLICE DEPARTMENT**

GENERAL REQUIREMENTS: The contractor must provide a list of personnel that will be working and they must be at least 18 years old. The contractor must provide list of personnel to Sandy Trevino, Purchasing Agent.

SUBCONTRACT: Contractor shall not have the right to subcontract or transfer the janitorial service to another contractor.

NON-PERFORMANCE: Substandard service or quality will be grounds for termination of the contract.

JANITORIAL SERVICES WORK OUTLINE: The entrance area to the elevator on the first floor, the lobby once you exit downstairs and all offices, training room, stairs, stairways and halls.

D. DAILY SERVICES:

1. The contractor shall empty and return to their appropriate location all wastebaskets, cigarette ash receptacles and other trash containers. The contractor shall collect all trash in a leak proof container and keep trash in another container for one day in the janitorial room. Then dispose that container of trash the next day.
2. Replace all soiled, torn, or wet trash receptacle liners with new liners. Plastic liners must be correctly sized for the receptacle. Clean and deodorize the interior and exterior of all soiled containers.
3. Clean, disinfect, and polish drinking fountain.
4. The hard surface floors shall be dust mopped every day. Mop and buff floors twice a week.
5. Vacuum all carpeted areas in the building. This will include but not limited to entry mats, hallways and offices. Vacuuming will include moving chairs and trashcans and returning them to their original location upon completion.
6. Spot clean all carpets and entry mats to remove daily stains, spills or foreign matter (grease, gum, ink, etc) use appropriate spot remover or equipment.
7. Restroom Cleaning:
 - a. Restrooms require cleaning every day.
 - b. Clean disinfect and deodorize toilet room floors.
 - c. Clean, disinfect and deodorize all plumbing fixtures, toilets, and urinal stall partitions.

- d. Clean, disinfect and deodorize all dispensers, mirrors and counter.
 - e. Clean, disinfect and deodorize all restroom entry area walls and doors.
 - f. Maintain adequate supplies of toilet paper, toilet and urinal deodorizers and room deodorizers, paper towels and soap in restrooms.
8. The shower room shall be considered restroom and cleaned as outlined above.
9. Clean all interior office windows.
- 10. Break Room:**
- a. Clean, disinfect, and deodorize sinks, counter tops and surrounding areas in the break room.
 - b. Clean table surfaces. Use only non-abrasive cleaners.
 - c. Clean coffee area and coffee pots.
11. Clean and disinfect elevator floor, doors, walls, ceiling panels and selector panel.
12. Vacuum all stair and stairwells.
13. All collected waste shall be taken to the dumpster. Make sure all waste is in the dumpster not on the ground.
14. Empty the trash containers outside the building.

E. Weekly Service:

- 1. Sand in ashtrays at all entrances should be kept clean and changed on a regular basis.
- 2. Check the condition of vacuum bag. Clean or replace vacuum bag.
- 3. Dust all walls surfaces.
- 4. Remove all traffic marks from hard surface floor.

F. Monthly Service:

- 1. Clean baseboards with a neutral cleaner.
- 2. Clean all carpet protectors (chair desk mats) with a neutral detergent.
- 3. Dust and/or clean air vent grills (both ceiling and wall).
- 4. Clean janitorial storage room.
- 5. Clean all interior office windows.
- 6. Clean all doors and door glass all entry door way.
- 7. Wax floors in restrooms, hallways and basement.

G. Twice Year Service:

- 1. Strip and wax all hard surface floors.

H. Report maintenance problems or any other problems to the Purchasing Agent, Sandy Trevino.

CONTRACTOR

DATE

BID

CITY HALL UPPER FLOOR

Cost Per Month _____
Name of Company or Person Submitting Bid _____
Address _____ Telephone _____
License Number _____
Name/License Number of Helpers _____
(MUST BE 18 YEAR OLD OR OLDER) _____

POLICE DEPARTMENT LOWER FLOOR

Cost Per Month _____
Name of Company or Person Submitting Bid _____
Address _____ Telephone _____
License Number _____
Name/License Number of Helpers _____
(MUST BE 18 YEAR OLD OR OLDER) _____

UPPER FLOOR/LOWER FLOOR

Cost Per Month _____
Name of Company or Person Submitting Bid _____
Address _____ Telephone _____
License Number _____
Name/License Number of Helpers _____
(MUST BE 18 YEAR OLD OR OLDER) _____

City Council Agenda

City of Lamesa, Texas

DATE OF MEETING: NOVEMBER 13, 2018

AGENDA ITEM:12

SUBJECT: CALL FOR BIDS FOR CITY DEPOSITORY
PROCEEDING: Action
SUBMITTED BY: City Staff

SUMMARY STATEMENT

City Council to call for bids for City Depository. (*City Manager*)

COUNCIL ACTION

DISCUSSION _____

Motion by Council Member _____ to call for bids for City Depository. Motion seconded by Council Member _____ and upon being put to a vote the motion _____.

VOTING: "AYE" _____ "NAY" _____ "ABSTAIN" _____

CITY MANAGER'S MEMORANDUM

Recommend approval.

NOTICE TO BIDDERS FOR CITY DEPOSITORY

NOTICE TO ALL BANKING CORPORATIONS, ASSOCIATES OR INDIVIDUAL BANKERS DOING BUSINESS IN THE CITY OF LAMESA:

The City Treasurer of the City of Lamesa, Texas, subject to the provisions of Chapter 105, Local Government Code, as amended, will receive applications from all interested banking institutions within the City of Lamesa to serve as prime depository of the City of Lamesa for a period of three years from January 1, 2019 through December 2021. Any such applications shall be delivered to the office of Betty Conde, City Treasurer/City Secretary, at City Hall, 601 South First Street, Lamesa, Texas, 79331, **prior to 2 p.m., December 14, 2018.** The City Council shall consider the selection of the depository at the next regular scheduled meeting of the City Council on December 18, 2018 at 5:30 p.m. at City Hall Council Chambers.

The Bank selected as City Depository shall keep such records and make such reports to the City Council, and do and perform such other duties as may be required by Chapter 105, Local Government Code, as amended, Chapter 2257 Government Code, as amended, and as may be required by the City Council and the Investment Policy of the City of Lamesa.

All deposits shall be protected as provided by Chapter 2257 Government Code, as amended, and the Investment Policy of the City of Lamesa.

The City of Lamesa reserves the right to open new accounts or close any accounts in order to properly control and operate the funds of the City.

The City Council of the City of Lamesa reserves the right to accept or reject any or all bids, to waive formalities, and to accept the bid the City considers most advantageous.

CITY DEPOSITORY

Checklist

- 1. Advertise for bids – date of publication: November 18, 2018**
 - a. Reference: LGC 105.012
 - i. Must advertise at least 21 days prior to deadline for receiving applications.
- 2. Send bids to local banking institutions: November 21, 2018**
 - a. Lamesa National Bank
 - b. First National Bank
 - c. First National Bank of O'donnell
 - d. Caprock Federal Credit Union
- 3. Deadline for receiving bids: 2 p.m., December 14, 2018**
 - a. Reference: LGC 105.012
 - i. Must be at least 21 days after advertisement.
- 4. Period for reviewing bids: 5:30 p.m., December 18, 2018**
 - a. Reference: LGC 105.014
- 5. Date of City Council Action: 5:30 p.m., December 18, 2018**
 - a. Reference: LGC 105.015 Selection by City Council
 - b. Reference: LGC 105.016 Designation of Depository by City Council (Resolution)
- 6. Execution of contract: January 1, 2019**
 - a. Reference: LGC 105.015 By City Treasurer

7. Date for qualification as depository: December 26, 2018

- a. Reference: LGC 105.031
 - i. Must qualify at least 5 days before commencement of contract.
- b. Reference: GC 2257
 - i. Provides terms for providing collateral for public funds.

8. Beginning date of contract: January 1, 2019

9. Ending date of contract: December 31, 2021

- a. Reference: LGC 105.017
 - i. State law allows up to 5 years, but City Charter limits contract term to a maximum of ____ years.

Interest Rates on Deposits

Demand Deposit Accounts

Open Savings Account

Fixed Maturities and/or C.D.'s under \$100,000:

Thirty (30) Days

Ninety (90) Days

One Hundred Eighty (180) Days

One (1) Year

Compounded How Often?

When Is Interest Paid?

Fixed Maturities and/or C.D.'s \$100,000 and over

Thirty (30) Days

Sixty (60) Days

Ninety (90) Days

One Hundred Eighty (180) Days

One (1) Year

Charges, if any, for handling checks and deposits

Charges, if any, for handling temporary overdrafts

Rate of interest to be charged on loans, and maximum loan limit

Rate of interest to be charged on Warrants

In addition to the normal services and supplies furnished by the depository banking institution, most of the following services are standard and common to depository contracts. The City of Lamesa requests that these services be furnished, at no charge, as a part of this proposal. Please delete those services which you cannot offer. Add any additional services or concessions which you may want to offer to the City of Lamesa and make any comments as further consideration in selecting the City's depository:

Furnish checks and deposit slips for all accounts

Foreign and domestic exchange

Paying agent for bonds

Bond and coupon service

Wire transfer service

Safe deposit boxes

Coin wrappers

Night depository service, including bags and keys

Traveler's and cashier's checks

Daily balance on each account

Detailed monthly statement of outstanding certificates of deposit as of last business day

Detailed monthly statement of other outstanding investments as of last business day

Delivery of monthly bank statements

Purchase of treasury bills on the open market as directed by City

Furnish stop payments on checks

Any additional comments and/or services you may have to offer:

PLEASE SUBMIT YOUR BID ON THIS FORM.

NAME OF INSTITUTION

BY

TITLE

DATE

THE STATE OF TEXAS }
COUNTY OF DAWSON }

CERTIFICATE OF ACKNOWLEDGEMENT

Pursuant to the requirement of Section 2256.005(k) of the Government Code of the State of Texas, I hereby acknowledge that:

1. I have received and thoroughly reviewed the Investment Policy of the City of Lamesa, Texas; and
2. that the institution which I represent has implemented reasonable procedures and controls in an effort to preclude imprudent investment activities arising out of investment transactions conducted between the City of Lamesa, Texas and this institution.

Signature

Registered Principal of

SUBSCRIBED AND SWORN TO BEFORE ME by the said
_____ on the _____ day of _____, 2018.

Notary Public in and for the State of Texas

INVESTMENT POLICY

SECTION 6.00. Investments

- 6.1. In General.
- 6.2. Investment Authorities
- 6.3. Investment Policy
- 6.4. Investment Plan

References

City Charter -. Depository, Art. IV, Sec. 22. The city council is authorized to select a depository for city funds in accordance with Chapter 3 of Title 47 of the Revised Statutes of 1925, as amended (Local Government Code, Chapter 105) and to follow all the terms and provisions of same.

State Law - Public Funds Investment Act, Government Code, Chapter 2256; Depositories for Municipal Funds, Local Government Code, Chapter 105.

Library Reference – Municipal Law & Practice (Singer), Sec. 308, The City Depository.

6.1. In General.

- A. **Purpose.** This policy is intended to cover all aspects of public fund investments under the authority of the City of Lamesa. It is enacted to guide the implementation and compliance with the Public Funds Investment Act, Government Code, Chapter 2256, as amended.
- B. **Objective.** It is the policy of the City of Lamesa to invest public funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow demands on the city and conforming to all state statutes governing the investment of public funds.
- C. **Basis and Authority for Investment Policy.** This policy is enacted to implement the stated purpose of Public Funds Investment Act, Government Code, Chapter 2256, as amended.
- D. **Applicability of Investment Policy.** The provisions of this chapter shall apply to all financial assets of the City of Lamesa, Texas except for its deferred compensation plan which is separately administered by the ICMA Retirement Corporation. The investments of all of the city's funds shall be placed in a pooled fund group in order to maximize the investment potential of the city's investments. Funds included in the pooled fund group are:

(1) Governmental Funds

(a) General Fund (01)

General Fund Capital Reserve Account

General Fund Investments

2014A Debt Service/Tax Notes

(b) Special Revenue Funds

(1) Hotel-Motel Occupancy Tax Fund (12)

(2) Housing Assistance Program Fund (08)

(3) Community Development Grant Fund (15)

- (4) Special Revenue Fund (17)
- (2) **Proprietary Funds**
- (a) **Enterprise Funds**
- (1) **Water and Wastewater Enterprise Fund (02)**
 Water & Wastewater Capital Reserve Account
- Water Tower Reserve
 - 2013 Debt Service/Tax Notes
 - 2014A Debt Service/Tax Notes
- Water & Wastewater Debt Service Account USDA
 Treatment Plant Debt Service Reserve C/O Series 2006
 Capital Improvement Project-Water Elevated Tanks
 Customer's Deposits Account
- (2) **Solid Waste Management Enterprise Fund (03)**
 Solid Waste Post Closure Reserve Account
 Solid Waste Equipment Reserve Account
- (3) **Municipal Golf Course**
- (b) **Internal Service Fund**
- (1) **Risk Management Fund (21)**
 Risk Management & Safety Account
 Self-Funded Employee Medical Benefits Account
- (3) **Trust and Agency Funds**
- (a) **Expendable Trust Funds**
- (1) **Forfeited Property Expendable Trust Fund (24)**
 General Account
 Special Account
- (b) **Agency Funds**
- (1) **State Agency Fund (05)**

E. Standard of Care.

- (1) **Prudence.** The standard of prudence to be used by the investment officers so named in this policy shall be the "prudent person" standard and shall be applied in the context of managing an overall portfolio. Said officers acting in accordance with written procedures and the investment policy and exercising due care 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 fashion and appropriate action is taken to control adverse developments.
- (2) **Investment Objectives.** Investment of funds shall be governed by the following investment objectives, in order of priority:

- (a) Preservation and safety of principal.
- (b) Liquidity
- (c) Yield

(3) **Determination of Standard.** In determining whether an investment officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:

- (a) the investment of all funds, or funds under the city's control, over which the officer had responsibility rather than a consideration as to the prudence of a single investment; and
- (b) whether the investment decision was consistent with the provisions of this policy.

F. Annual Policy Review and Approval by City Council. The city council of the City of Lamesa shall review and approve this investment policy and investment strategies not less than annually. Said review may be included within the financial policy statement or annual budget as approved by the city council.

G. Definitions.

Amortization. To liquidate (a debt) by installment payments.

Accretion. Growth or increase in size by gradual external addition.

Book Value. The face or par value of an investment plus accrued interest or minus amortization or plus the accretion.

Certificate of Deposit (CD). A time deposit with a specific maturity evidenced by a certificate.

Collateral. Securities, evidence of deposit or other property which a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public moneys.

Demand Deposit. A deposit of funds that may be withdrawn on the demand of the depositor, (city checking account).

Funds. Public funds in the custody of the city that:

- (a) are not required by law to be deposited in the state treasury; and
- (b) the city has authority to invest.

Liquidity. A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow and reasonable size can be done at those quotes..

Market Value. The price at which a security is trading and could presumably be purchased or sold.

Maturity. The date upon which the principal or stated value of an investment becomes due and payable.

Pooled Fund Group. An internally created fund of the city in which one or more institutional accounts of the city are invested.

Prudent Person Rule. An investment standard that requires investments to 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.

Public Funds Investment Act. Shall refer to the Texas Public Funds Investment Act codified as Chapter 2256 of the Government Code of Texas.

Rate of return. The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond the current income return.

Safety. Refers to the ability if the issuer to redeem the instrument at maturity. U.S. Government guaranteed obligations are considered risk free and all other instruments are evaluated against this standard.

Time Deposit. A deposit of funds subject to a contract between the depositor and the depository under which the depositor may not withdraw any of the funds by check or by another manner until the expiration of a certain period following written notice of the depositor's intent to withdraw the funds.

Treasury Bills. A non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months, or one year.

Treasury Bond. Long-term U.S. Treasury securities having initial maturities of more than ten years.

Treasury Notes. A non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months, or one year.

Yield. The rate of annual income return on an investment, expressed as a percentage.

- (a) Income yield is obtained by dividing the current dollar income by the current market price for the security.

- (b) Net yield or yield to maturity is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.

Treasury Bill. A U.S. government short-term security sold to the public each week, maturing in 91 to 182 days.

6.2. Investment Authorities.

- A. Delegation of Authority.** Authority to manage the City of Lamesa's investment program is derived from the authority granted by the city council in this policy and the Public Funds Investment Act. The investment officials of the city shall be the investment officer, director of finance and the city treasurer. Management responsibility for the investment program is hereby delegated to the investment officer who shall institute written procedures for the operation of the investment program consistent with this investment policy. The director of finance and the city treasurer are designated as subordinate investment officials. The investment officer shall establish a system of controls to regulate the activities of subordinate investment officials.
- B. Limitation of Authority.** A person may not deposit, withdraw, invest, transfer, or manage in any other manner funds of the city without the express written authority of the city council, city manager, or director of finance of the city. No person may engage in investment transactions except as provided under the terms of this policy and the procedures established by the investment officer
- C. Investment Officer.** The City Manager of the City of Lamesa, and his or her successor, shall be and is hereby designated as the investment officer of the City of Lamesa for the purposes of this policy and the Public Funds Investment Act and shall be responsible for the performance of such obligations and duties as provided in this policy and state law.
- D. Director of Finance/Assistant Finance Director.** The Director of Finance/Assistant Finance Director of the City of Lamesa, and his or her successor, shall be and is hereby designated as the chief financial officer of the City of Lamesa for the purposes of this policy and the Public Funds Investment Act and shall be responsible for the performance of such obligations and duties as provided in this policy and state law.
- E. City Treasurer.** The City Treasurer of the City of Lamesa, and his or her successor, shall serve as deputy investment officer with the authority to act in the absence of the investment officer, and shall be responsible for the performance of such obligations and duties as provided in this policy and state law.
- F. Ethics and Conflict of Interest.**
 - (1) In General.** Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions.
 - (2) Disclosure of Material Financial Interests.** Investment officials, as designated under the provisions of this policy, shall disclose, by filing a statement, to the city council any personal business relationship or material financial interests in financial institutions that conduct business within the city or with an entity seeking to sell an investment to the city, and they shall further disclose any large personal financial/investment positions that could be related to the performance of the city, particularly with regard to the time of purchases and sales.

(3) Disclosure of Relationship. Any investment official, as designated under the provisions of this policy, who is related within the second degree of consanguinity, as determined under Chapter 573 of the Government Code of Texas, to an individual seeking to sell an investment to the city shall file a statement disclosing that relationship.

(4) Statement to be Filed. A statement required under this section must be filed with the Texas Ethics Commission and the City Council of the City of Lamesa, Texas.

G. Limitation of Investment Officer's Liability. The investment officials of the city, including the investment officer, director of finance/assistant finance director and the city treasurer, shall not be held responsible for any loss of city funds through the negligence, failure, or wrongful act of a financial institution providing investment services to the city. This section does not release said officers from responsibility for a loss resulting from the official misconduct of said officers, including a misappropriation of the funds, or from responsibility for the funds until an investment is made.

H. Training. The investment officials of the city, including the investment officer, director of finance, assistant finance director and the city treasurer, shall attend such training as may be required by the Public Funds Investment Act. Said officials shall also attend such training in investment controls, security risks, strategy risks and market risks as necessary for the prudent management of the city's investments.

6.3. Investment Policy.

A. Objective. The primary objectives, in priority order, of the City of Lamesa's investment activities shall be:

- (1) Preservation and Safety of Principal.** Safety of principal is the foremost objective of the investment program. Investments of the City of Lamesa shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio.
- (2) Liquidity.** The city's investment portfolio will remain sufficiently liquid to enable the city to meet all operating requirements which might be reasonably anticipated.
- (3) Yield or Return on Investments.** The city's investment portfolio shall be designed with the objective of attaining a rate of return throughout the budgetary and economic cycles, commensurate with the city's investment risk constraints and the cash flow characteristics of the portfolio.

B. Pooled Fund Group. A pooled fund group shall be created from the, governmental, proprietary, and trust and agency funds of the city. All funds of the city covered by this policy shall be invested in the pooled fund group.

C. Authorized and Suitable Investment Securities.

- (1) Authorized Securities and Investments.** The following are authorized investments under this policy:

- (a) **Certificate of Deposit.** A certificate of deposit is an authorized deposit under this policy if it is guaranteed or insured by the Federal Deposit Insurance Corporation or its successor; and secured by obligations that are secured in any other manner and amount provided by law for deposits of the city.
 - (b) **Time Deposits.** City funds not immediately required to pay obligations of the city may be invested in time deposits or interest bearing demand accounts with the city's depository, as provided in the depository contract, at a legal interest rate under federal law.
 - (c) **Public Funds Investment Pool.** Eligible public funds investment pools as defined by the Public Funds Investment Act, Chapter 2256 of the Texas Government Code, which meet criteria outlined in Sections 2256.016 and 2256.019 of the Texas Government Code upon approval by the City Council.
 - (d) **Obligations of the United States of America, its agencies, and instrumentalities** (i.e. Treasury Bills).
- (2) **Unauthorized Securities.** Any security designated, as an unauthorized investment under the provisions of the Public Funds Investment Act is not authorized under this policy:
- (3) **Maximum Allowable Maturity.** To the extent possible, the city will attempt to match its investment with anticipated cash flow requirements. Unless matched to a specific cash flow, the city will not directly invest in certificates of deposit or securities maturing more than one year from the date of purchase. Reserve funds may be invested in certificates of deposit or securities exceeding one year if the maturity of such investments are made to coincide as nearly as practicable with the expected use of the funds. The maximum weighted average maturity of six (6) months.
- (4) **Collateralization.** Collateralization will be required on all certificates of deposit. Collateral will always be held by an independent third party with whom the city has a custodial agreement. A clearly marked evidence of ownership shall be supplied to the city and retained. The right to collateral substitution is granted.

D. Selection and Purchase of Investment Securities.

- (1) **Authorized Financial Dealers and Institutions.** The City shall invest funds only with the following types of qualified financial institutions:
- (a) **City Depository.** The city may invest funds with a financial institution qualified as a depository for the City of Lamesa. All financial institutions that desire to provide investment services to the city shall qualify as a depository under the provisions of Chapter 105 of the Local Government Code of Texas.
 - (b) **Public Funds Investment Pools.** The City may invest in eligible public funds investment pools as defined by the Public Funds Investment Act, Chapter 2256 of the Texas Government Code, which meet criteria outlined in Section 2256.016 and 2256.019 of the Texas Government Code. The City Council shall authorize participation in a public funds investment pool by resolution. An investment pool must furnish to the City's investment officer or other authorized

representative, an offering circular or similar disclosure instrument that contains information required by Government Code 2256.016 (b).

(c) Other Financial Institutions. The city may invest funds with any financial institution that is guaranteed or insured by the Federal Deposit Insurance Corporation or its successor, (i.e. Certificate of Deposits).

- (2) Selection and Compliance of Brokers/Dealers - Certification Process.** The selection process for institutions authorized to provide investment services to the city shall comply with the provisions of Chapter 105 of the Local Government Code of Texas and Chapter 2256 of the Government Code of Texas.
- (3) Diversification Requirements.** The purpose of diversification of the city's investments shall be to reduce overall portfolio risks while attaining market average rates of return. The investments of the city may be invested in a single financial institution, provided that the investment portfolio is not concentrated in a single security type or specific maturity sector.

E. Internal Control, Evaluation and Reporting.

- (1) Internal Control/Compliance Audit.** The city, in conjunction with its annual financial audit, shall perform a compliance audit of management controls on investments and adherence to the city's investment policy.
- (2) Quarterly Reporting Requirements.** The investment officer is charged with the responsibility of preparing and presenting quarterly reports to the city council. The report shall include all funds covered by this policy for the preceding reporting period and shall:
 - (a)** describe in detail the investment position of the city on the date of the report;
 - (b)** be prepared jointly by all investment officers of the city;
 - (c)** be signed by each investment officer of the city;
 - (d)** contain a summary statement of the pooled fund group that states the:
 - (i)** beginning market value for the reporting period;
 - (ii)** additions and changes to the market value;
 - (iii)** ending market value for the period;
 - (e)** state the book value and the market value of each separately invested asset at the beginning and end of the reporting period by the type of asset and fund type invested;
 - (f)** state the maturity date of each separately invested asset that has a maturity date;

- (g) state the account or pooled fund group for which the investment was acquired;
- (h) state the compliance of the investment portfolio as it relates to;
 - (i) the investment strategy expressed in the city's investment policy; and
 - (ii) to relevant provisions of the Public Funds Investment Act.

6.4. Annual Investment Plan

- A. Applicability of Investment Plan.** This investment plan shall be effective from the date of adoption through Fiscal Year 2018-2019 ending on September 30, 2019. The investment policy shall apply in all matters pertaining to said plan. This investment plan is intended to satisfy the "separate written investment strategy" requirements of Section 2256.005 (d) of the Public Funds Investment Act.
- B. Selection of Authorized Financial Institutions.**
 - (1) Authorized Financial Institutions.** The city may invest funds with any financial institution that is guaranteed or insured by the Federal Deposit Insurance Corporation or its successor, (i.e. Certificates of Deposits). A financial institution providing investment services to the city must qualify as a depository under the provisions of Chapter 105 of the Local Government Code of Texas.
 - (2) Investment Duties of Depository.** The depository chosen by the City of Lamesa for the five year period beginning on January 1, 2019 and ending on December 31, 2021 shall be the designated financial institution authorized to provide investment services to the city during the period covered by this plan.
- C. Suitability of Investments.** This plan is intended to be non-speculative with the objective of preserving the safety of principal with sufficiently liquid, and attaining a satisfactory rate of return. Only investments allowed by the investment policy shall be deemed suitable during the term of this plan.
- D. Safety of Principal.** Safety of principal is the foremost objective of this plan. Investments of the City of Lamesa shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. Collateralization will be required on all certificates of deposit. Collateral will always be held by an independent third party with whom the city has a custodial agreement. A clearly marked evidence of ownership shall be supplied to the city and retained. The right to collateral substitution is granted
- E. Liquidity.** The city's investment portfolio will remain sufficiently liquid to enable the city to meet all operating requirements which might be reasonably anticipated. Time deposits will be utilized to satisfy this requirement.
- F. Investment Marketability Requirements.** No marketable investment will be held by the city. Only time deposits and certificates of deposit issued by the depository will be utilized.

- G. **Diversification.** The city's portfolio will be held by a single institution, the city's depository. The funds of the city may be invested in time deposits or certificates of deposit according to the anticipated need for such funds.
- H. **Yield Objectives.** The city's investment portfolio shall be designed with the objective of attaining a rate of return throughout the budgetary and economic cycles, commensurate with the city's investment risk constraints and the cash flow characteristics of the portfolio.
- I. **Maturity Requirements and Restrictions.** The time deposits of the city will structured in a manner to be available as needed to meet all operating requirements which might be reasonably anticipated

STATUTES

LOCAL GOVERNMENT CODE

TITLE 4. FINANCES

SUBTITLE A. MUNICIPAL FINANCES

CHAPTER 105. DEPOSITORIES FOR MUNICIPAL FUNDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 105.001. DEFINITIONS. In this chapter:

(1) "Bank" means a state bank or a national bank that has its main office or a branch office in this state.

(2) "Credit union" means a state credit union or federal credit union domiciled in this state.

(3) "Demand deposit" means a deposit of funds that may be withdrawn on the demand of the depositor.

(4) "Depository" means the bank, credit union, or savings association selected by the municipality to provide depository services.

(5) "Time deposit" means a deposit of funds subject to a contract between the depositor and the depository under which the depositor may not withdraw any of the funds by check or by another manner until the expiration of a certain period following written notice of the depositor's intent to withdraw the funds.

(6) "Depository services" means the receipt and disbursement of funds by a depository in accordance with the terms of a depository services contract.

(7) "Depository services contract" means a contract executed by a municipality and a depository containing terms and conditions relating to the depository services to be provided by the depository.

(8) "Designated officer" means the treasurer of a municipality or other officer of the municipality so designated by the governing body of a municipality.

(9) "Federal credit union" means a credit union organized under the Federal Credit Union Act (12 U.S.C. Section 1751 et seq.).

(10) "Federal savings association" means a savings and loan association or a savings bank organized under federal law.

(11) "National bank" means a banking corporation organized under the provisions of 12 U.S.C. Section 21.

(12) "Savings association" means a savings association or savings bank organized under the laws of this state, another state, or federal law that has its main office or a branch office in this state.

Text of subsec. (13) as amended by Acts 1999, 76th Leg., ch. 62,
Sec. 7.79

(13) "State bank" has the meaning assigned by Section 31.002(a), Finance Code.

Text of subsec. (13) as amended by Acts 1999, 76th Leg., ch. 344,
Sec. 5.008

(13) "State bank" means a bank organized under the laws of this state or another state.

(14) "State credit union" means a credit union organized under Subtitle D, Title 3, Finance Code.

(15) "State savings association" means any savings and loan association or savings bank organized under the laws of this state.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 914, Sec. 9, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 62, Sec. 7.79, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 344, Sec. 5.008, eff. Sept. 1, 1999.

Sec. 105.002. FUNDS AFFECTED. This chapter applies to the funds, including school funds, of any municipality or any department or agency of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. ESTABLISHMENT OF DEPOSITORY

Sec. 105.011. DEPOSITORY AUTHORIZED. (a) Before awarding a depository services contract to a depository, the governing body of a municipality shall receive applications for the performance of depository services from one or more banks, credit unions, or savings associations.

(b) The governing body may consider the application of a bank, credit union, or savings association that is not doing business within the municipality if:

(1) the bank, credit union, or savings association maintains a place of business within the state and offers within the state the services required by the depository services contract; and

(2) the governing body, prior to giving the notice required by Section 105.012, has adopted a written policy expressly permitting the consideration of applications received by the municipality from a bank, credit union, or savings association that is not doing business within the municipality, after taking into consideration what is in the best interest of the municipality in establishing a depository.

(c) The designated officer shall request, receive, and review applications for the performance of depository services. The designated officer shall present the specifications of each application to the governing body who will then select a depository.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 14(a), eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.012. NOTICE. (a) The designated officer shall give notice to banks, credit unions, and savings associations requesting the submission of applications for the performance of depository services.

(b) The notice must contain:

- (1) the name and address of the designated officer receiving the applications;
- (2) the date and time the applications are to be received by the designated officer; and
- (3) the date, time, and place the governing body of the municipality will consider the selection of one or more depositories.

(c) Notice of the request shall be published at least once no later than 21 days prior to the deadline for receipt of applications for depository services contracts (i) in a newspaper of general circulation in the municipality and (ii) in a financial publication of general circulation published within this state; provided, that the notice required by clause (ii) shall not be required if the governing body has not adopted the written policy described in Section 105.011.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.013. APPLICATION. The designated officer may not consider an application if it is received after the date specified in the notice for receiving applications by the designated officer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.014. REVIEW OF APPLICATIONS. In reviewing the applications, the designated officer shall consider the terms and conditions for the performance of depository services, including the type and cost of services to be provided to the municipality, consistent with any policy guidelines adopted by the governing body regarding the selection of one or more depositories.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.015. SELECTION OF DEPOSITORY. (a) The governing body of a municipality may authorize the designated officer to

execute on the municipality's behalf one or more depository services contracts.

(b) The governing body may reject any of the applications and readvertise if all applications are rejected.

(c) The conflict of interests provisions of Section 131.903 apply to the selection of the depositories.

Added by Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 105.014 and amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1993, 73rd Leg., ch. 268, Sec. 25, eff. Sept. 1, 1993.

Sec. 105.016. DESIGNATION OF DEPOSITORY. (a) The governing body shall designate, by an order recorded in its minutes, the bank, credit union, or savings association to serve as a depository for the municipality's funds.

(b) If a bank, credit union, or savings association selected as a municipal depository does not provide security by the deadline prescribed by Section 105.031, the selection of the bank, credit union, or savings association as a depository is void, and the governing body may consider the application it deems to be the next most advantageous depository services application.

Added by Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 105.015 and amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.017. TERM OF DEPOSITORY CONTRACT. A municipality may approve, execute, and deliver any depository services contract whose term does not exceed five years. The depository services contract may only contain terms and conditions approved by the governing body of the municipality.

Added by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.018. ADDITIONAL SERVICES. In addition to depository services, a municipality may contract with financial institutions, including banks, credit unions, and savings associations, for

additional financial services under a separate contract if the governing body of the municipality determines that additional financial services are necessary in the administration, collection, investment, and transfer of municipal funds.

Added by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER C. SECURITY FOR FUNDS HELD BY DEPOSITORY

Sec. 105.031. QUALIFICATION AS DEPOSITORY. (a) The bank or savings association, to qualify as a municipal depository, must, not later than five days before the commencement of the term of the depository services contract, provide security for the municipal funds to be deposited in accordance with the terms of the depository services contract.

(b) Chapter 2257, Government Code governs the type, level, substitution, possession, release, and method of valuation of the security necessary to secure the deposit of municipal funds.

(c) Repealed by Acts 2001, 77th Leg., ch. 402, Sec. 20(a), eff. Sept. 1, 2001.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(12), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 402, Sec. 20(a), eff. Sept. 1, 2001.

Sec. 105.033. SURETY BOND. (a) One or more bonds issued and executed by one or more solvent surety companies authorized to do business in this state, payable to the municipality and filed with the secretary and the designated officer of the municipality, qualify as security under this subchapter if the bonds are approved by the governing body.

(b) After the governing body approves a surety bond, it shall be filed with the secretary and the designated officer of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.034. CONDITIONS TO ACTING AS DEPOSITORY. (a) The depository shall:

(1) keep the municipal funds covered by the depository services contract;

(2) perform all duties and obligations imposed on the depository by law and under the depository services contract;

(3) pay on presentation all checks drawn and properly payable on a demand deposit account with the depository;

(4) pay all transfers properly payable as directed by a designated officer;

(5) provide and maintain security at the level required by the provisions of Chapter 2257, Government Code; and

(6) account for the municipal funds as required by law.

(b) Any suit brought in connection with a depository services contract must be tried in the county in which the city hall of the municipality is located.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(12), eff. Sept. 1, 1995.

SUBCHAPTER D. MAINTENANCE AND MODIFICATION OF SECURITY

Sec. 105.051. MAINTENANCE OF SECURITY. (a) A depository services contract shall contain terms and conditions relating to the possession, substitution, or release of security, including:

(1) requiring the depository to execute a new bond or pledge additional securities for the deposit of municipal funds;

(2) substituting one security for another;

(3) releasing securities pledged by a depository in excess of the amount required by this chapter;

(4) the time period in which such addition, substitution, or release of security by a depository may occur; and

(5) other matters relating to the possession, substitution, or release of security the municipality considers necessary for its protection.

(b) If a depository fails for any reason to comply with the requirements governing the possession, substitution, or release of security, the governing body may select a new depository in the manner provided in this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.053. SOLVENCY OF SURETY COMPANY AND ADEQUACY OF SECURITIES. At any time the governing body of the municipality considers it necessary for the protection of the municipality, the governing body may direct the designated officer to investigate the solvency of a surety company that issues a bond on behalf of a municipal depository or investigate the value of securities pledged by a depository to secure municipal funds.

Added by Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 105.056 and amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.054. SURRENDER OF INTEREST ON SECURITIES. Except as provided for in the collateral policies of the municipality adopted in accordance with Chapter 2257, Government Code, on request of a municipal depository, the municipality shall surrender, when due, interest coupons or other evidence of interest on securities deposited by the depository with the governing body if the securities remaining pledged by the depository are adequate to meet the requirements of this chapter and of the governing body.

Added by Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 105.057 and amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(12), eff. Sept. 1, 1995.

SUBCHAPTER E. DEPOSITORY ACCOUNTS

Sec. 105.071. CHARACTER AND AMOUNT OF DEPOSITS. (a) The governing body of the municipality may determine and designate in

the depository services contract the character and amount of municipal funds that will be demand deposits. However, the municipality has the right to maintain other investments of municipal funds in accordance with the investment policy adopted by the municipality.

(b) The designated officer may contract with a depository for interest on time deposits, including, without limitation, certificates of deposit, at any legal rate under federal or state law, rule, or regulation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.072. INVESTMENTS. The provisions of Chapter 810, Acts of the 66th Legislature, Regular Session, 1979 (Article 4413 (34c), Vernon's Texas Civil Statutes), and Subchapter A, Chapter 2256, Government Code shall govern the investment of municipal funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(11), eff. Sept. 1, 1995.

Sec. 105.073. DEPOSIT OF FUNDS. Not later than 60 days from the date the governing body of the municipality designates a depository in accordance with the provisions of Section 105.016, the designated officer of the municipality shall transfer to the depository all the municipal funds covered by the depository services contract under the control of the designated officer. The designated officer of the municipality shall as soon as practicable also deposit in the depository to the credit of the municipality any money covered by the depository services contract received after the depository is designated.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.074. PAYMENT OF FUNDS. (a) The funds of the municipality may be paid out of a depository only at the direction of a designated officer.

(b) Except as provided in Subsection (g), a designated officer may draw a check on a depository only on a warrant signed by the mayor and attested by the secretary of the municipality.

(c) If there is sufficient money in a fund in a depository against which the proper authority has drawn a warrant, the designated officer on presentation of the warrant shall draw a check on the depository in favor of the legal holder of the warrant, retain the warrant, and charge the warrant against the fund on which it is drawn. The designated officer may not draw a warrant on a fund in a depository unless the fund has sufficient money to pay the warrant.

(d) A designated officer may not draw a check on any funds designated in the depository services contract as time deposits until notice has been given and the notice period has expired under the terms of the contract with the depository.

(e) The mayor and secretary of the municipality may not draw a warrant on a special fund in a depository or under the control of the designated officer that was created to pay the bonded indebtedness of the municipality other than to pay the principal of or interest on the indebtedness or to invest the fund as provided by law.

(f) The designated officer may not pay or draw a check to pay money out of a special fund that was created to pay the bonded indebtedness of the municipality other than to pay the principal of or interest on the indebtedness or to invest the fund as provided by law.

(g) Notwithstanding the provisions of Subsections (b) through (f), the governing body of a municipality may adopt procedures:

(1) governing the method by which the designated officer is authorized to direct payments from the funds of the municipality on deposit with a depository;

(2) governing the method of payment of obligations of the municipality, including payment by check, draft, wire transfer, or other method of payment mutually acceptable to the municipality and the depository; and

(3) the governing body determines are necessary to ensure the safety and integrity of the payment process.

(h) If a municipality adopts procedures in accordance with Subsection (g), a copy of the adopted procedures shall be filed with the depository. The designated officer and the depository shall agree upon record-keeping safeguards and other measures necessary to ensure the safety and integrity of the payment process. The safeguards must be approved by the governing body of the municipality if the governing body finds that the safeguards are consistent with and do not contravene the procedures adopted under Subsection (g).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.075. CHECKS PAYABLE AT DEPOSITORY. Checks drawn by the treasurer of the municipality against municipal funds on deposit are payable by the depository at its place of business in the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

Sec. 105.076. DEBTS PAYABLE OTHER THAN AT MUNICIPAL TREASURY. The governing body of the municipality may direct the designated officer to withdraw from a depository and deposit money sufficient to pay a bond, coupon, or other indebtedness of the municipality at a place other than at the municipal treasury if by its terms the indebtedness is payable on maturity or upon redemption prior to maturity at the other location.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER F. LIABILITY AND REPORT OF DESIGNATED OFFICER

Sec. 105.091. LIABILITY OF DESIGNATED OFFICER. (a) The designated officer is not responsible for any loss of municipal

funds through the negligence, failure, or wrongful act of a depository. This subsection does not release the designated officer from responsibility for a loss resulting from the official misconduct of the designated officer, including a misappropriation of the funds, or from responsibility for the funds until a depository is selected and the funds are deposited.

(b) A designated officer who diverts money from an interest and sinking fund or who applies money in that fund for a purpose other than as permitted by Section 105.074(f) is:

- (1) subject to a penalty of not less than \$500 or more than \$1,000; and
- (2) liable for the amount of money that is diverted.

(c) The state is entitled to recover a penalty imposed under Subsection (b)(1). The amount of diverted money that is recovered under Subsection (b)(2) shall be paid into the municipal treasury to the credit of the fund from which it was diverted.

(d) The attorney general or the district attorney of the district in which the designated officer resides, or the county attorney in a county that is not served by a district attorney, may institute suit against the designated officer and the sureties on the designated officer's official bond to recover the amounts described by Subsection (b).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 227, Sec. 6, eff. Sept. 1, 1999.

Sec. 105.092. REPORT BY DESIGNATED OFFICER. In conjunction with the publication of the annual financial statement of the municipality, the designated officer shall prepare a report which shall describe in summary form:

- (1) the amount of receipts and expenditures of the municipal treasury;
- (2) the amount of money on hand in each fund;
- (3) the amount of bonds becoming due for redemption that require action;
- (4) the amount of interest to be paid during the next fiscal year; and

(5) any other information required by law to be reported by the designated officer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 1, eff. Sept. 1, 1993.

GOVERNMENT CODE

TITLE 10. GENERAL GOVERNMENT

SUBTITLE F. STATE AND LOCAL CONTRACTS AND FUND MANAGEMENT

CHAPTER 2257. COLLATERAL FOR PUBLIC FUNDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2257.001. SHORT TITLE. This chapter may be cited as the Public Funds Collateral Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.002. DEFINITIONS. In this chapter:

(1) "Bank holding company" has the meaning assigned by Section 31.002(a), Finance Code.

(2) "Control" has the meaning assigned by Section 31.002(a), Finance Code.

(3) "Deposit of public funds" means public funds of a public entity that:

(A) the comptroller does not manage under Chapter 404; and

(B) are held as a demand or time deposit by a depository institution expressly authorized by law to accept a public entity's demand or time deposit.

(4) "Eligible security" means:

(A) a surety bond;

(B) an investment security;

(C) an ownership or beneficial interest in an investment security, other than an option contract to purchase or sell an investment security;

(D) a fixed-rate collateralized mortgage obligation that has an expected weighted average life of 10 years or less and does not constitute a high-risk mortgage security;

(E) a floating-rate collateralized mortgage obligation that does not constitute a high-risk mortgage security; or

(F) a letter of credit issued by a federal home loan bank.

(5) "Investment security" means:

(A) an obligation that in the opinion of the attorney general of the United States is a general obligation of the United States and backed by its full faith and credit;

(B) a general or special obligation issued by a public agency that is payable from taxes, revenues, or a combination of taxes and revenues; or

(C) a security in which a public entity may invest under Subchapter A, Chapter 2256.

(6) "Permitted institution" means:

(A) a Federal Reserve Bank;

(B) a clearing corporation, as defined by Section 8.102, Business & Commerce Code;

(C) a bank eligible to be a custodian under Section 2257.041; or

(D) a state or nationally chartered bank that is controlled by a bank holding company that controls a bank eligible to be a custodian under Section 2257.041.

(7) "Public agency" means a state or a political or governmental entity, agency, instrumentality, or subdivision of a state, including a municipality, an institution of higher education, as defined by Section 61.003, Education Code, a junior college, a district created under Article XVI, Section 59, of the Texas Constitution, and a public hospital.

(8) "Public entity" means a public agency in this state, but does not include an institution of higher education, as defined by Section 61.003, Education Code.

(9) "State agency" means a public entity that:

(A) has authority that is not limited to a geographic portion of the state; and

(B) was created by the constitution or a statute.

(10) "Trust receipt" means evidence of receipt, identification, and recording, including:

(A) a physical controlled trust receipt; or

(B) a written or electronically transmitted advice of transaction.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.48(a), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 914, Sec. 5, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 254, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 891, Sec. 3.22(4), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.70, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 7.63, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 783 (H.B. 2103), Sec. 1, eff. June 17, 2011.

Sec. 2257.0025. HIGH-RISK MORTGAGE SECURITY. (a) For purposes of this chapter, a fixed-rate collateralized mortgage obligation is a high-risk mortgage security if the security:

(1) has an average life sensitivity with a weighted average life that:

(A) extends by more than four years, assuming an immediate and sustained parallel shift in the yield curve of plus 300 basis points; or

(B) shortens by more than six years, assuming an immediate and sustained parallel shift in the yield curve of minus 300 basis points; and

(2) is price sensitive; that is, the estimated change in the price of the mortgage derivative product is more than 17 percent, because of an immediate and sustained parallel shift in the yield curve of plus or minus 300 basis points.

(b) For purposes of this chapter, a floating-rate collateralized mortgage obligation is a high-risk mortgage security if the security:

(1) bears an interest rate that is equal to the contractual cap on the instrument; or

(2) is price sensitive; that is, the estimated change in the price of the mortgage derivative product is more than 17 percent, because of an immediate and sustained parallel shift in the yield curve of plus or minus 300 basis points.

Added by Acts 1997, 75th Leg., ch. 254, Sec. 2, eff. Sept. 1, 1997.

Sec. 2257.003. CHAPTER NOT APPLICABLE TO DEFERRED COMPENSATION PLANS. This chapter does not apply to funds that a public entity maintains or administers under a deferred compensation plan, the federal income tax treatment of which is governed by Section 401(k) or 457 of the Internal Revenue Code of 1986 (26 U.S.C. Sections 401 (k) and 457).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.004. CONFLICT WITH OTHER LAW. This chapter prevails over any other law relating to security for a deposit of public funds to the extent of any conflict.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.005. CONTRACT GOVERNS LEGAL ACTION. A legal action brought by or against a public entity that arises out of or in connection with the duties of a depository, custodian, or permitted institution under this chapter must be brought and maintained as provided by the contract with the public entity.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. DEPOSITORY; SECURITY FOR DEPOSIT OF PUBLIC FUNDS

Sec. 2257.021. COLLATERAL REQUIRED. A deposit of public funds shall be secured by eligible security to the extent and in the manner required by this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.022. AMOUNT OF COLLATERAL. (a) Except as provided by Subsection (b), the total value of eligible security to secure a deposit of public funds must be in an amount not less than the amount of the deposit of public funds:

- (1) increased by the amount of any accrued interest; and
- (2) reduced to the extent that the United States or an instrumentality of the United States insures the deposit.

(b) The total value of eligible security described by Section 45.201(4)(D), Education Code, to secure a deposit of public funds of a school district must be in an amount not less than 110 percent of the amount of the deposit as determined under Subsection (a). The total market value of the eligible security must be reported at least once each month to the school district.

(c) The value of a surety bond is its face value.

(d) The value of an investment security is its market value.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 201, Sec. 46, eff. Sept. 1, 2003.

Sec. 2257.023. COLLATERAL POLICY. (a) In accordance with a written policy approved by the governing body of the public entity, a public entity shall determine if an investment security is eligible to secure deposits of public funds.

(b) The written policy may include:

(1) the security of the institution that obtains or holds an investment security;

(2) the substitution or release of an investment security;
and

(3) the method by which an investment security used to secure a deposit of public funds is valued.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.024. CONTRACT FOR SECURING DEPOSIT OF PUBLIC FUNDS.

(a) A public entity may contract with a bank that has its main office or a branch office in this state to secure a deposit of public funds.

(b) The contract may contain a term or condition relating to an investment security used as security for a deposit of public funds, including a term or condition relating to the:

(1) possession of the collateral;

(2) substitution or release of an investment security;

(3) ownership of the investment securities of the bank used to secure a deposit of public funds; and

(4) method by which an investment security used to secure a deposit of public funds is valued.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 344, Sec. 5.006, eff. Sept. 1, 1999.

Sec. 2257.025. RECORDS OF DEPOSITORY. (a) A public entity's depository shall maintain a separate, accurate, and complete record relating to a pledged investment security, a deposit of public funds, and a transaction related to a pledged investment security.

(b) The comptroller or the public entity may examine and verify at any reasonable time a pledged investment security or a record a depository maintains under this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.16, eff. Sept. 1, 1997.

Sec. 2257.026. CHANGE IN AMOUNT OR ACTIVITY OF DEPOSITS OF PUBLIC FUNDS. A public entity shall inform the depository for the public entity's deposit of public funds of a significant change in the amount or activity of those deposits within a reasonable time before the change occurs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER C. CUSTODIAN; PERMITTED INSTITUTION

Sec. 2257.041. DEPOSIT OF SECURITIES WITH CUSTODIAN. (a) In addition to other authority granted by law, a depository for a public entity other than a state agency may deposit with a custodian a security pledged to secure a deposit of public funds.

(b) At the request of the public entity, a depository for a public entity other than a state agency shall deposit with a custodian a security pledged to secure a deposit of public funds.

(c) A depository for a state agency shall deposit with a custodian a security pledged to secure a deposit of public funds.

The custodian and the state agency shall agree in writing on the terms and conditions for securing a deposit of public funds.

(d) A custodian must be approved by the public entity and be:

(1) a state or national bank that:

(A) is designated by the comptroller as a state depository;

(B) has its main office or a branch office in this state; and

(C) has a capital stock and permanent surplus of \$5 million or more;

(2) the Texas Treasury Safekeeping Trust Company;

(3) a Federal Reserve Bank or a branch of a Federal Reserve Bank;

(4) a federal home loan bank; or

(5) a financial institution authorized to exercise fiduciary powers that is designated by the comptroller as a custodian pursuant to Section 404.031(e).

(e) A custodian holds in trust the securities to secure the deposit of public funds of the public entity in the depository pledging the securities.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 1010, Sec. 1, eff. June 17, 1995; Acts 1997, 75th Leg., ch. 891, Sec. 3.17, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 344, Sec. 5.007, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 3, eff. September 1, 2009.

Sec. 2257.042. DEPOSIT OF SECURITIES WITH PERMITTED INSTITUTION. (a) A custodian may deposit with a permitted institution an investment security the custodian holds under Section 2257.041.

(b) If a deposit is made under Subsection (a):

(1) the permitted institution shall hold the investment security to secure funds the public entity deposits in the depository that pledges the investment security;

(2) the trust receipt the custodian issues under Section 2257.045 shall show that the custodian has deposited the security in a permitted institution; and

(3) the permitted institution, on receipt of the investment security, shall immediately issue to the custodian an advice of transaction or other document that is evidence that the custodian deposited the security in the permitted institution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.043. DEPOSITORY AS CUSTODIAN OR PERMITTED INSTITUTION. (a) A public entity other than a state agency may prohibit a depository or an entity of which the depository is a branch from being the custodian of or permitted institution for a security the depository pledges to secure a deposit of public funds.

(b) A depository or an entity of which the depository is a branch may not be the custodian of or permitted institution for a security the depository pledges to secure a deposit of public funds by a state agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.044. CUSTODIAN AS BAILEE. (a) A custodian under this chapter or a custodian of a security pledged to an institution of higher education, as defined by Section 61.003, Education Code, whether acting alone or through a permitted institution, is for all purposes the bailee or agent of the public entity or institution depositing the public funds with the depository.

(b) To the extent of any conflict, Subsection (a) prevails over Chapter 8 or 9, Business & Commerce Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.045. RECEIPT OF SECURITY BY CUSTODIAN. (a) On receipt of an investment security, a custodian shall immediately identify on its books and records, by book entry or another method, the pledge of the security to the public entity.

(b) For a deposit of public funds under Subchapter F, the custodian shall issue and deliver to the comptroller a trust receipt for the pledged security.

(c) For any other deposit of public funds under this chapter, at the written direction of the appropriate public entity officer, the custodian shall:

(1) issue and deliver to the appropriate public entity officer a trust receipt for the pledged security; or

(2) issue and deliver a trust receipt for the pledged security to the public entity's depository and instruct the depository to deliver the trust receipt to the public entity officer immediately.

(d) The custodian shall issue and deliver the trust receipt as soon as practicable on the same business day on which the investment security is received.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 434 (S.B. 581), Sec. 1, eff. June 14, 2013.

Sec. 2257.046. BOOKS AND RECORDS OF CUSTODIAN; INSPECTION.

(a) A public entity's custodian shall maintain a separate, accurate, and complete record relating to each pledged investment security and each transaction relating to a pledged investment security.

(b) The comptroller or the public entity may examine and verify at any reasonable time a pledged investment security or a record a custodian maintains under this section. The public entity or its agent may inspect at any time an investment security evidenced by a trust receipt.

(c) The public entity's custodian shall file a collateral report with the comptroller in the manner and on the dates prescribed by the comptroller.

(d) At the request of the appropriate public entity officer, the public entity's custodian shall provide a current list of all pledged investment securities. The list must include, for each pledged investment security:

(1) the name of the public entity;

(2) the date the security was pledged to secure the public entity's deposit;

(3) the Committee on Uniform Security Identification Procedures (CUSIP) number of the security;

(4) the face value and maturity date of the security; and

(5) the confirmation number on the trust receipt issued by the custodian.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.18, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 434 (S.B. 581), Sec. 2, eff. June 14, 2013.

Sec. 2257.047. BOOKS AND RECORDS OF PERMITTED INSTITUTION. (a) A permitted institution may apply book entry procedures when an investment security held by a custodian is deposited under Section 2257.042.

(b) A permitted institution's records must at all times state the name of the custodian that deposits an investment security in the permitted institution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.048. ATTACHMENT AND PERFECTION OF SECURITY INTEREST.

(a) A security interest that arises out of a depository's pledge of a security to secure a deposit of public funds by a public entity or an institution of higher education, as defined by Section 61.003, Education Code, is created, attaches, and is perfected for all purposes under state law from the time that the custodian identifies the pledge of the security on the custodian's books and records and issues the trust receipt.

(b) A security interest in a pledged security remains perfected in the hands of a subsequent custodian or permitted institution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER D. AUDITS AND EXAMINATIONS; PENALTIES

Sec. 2257.061. AUDITS AND EXAMINATIONS. As part of an audit or regulatory examination of a public entity's depository or custodian, the auditor or examiner shall:

- (1) examine and verify pledged investment securities and records maintained under Section 2257.025 or 2257.046; and
- (2) report any significant or material noncompliance with this chapter to the comptroller.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.19, eff. Sept. 1, 1997.

Sec. 2257.062. PENALTIES. (a) The comptroller may revoke a depository's designation as a state depository for one year if, after notice and a hearing, the comptroller makes a written finding that the depository, while acting as either a depository or a custodian:

- (1) did not maintain reasonable compliance with this chapter; and
- (2) failed to remedy a violation of this chapter within a reasonable time after receiving written notice of the violation.

(b) The comptroller may permanently revoke a depository's designation as a state depository if the comptroller makes a written finding that the depository:

- (1) has not maintained reasonable compliance with this chapter; and
- (2) has acted in bad faith by not remedying a violation of this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.19, eff. Sept. 1, 1997.

Sec. 2257.063. MITIGATING CIRCUMSTANCES. (a) The comptroller shall consider the total circumstances relating to the performance of a depository or custodian when the comptroller makes a finding required by Section 2257.062, including the extent to which the noncompliance is minor, isolated, temporary, or nonrecurrent.

(b) The comptroller may not find that a depository or custodian did not maintain reasonable compliance with this chapter if the noncompliance results from the public entity's failure to comply with Section 2257.026.

(c) This section does not relieve a depository or custodian of the obligation to secure a deposit of public funds with eligible security in the amount and manner required by this chapter within a reasonable time after the public entity deposits the deposit of public funds with the depository.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.19, eff. Sept. 1, 1997.

Sec. 2257.064. REINSTATEMENT. The comptroller may reinstate a depository's designation as a state depository if:

(1) the comptroller determines that the depository has remedied all violations of this chapter; and

(2) the depository assures the comptroller to the comptroller's satisfaction that the depository will maintain reasonable compliance with this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.19, eff. Sept. 1, 1997.

SUBCHAPTER E. EXEMPT INSTITUTIONS

Sec. 2257.081. DEFINITION. In this subchapter, "exempt institution" means:

(1) a public retirement system, as defined by Section 802.001; or

(2) the permanent school fund, as described by Section 43.001, Education Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 6.31, eff. Sept. 1, 1997.

Sec. 2257.082. FUNDS OF EXEMPT INSTITUTION. An exempt institution is not required to have its funds fully insured or collateralized at all times if:

(1) the funds are held by:

(A) a custodian of the institution's assets under a trust agreement; or

(B) a person in connection with a transaction related to an investment; and

(2) the governing body of the institution, in exercising its fiduciary responsibility, determines that the institution is adequately protected by using a trust agreement, special deposit, surety bond, substantial deposit insurance, or other method an exempt institution commonly uses to protect itself from liability.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.083. INVESTMENT; SELECTION OF DEPOSITORY. This chapter does not:

(1) prohibit an exempt institution from prudently investing in a certificate of deposit; or

(2) restrict the selection of a depository by the governing body of an exempt institution in accordance with its fiduciary duty.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER F. POOLED COLLATERAL TO SECURE

DEPOSITS OF CERTAIN PUBLIC FUNDS

Sec. 2257.101. DEFINITION. In this subchapter, "participating institution" means a financial institution that holds one or more deposits of public funds and that participates in the pooled collateral program under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.102. POOLED COLLATERAL PROGRAM. (a) As an alternative to collateralization under Subchapter B, the comptroller

by rule shall establish a program for centralized pooled collateralization of deposits of public funds and for monitoring collateral maintained by participating institutions. The rules must provide that deposits of public funds of a county are not eligible for collateralization under the program. The comptroller shall provide for a separate collateral pool for any single participating institution's deposits of public funds.

(b) Under the pooled collateral program, the collateral of a participating institution pledged for a public deposit may not be combined with, cross-collateralized with, aggregated with, or pledged to another participating institution's collateral pools for pledging purposes.

(c) A participating institution may pledge its pooled securities to more than one participating depositor under contract with that participating institution.

(d) The pooled collateral program must provide for:

(1) participation in the program by a participating institution and each affected public entity to be voluntary;

(2) uniform procedures for processing all collateral transactions that are subject to an approved security agreement described by Section 2257.103; and

(3) the pledging of a participating institution's collateral securities using a single custodial account instead of an account for each depositor of public funds.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.103. PARTICIPATION IN POOLED COLLATERAL PROGRAM. A financial institution may participate in the pooled collateral program only if:

(1) the institution has entered into a binding collateral security agreement with a public agency for a deposit of public funds and the agreement permits the institution's participation in the program;

(2) the comptroller has approved the institution's participation in the program; and

(3) the comptroller has approved or provided the collateral security agreement form used.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.104. COLLATERAL REQUIRED; CUSTODIAN TRUSTEE. (a) Each participating institution shall secure its deposits of public funds with eligible securities the total value of which equals at least 102 percent of the amount of the deposits of public funds covered by a security agreement described by Section 2257.103 and deposited with the participating institution, reduced to the extent that the United States or an instrumentality of the United States insures the deposits. For purposes of determining whether collateral is sufficient to secure a deposit of public funds, Section 2257.022 (b) does not apply to a deposit of public funds held by the participating institution and collateralized under this subchapter.

(b) A participating institution shall provide for the collateral securities to be held by a custodian trustee, on behalf of the participating institution, in trust for the benefit of the pooled collateral program. A custodian trustee must qualify as a custodian under Section 2257.041.

(c) The comptroller by rule shall regulate a custodian trustee under the pooled collateral program in the manner provided by Subchapter C to the extent practicable. The rules must ensure that a custodian trustee depository does not own, is not owned by, and is independent of the financial institution or institutions for which it holds the securities in trust, except that the rules must allow the following to be a custodian trustee:

- (1) a federal reserve bank;
- (2) a banker's bank, as defined by Section 34.105, Finance Code; and
- (3) a federal home loan bank.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.105. MONITORING COLLATERAL. (a) Each participating institution shall file the following reports with the comptroller electronically and as prescribed by rules of the comptroller:

(1) a daily report of the aggregate ledger balance of deposits of public agencies participating in the pooled collateral program that are held by the institution, with each public entity's funds held itemized;

(2) a weekly summary report of the total market value of securities held by a custodian trustee on behalf of the participating institution;

(3) a monthly report listing the collateral securities held by a custodian trustee on behalf of the participating institution, together with the value of the securities; and

(4) as applicable, a participating institution's annual report that includes the participating institution's financial statements.

(b) The comptroller shall provide the participating institution an acknowledgment of each report received.

(c) The comptroller shall provide a daily report of the market value of the securities held in each pool.

(d) The comptroller shall post each report on the comptroller's Internet website.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.106. ANNUAL ASSESSMENT. (a) Once each state fiscal year, the comptroller shall impose against each participating institution an assessment in an amount sufficient to pay the costs of administering this subchapter. The amount of an assessment must be based on factors that include the number of public entity accounts a participating institution maintains, the number of transactions a participating institution conducts, and the aggregate average weekly deposit amounts during that state fiscal year of each participating institution's deposits of public funds collateralized under this subchapter. The comptroller by rule shall establish the formula for determining the amount of the assessments imposed under this subsection.

(b) The comptroller shall provide to each participating institution a notice of the amount of the assessment against the institution.

(c) A participating institution shall remit to the comptroller the amount assessed against it under this section not later than the 45th day after the date the institution receives the notice under Subsection (b).

(d) Money remitted to the comptroller under this section may be appropriated only for the purposes of administering this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.107. PENALTY FOR REPORTING VIOLATION. The comptroller may impose an administrative penalty against a participating institution that does not timely file a report required by Section 2257.105.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.108. NOTICE OF COLLATERAL VIOLATION; ADMINISTRATIVE PENALTY. (a) The comptroller may issue a notice to a participating institution that the institution appears to be in violation of collateral requirements under Section 2257.104 and rules of the comptroller.

(b) The comptroller may impose an administrative penalty against a participating institution that does not maintain collateral in an amount and in the manner required by Section 2257.104 and rules of the comptroller if the participating institution has not remedied the violation before the third business day after the date a notice is issued under Subsection (a).

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.109. PENALTY FOR FAILURE TO PAY ASSESSMENT. The comptroller may impose an administrative penalty against a

participating institution that does not pay an assessment against it in the time provided by Section 2257.106(c).

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.110. PENALTY AMOUNT; PENALTIES NOT EXCLUSIVE. (a) The comptroller by rule shall adopt a formula for determining the amount of a penalty under this subchapter. For each violation and for each day of a continuing violation, a penalty must be at least \$100 per day and not more than \$1,000 per day. The penalty must be based on factors that include:

- (1) the aggregate average weekly deposit amounts during the state fiscal year of the institution's deposits of public funds;
- (2) the number of violations by the institution during the state fiscal year;
- (3) the number of days of a continuing violation; and
- (4) the average asset base of the institution as reported on the institution's year-end report of condition.

(b) The penalties provided by Sections 2257.107-2257.109 are in addition to those provided by Subchapter D or other law.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.111. PENALTY PROCEEDING CONTESTED CASE. A proceeding to impose a penalty under Section 2257.107, 2257.108, or 2257.109 is a contested case under Chapter 2001.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.112. SUIT TO COLLECT PENALTY. The attorney general may sue to collect a penalty imposed under Section 2257.107, 2257.108, or 2257.109.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.113. ENFORCEMENT STAYED PENDING REVIEW. Enforcement of a penalty imposed under Section 2257.107, 2257.108, or 2257.109 may be stayed during the time the order is under judicial review if the participating institution pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. A participating institution that cannot afford to pay the penalty or file the bond may stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of the comptroller to contest the affidavit as provided by those rules.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.114. USE OF COLLECTED PENALTIES. Money collected as penalties under this subchapter may be appropriated only for the purposes of administering this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

GOVERNMENT CODE

TITLE 10. GENERAL GOVERNMENT

SUBTITLE F. STATE AND LOCAL CONTRACTS AND FUND MANAGEMENT

CHAPTER 2256. PUBLIC FUNDS INVESTMENT

SUBCHAPTER A. AUTHORIZED INVESTMENTS FOR GOVERNMENTAL ENTITIES

Sec. 2256.001. SHORT TITLE. This chapter may be cited as the Public Funds Investment Act.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.002. DEFINITIONS. In this chapter:

(1) "Bond proceeds" means the proceeds from the sale of bonds, notes, and other obligations issued by an entity, and reserves and funds maintained by an entity for debt service purposes.

(2) "Book value" means the original acquisition cost of an investment plus or minus the accrued amortization or accretion.

(3) "Funds" means public funds in the custody of a state agency or local government that:

(A) are not required by law to be deposited in the state treasury; and

(B) the investing entity has authority to invest.

(4) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(5) "Investing entity" and "entity" mean an entity subject to this chapter and described by Section 2256.003.

(6) "Investment pool" means an entity created under this code to invest public funds jointly on behalf of the entities that participate in the pool and whose investment objectives in order of priority are:

(A) preservation and safety of principal;

(B) liquidity; and

(C) yield.

(7) "Local government" means a municipality, a county, a school district, a district or authority created under Section 52(b) (1) or (2), Article III, or Section 59, Article XVI, Texas Constitution, a fresh water supply district, a hospital district, and any political subdivision, authority, public corporation, body politic, or instrumentality of the State of Texas, and any nonprofit corporation acting on behalf of any of those entities.

(8) "Market value" means the current face or par value of an investment multiplied by the net selling price of the security as quoted by a recognized market pricing source quoted on the valuation date.

(9) "Pooled fund group" means an internally created fund of an investing entity in which one or more institutional accounts of the investing entity are invested.

(10) "Qualified representative" means a person who holds a position with a business organization, who is authorized to act on behalf of the business organization, and who is one of the following:

(A) for a business organization doing business that is regulated by or registered with a securities commission, a person who is registered under the rules of the National Association of Securities Dealers;

(B) for a state or federal bank, a savings bank, or a state or federal credit union, a member of the loan committee for the bank or branch of the bank or a person authorized by corporate resolution to act on behalf of and bind the banking institution;

(C) for an investment pool, the person authorized by the elected official or board with authority to administer the activities of the investment pool to sign the written instrument on behalf of the investment pool; or

(D) for an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or, if not subject to registration under that Act, registered with the State Securities Board, a person who is an officer or principal of the investment management firm.

(11) "School district" means a public school district.

(12) "Separately invested asset" means an account or fund of a state agency or local government that is not invested in a pooled fund group.

(13) "State agency" means an office, department, commission, board, or other agency that is part of any branch of state government, an institution of higher education, and any nonprofit corporation acting on behalf of any of those entities.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 1, eff. Sept. 1, 1999.

Sec. 2256.003. AUTHORITY TO INVEST FUNDS; ENTITIES SUBJECT TO THIS CHAPTER. (a) Each governing body of the following entities may purchase, sell, and invest its funds and funds under its control in investments authorized under this subchapter in compliance with investment policies approved by the governing body and according to the standard of care prescribed by Section 2256.006:

- (1) a local government;
- (2) a state agency;
- (3) a nonprofit corporation acting on behalf of a local government or a state agency; or
- (4) an investment pool acting on behalf of two or more local governments, state agencies, or a combination of those entities.

(b) In the exercise of its powers under Subsection (a), the governing body of an investing entity may contract with an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or with the State Securities Board to provide for the investment and management of its public funds or other funds under its control. A contract made under authority of this subsection may not be for a term longer than two years. A renewal or extension of the contract must be made by the governing body of the investing entity by order, ordinance, or resolution.

(c) This chapter does not prohibit an investing entity or investment officer from using the entity's employees or the services of a contractor of the entity to aid the investment officer in the execution of the officer's duties under this chapter.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1454, Sec. 2, eff. Sept. 1, 1999.

Sec. 2256.004. APPLICABILITY. (a) This subchapter does not apply to:

- (1) a public retirement system as defined by Section 802.001;
- (2) state funds invested as authorized by Section 404.024;
- (3) an institution of higher education having total endowments of at least \$150 million in book value on September 1, 2017;
- (4) funds invested by the Veterans' Land Board as authorized by Chapter 161, 162, or 164, Natural Resources Code;
- (5) registry funds deposited with the county or district clerk under Chapter 117, Local Government Code; or
- (6) a deferred compensation plan that qualifies under either Section 401(k) or 457 of the Internal Revenue Code of 1986 (26 U.S.C. Section 1 et seq.), as amended.

(b) This subchapter does not apply to an investment donated to an investing entity for a particular purpose or under terms of use specified by the donor.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 505, Sec. 24, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1421, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 8.21, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1454, Sec. 3, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 1, eff. June 14, 2017.

Sec. 2256.005. INVESTMENT POLICIES; INVESTMENT STRATEGIES; INVESTMENT OFFICER. (a) The governing body of an investing entity shall adopt by rule, order, ordinance, or resolution, as appropriate, a written investment policy regarding the investment of its funds and funds under its control.

(b) The investment policies must:

- (1) be written;
- (2) primarily emphasize safety of principal and liquidity;

(3) address investment diversification, yield, and maturity and the quality and capability of investment management; and

(4) include:

(A) a list of the types of authorized investments in which the investing entity's funds may be invested;

(B) the maximum allowable stated maturity of any individual investment owned by the entity;

(C) for pooled fund groups, the maximum dollar-weighted average maturity allowed based on the stated maturity date for the portfolio;

(D) methods to monitor the market price of investments acquired with public funds;

(E) a requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis; and

(F) procedures to monitor rating changes in investments acquired with public funds and the liquidation of such investments consistent with the provisions of Section 2256.021.

(c) The investment policies may provide that bids for certificates of deposit be solicited:

(1) orally;

(2) in writing;

(3) electronically; or

(4) in any combination of those methods.

(d) As an integral part of an investment policy, the governing body shall adopt a separate written investment strategy for each of the funds or group of funds under its control. Each investment strategy must describe the investment objectives for the particular fund using the following priorities in order of importance:

(1) understanding of the suitability of the investment to the financial requirements of the entity;

(2) preservation and safety of principal;

(3) liquidity;

(4) marketability of the investment if the need arises to liquidate the investment before maturity;

(5) diversification of the investment portfolio; and

(6) yield.

(e) The governing body of an investing entity shall review its investment policy and investment strategies not less than annually. The governing body shall adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and investment strategies and that the written instrument so adopted shall record any changes made to either the investment policy or investment strategies.

(f) Each investing entity shall designate, by rule, order, ordinance, or resolution, as appropriate, one or more officers or employees of the state agency, local government, or investment pool as investment officer to be responsible for the investment of its funds consistent with the investment policy adopted by the entity. If the governing body of an investing entity has contracted with another investing entity to invest its funds, the investment officer of the other investing entity is considered to be the investment officer of the first investing entity for purposes of this chapter. Authority granted to a person to invest an entity's funds is effective until rescinded by the investing entity, until the expiration of the officer's term or the termination of the person's employment by the investing entity, or if an investment management firm, until the expiration of the contract with the investing entity. In the administration of the duties of an investment officer, the person designated as investment officer shall exercise the judgment and care, under prevailing circumstances, that a prudent person would exercise in the management of the person's own affairs, but the governing body of the investing entity retains ultimate responsibility as fiduciaries of the assets of the entity. Unless authorized by law, a person may not deposit, withdraw, transfer, or manage in any other manner the funds of the investing entity.

(g) Subsection (f) does not apply to a state agency, local government, or investment pool for which an officer of the entity is assigned by law the function of investing its funds.

Text of subsec. (h) as amended by Acts 1997, 75th Leg., ch. 685, Sec.

(h) An officer or employee of a commission created under Chapter 391, Local Government Code, is ineligible to be an investment officer for the commission under Subsection (f) if the officer or employee is an investment officer designated under Subsection (f) for another local government.

Text of subsec. (h) as amended by Acts 1997, 75th Leg., ch. 1421,
Sec. 3

(h) An officer or employee of a commission created under Chapter 391, Local Government Code, is ineligible to be designated as an investment officer under Subsection (f) for any investing entity other than for that commission.

(i) An investment officer of an entity who has a personal business relationship with a business organization offering to engage in an investment transaction with the entity shall file a statement disclosing that personal business interest. An investment officer who is related within the second degree by affinity or consanguinity, as determined under Chapter 573, to an individual seeking to sell an investment to the investment officer's entity shall file a statement disclosing that relationship. A statement required under this subsection must be filed with the Texas Ethics Commission and the governing body of the entity. For purposes of this subsection, an investment officer has a personal business relationship with a business organization if:

(1) 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;

(2) funds received by the investment officer from the business organization exceed 10 percent of the investment officer's gross income for the previous year; or

(3) 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.

(j) The governing body of an investing entity may specify in its investment policy that any investment authorized by this chapter is not suitable.

(k) A written copy of the investment policy shall be presented to any business organization offering to engage in an investment transaction with an investing entity. For purposes of this subsection and Subsection (l), "business organization" means an investment pool or investment management firm under contract with an investing entity to invest or manage the entity's investment portfolio that has accepted authority granted by the entity under the contract to exercise investment discretion in regard to the investing entity's funds. Nothing in this subsection relieves the investing entity of the responsibility for monitoring the investments made by the investing entity to determine that they are in compliance with the investment policy. The qualified representative of the business organization offering to engage in an investment transaction with an investing entity shall execute a written instrument in a form acceptable to the investing entity and the business organization substantially to the effect that the business organization has:

(1) received and reviewed the investment policy of the entity; and

(2) acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the entity and the organization that are not authorized by the entity's investment policy, except to the extent that this authorization:

(A) is dependent on an analysis of the makeup of the entity's entire portfolio;

(B) requires an interpretation of subjective investment standards; or

(C) relates to investment transactions of the entity that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

(l) The investment officer of an entity may not acquire or otherwise obtain any authorized investment described in the investment policy of the investing entity from a business organization that has not delivered to the entity the instrument required by Subsection (k).

(m) An investing entity other than a state agency, in conjunction with its annual financial audit, shall perform a

compliance audit of management controls on investments and adherence to the entity's established investment policies.

(n) Except as provided by Subsection (o), at least once every two years a state agency shall arrange for a compliance audit of management controls on investments and adherence to the agency's established investment policies. The compliance audit shall be performed by the agency's internal auditor or by a private auditor employed in the manner provided by Section 321.020. Not later than January 1 of each even-numbered year a state agency shall report the results of the most recent audit performed under this subsection to the state auditor. Subject to a risk assessment and to the legislative audit committee's approval of including a review by the state auditor in the audit plan under Section 321.013, the state auditor may review information provided under this section. If review by the state auditor is approved by the legislative audit committee, the state auditor may, based on its review, require a state agency to also report to the state auditor other information the state auditor determines necessary to assess compliance with laws and policies applicable to state agency investments. A report under this subsection shall be prepared in a manner the state auditor prescribes.

(o) The audit requirements of Subsection (n) do not apply to assets of a state agency that are invested by the comptroller under Section 404.024.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 685, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1421, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 4, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 785, Sec. 41, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 1, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 149 (H.B. 1701), Sec. 1, eff. September 1, 2017.

Sec. 2256.006. STANDARD OF CARE. (a) Investments shall be made with judgment and care, under prevailing circumstances, that a

person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived. Investment of funds shall be governed by the following investment objectives, in order of priority:

- (1) preservation and safety of principal;
- (2) liquidity; and
- (3) yield.

(b) In determining whether an investment officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:

- (1) the investment of all funds, or funds under the entity's control, over which the officer had responsibility rather than a consideration as to the prudence of a single investment; and
- (2) whether the investment decision was consistent with the written investment policy of the entity.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.007. INVESTMENT TRAINING; STATE AGENCY BOARD MEMBERS AND OFFICERS. (a) Each member of the governing board of a state agency and its investment officer shall attend at least one training session relating to the person's responsibilities under this chapter within six months after taking office or assuming duties.

(b) The Texas Higher Education Coordinating Board shall provide the training under this section.

(c) Training under this section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this chapter.

(d) An investment officer shall attend a training session not less than once each state fiscal biennium and may receive training from any independent source approved by the governing body of the state agency. The investment officer shall prepare a report on this subchapter and deliver the report to the governing body of the state agency not later than the 180th day after the last day of each regular session of the legislature.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 73, Sec. 1, eff. May 9, 1997; Acts 1997, 75th Leg., ch. 1421, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 5, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 2, eff. June 17, 2011.

Sec. 2256.008. INVESTMENT TRAINING; LOCAL GOVERNMENTS.

(a) Except as provided by Subsections (a-1), (b), (b-1), (e), and (f), the treasurer, the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a local government shall:

(1) attend at least one training session from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government and containing at least 10 hours of instruction relating to the treasurer's or officer's responsibilities under this subchapter within 12 months after taking office or assuming duties; and

(2) 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 this subchapter from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government.

(a-1) In addition to the requirements of Subsection (a)(1), the treasurer, or the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a school district or a municipality shall attend an investment training session not less than once in a two-year period that begins on the first day of the school district's or municipality's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than eight hours of instruction relating to

investment responsibilities under this subchapter from an independent source approved by the governing body of the school district or municipality, or by a designated investment committee advising the investment officer as provided for in the investment policy of the school district or municipality.

(b) An investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, Texas Constitution, that has contracted with an investment management firm under Section 2256.003(b) and has fewer than five full-time employees or an investing entity that has contracted with another investing entity to invest the entity's funds may satisfy the training requirement provided by Subsection (a)(2) by having an officer of the governing body attend four hours of appropriate instruction 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. The treasurer or chief financial officer of an investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, Texas Constitution, and that has fewer than five full-time employees is not required to attend training required by this section unless the person is also the investment officer of the entity.

(b-1) A housing authority created under Chapter 392, Local Government Code, may satisfy the training requirement provided by Subsection (a)(2) by requiring the following person to attend, in each two-year period that begins on the first day of that housing authority's fiscal year and consists of the two consecutive fiscal years after that date, at least five hours of appropriate instruction:

(1) the treasurer, or the chief financial officer if the treasurer is not the chief financial officer, or the investment officer; or

(2) if the authority does not have an officer described by Subdivision (1), another officer of the authority.

(c) Training under this section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this chapter.

(d) Not later than December 31 each year, each individual, association, business, organization, governmental entity, or other person that provides training under this section shall report to the comptroller a list of the governmental entities for which the person provided required training under this section during that calendar year. An individual's reporting requirements under this subsection are satisfied by a report of the individual's employer or the sponsoring or organizing entity of a training program or seminar.

(e) This section does not apply to a district governed by Chapter 36 or 49, Water Code.

(f) Subsection (a)(2) does not apply to an officer of a municipality or housing authority if the municipality or housing authority:

(1) does not invest municipal or housing authority funds, as applicable; or

(2) only deposits those funds in:

(A) interest-bearing deposit accounts; or

(B) certificates of deposit as authorized by Section 2256.010.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 5, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 6, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 69, Sec. 4, eff. May 14, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 3, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 222 (H.B. 1148), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1248 (H.B. 870), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 8.015, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1000 (H.B. 1238), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1000 (H.B. 1238), Sec. 2, eff. September 1, 2017.

Sec. 2256.009. AUTHORIZED INVESTMENTS: OBLIGATIONS OF, OR GUARANTEED BY GOVERNMENTAL ENTITIES. (a) Except as provided by Subsection (b), the following are authorized investments under this subchapter:

(1) obligations, including letters of credit, of the United States or its agencies and instrumentalities, including the Federal Home Loan Banks;

(2) direct obligations of this state or its agencies and instrumentalities;

(3) 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;

(4) other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this 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;

(5) 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;

(6) bonds issued, assumed, or guaranteed by the State of Israel;

(7) interest-bearing banking deposits that are guaranteed or insured by:

(A) the Federal Deposit Insurance Corporation or its successor; or

(B) the National Credit Union Share Insurance Fund or its successor; and

(8) interest-bearing banking deposits other than those described by Subdivision (7) if:

(A) the funds invested in the banking deposits are invested through:

(i) a broker with a main office or branch office in this state that the investing entity selects from a list the

governing body or designated investment committee of the entity adopts as required by Section 2256.025; or

(ii) a depository institution with a main office or branch office in this state that the investing entity selects;

(B) the broker or depository institution selected as described by Paragraph (A) arranges for the deposit of the funds in the banking deposits in one or more federally insured depository institutions, regardless of where located, for the investing entity's account;

(C) the full amount of the principal and accrued interest of the banking deposits is insured by the United States or an instrumentality of the United States; and

(D) the investing entity appoints as the entity's custodian of the banking deposits issued for the entity's account:

(i) the depository institution selected as described by Paragraph (A);

(ii) an entity described by Section 2257.041(d);

or

(iii) a clearing broker dealer registered with the Securities and Exchange Commission and operating under Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3).

(b) The following are not authorized investments under this section:

(1) obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;

(2) obligations whose 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 date of greater than 10 years; and

(4) collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1454, Sec. 7, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 558, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 4, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 2, eff. June 14, 2017.

Acts 2017, 85th Leg., R.S., Ch. 863 (H.B. 2647), Sec. 1, eff. June 15, 2017.

Acts 2017, 85th Leg., R.S., Ch. 874 (H.B. 2928), Sec. 1, eff. September 1, 2017.

Sec. 2256.010. AUTHORIZED INVESTMENTS: CERTIFICATES OF DEPOSIT AND SHARE CERTIFICATES. (a) A certificate of deposit or share certificate is an authorized investment under this subchapter if the certificate is issued by a depository institution that has its main office or a branch office in this state and is:

(1) guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor;

(2) secured by obligations that are described by Section 2256.009(a), including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, but excluding those mortgage backed securities of the nature described by Section 2256.009(b); or

(3) secured in accordance with Chapter 2257 or in any other manner and amount provided by law for deposits of the investing entity.

(b) In addition to the authority to invest funds in certificates of deposit under Subsection (a), an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under this subchapter:

(1) the funds are invested by an investing entity through:

(A) a broker that has its main office or a branch office in this state and is selected from a list adopted by the investing entity as required by Section 2256.025; or

(B) a depository institution that has its main office or a branch office in this state and that is selected by the investing entity;

(2) the broker or the depository institution selected by the investing entity under Subdivision (1) arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity;

(3) the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States; and

(4) the investing entity appoints the depository institution selected by the investing entity under Subdivision (1), an entity described by Section 2257.041(d), or a clearing broker-dealer registered with the Securities and Exchange Commission and operating pursuant to Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3) as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity.

Amended by Acts 1995, 74th Leg., ch. 32, Sec. 1, eff. April 28, 1995; Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 6, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 128 (H.B. 256), Sec. 1, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 5, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 874 (H.B. 2928), Sec. 2, eff. September 1, 2017.

Sec. 2256.011. AUTHORIZED INVESTMENTS: REPURCHASE AGREEMENTS.

(a) A fully collateralized repurchase agreement is an authorized investment under this subchapter if the repurchase agreement:

(1) has a defined termination date;

(2) is secured by a combination of cash and obligations described by Section 2256.009(a)(1); and

(3) requires the securities being purchased by the entity or cash held by the entity to be pledged to the entity, held in the entity's name, and deposited at the time the investment is made with

the entity or with a third party selected and approved by the entity;
and

(4) is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in this state.

(b) In this section, "repurchase agreement" means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations described by Section 2256.009(a)(1), at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement.

(c) Notwithstanding any other law, the term of any reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered.

(d) Money received by an entity under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

(e) Section 1371.059(c) applies to the execution of a repurchase agreement by an investing entity.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 6, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 3, eff. June 14, 2017.

Sec. 2256.0115. AUTHORIZED INVESTMENTS: SECURITIES LENDING PROGRAM. (a) A securities lending program is an authorized investment under this subchapter if it meets the conditions provided by this section.

(b) To qualify as an authorized investment under this subchapter:

(1) the value of securities loaned under the program must be not less than 100 percent collateralized, including accrued income;

(2) a loan made under the program must allow for termination at any time;

(3) a loan made under the program must be secured by:

(A) pledged securities described by Section 2256.009;

(B) pledged irrevocable letters of credit issued by a bank that is:

(i) organized and existing under the laws of the United States or any other state; and

(ii) continuously rated by at least one nationally recognized investment rating firm at not less than A or its equivalent; or

(C) cash invested in accordance with Section:

(i) 2256.009;

(ii) 2256.013;

(iii) 2256.014; or

(iv) 2256.016;

(4) the terms of a loan made under the program must require that the securities being held as collateral be:

(A) pledged to the investing entity;

(B) held in the investing entity's name; and

(C) deposited at the time the investment is made with the entity or with a third party selected by or approved by the investing entity;

(5) a loan made under the program must be placed through:

(A) a primary government securities dealer, as defined by 5 C.F.R. Section 6801.102(f), as that regulation existed on September 1, 2003; or

(B) a financial institution doing business in this state; and

(6) an agreement to lend securities that is executed under this section must have a term of one year or less.

Added by Acts 2003, 78th Leg., ch. 1227, Sec. 1, eff. Sept. 1, 2003.

Sec. 2256.012. AUTHORIZED INVESTMENTS: BANKER'S ACCEPTANCES.

A bankers' acceptance is an authorized investment under this subchapter if the bankers' acceptance:

(1) has a stated maturity of 270 days or fewer from the date of its issuance;

(2) will be, in accordance with its terms, liquidated in full at maturity;

(3) is eligible for collateral for borrowing from a Federal Reserve Bank; and

(4) is accepted by a bank organized and existing under the laws of the United States or any state, if the short-term obligations of the bank, or of a bank holding company of which the bank is the largest subsidiary, are rated not less than A-1 or P-1 or an equivalent rating by at least one nationally recognized credit rating agency.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.013. AUTHORIZED INVESTMENTS: COMMERCIAL PAPER.

Commercial paper is an authorized investment under this subchapter if the commercial paper:

(1) has a stated maturity of 270 days or fewer from the date of its issuance; and

(2) is rated not less than A-1 or P-1 or an equivalent rating by at least:

(A) two nationally recognized credit rating agencies;
or

(B) one nationally recognized credit rating agency and is fully secured by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.014. AUTHORIZED INVESTMENTS: MUTUAL FUNDS.

(a) A no-load money market mutual fund is an authorized investment under this subchapter if the mutual fund:

(1) is registered with and regulated by the Securities and Exchange Commission;

(2) provides the investing entity with a prospectus and other information required by the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) or the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.); and

(3) complies with federal Securities and Exchange Commission Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.).

(b) In addition to a no-load money market mutual fund permitted as an authorized investment in Subsection (a), a no-load mutual fund is an authorized investment under this subchapter if the mutual fund:

(1) is registered with the Securities and Exchange Commission;

(2) has an average weighted maturity of less than two years; and

(3) either:

(A) has a duration of one year or more and is invested exclusively in obligations approved by this subchapter; or

(B) has a duration of less than one year and the investment portfolio is limited to investment grade securities, excluding asset-backed securities.

(c) An entity is not authorized by this section to:

(1) invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service, in mutual funds described in Subsection (b);

(2) invest any portion of bond proceeds, reserves and funds held for debt service, in mutual funds described in Subsection (b); or

(3) invest its funds or funds under its control, including bond proceeds and reserves and other funds held for debt service, in any one mutual fund described in Subsection (a) or (b) in an amount that exceeds 10 percent of the total assets of the mutual fund.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 7, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 8, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 4, eff. June 14, 2017.

Sec. 2256.015. AUTHORIZED INVESTMENTS: GUARANTEED INVESTMENT CONTRACTS. (a) A guaranteed investment contract is an authorized investment for bond proceeds under this subchapter if the guaranteed investment contract:

- (1) has a defined termination date;
- (2) is secured by obligations described by Section 2256.009(a)(1), excluding those obligations described by Section 2256.009(b), in an amount at least equal to the amount of bond proceeds invested under the contract; and
- (3) is pledged to the entity and deposited with the entity or with a third party selected and approved by the entity.

(b) Bond proceeds, other than bond proceeds representing reserves and funds maintained for debt service purposes, may not be invested under this subchapter in a guaranteed investment contract with a term of longer than five years from the date of issuance of the bonds.

(c) To be eligible as an authorized investment:

- (1) the governing body of the entity must specifically authorize guaranteed investment contracts as an eligible investment in the order, ordinance, or resolution authorizing the issuance of bonds;
- (2) the entity must receive bids from at least three separate providers with no material financial interest in the bonds from which proceeds were received;
- (3) the entity must purchase the highest yielding guaranteed investment contract for which a qualifying bid is received;
- (4) the price of the guaranteed investment contract must take into account the reasonably expected drawdown schedule for the bond proceeds to be invested; and
- (5) the provider must certify the administrative costs reasonably expected to be paid to third parties in connection with the guaranteed investment contract.

(d) Section 1371.059(c) applies to the execution of a guaranteed investment contract by an investing entity.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 8, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 9, 10, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 5, eff. June 14, 2017.

Sec. 2256.016. AUTHORIZED INVESTMENTS: INVESTMENT POOLS. (a) An entity may invest its funds and funds under its control through an eligible investment pool if the governing body of the entity by rule, order, ordinance, or resolution, as appropriate, authorizes investment in the particular pool. An investment pool shall invest the funds it receives from entities in authorized investments permitted by this subchapter. An investment pool may invest its funds in money market mutual funds to the extent permitted by and consistent with this subchapter and the investment policies and objectives adopted by the investment pool.

(b) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity an offering circular or other similar disclosure instrument that contains, at a minimum, the following information:

(1) the types of investments in which money is allowed to be invested;

(2) the maximum average dollar-weighted maturity allowed, based on the stated maturity date, of the pool;

(3) the maximum stated maturity date any investment security within the portfolio has;

(4) the objectives of the pool;

(5) the size of the pool;

(6) the names of the members of the advisory board of the pool and the dates their terms expire;

(7) the custodian bank that will safekeep the pool's assets;

(8) whether the intent of the pool is to maintain a net asset value of one dollar and the risk of market price fluctuation;

(9) whether the only source of payment is the assets of the pool at market value or whether there is a secondary source of payment, such as insurance or guarantees, and a description of the secondary source of payment;

(10) the name and address of the independent auditor of the pool;

(11) the requirements to be satisfied for an entity to deposit funds in and withdraw funds from the pool and any deadlines or other operating policies required for the entity to invest funds in and withdraw funds from the pool;

(12) the performance history of the pool, including yield, average dollar-weighted maturities, and expense ratios; and

(13) the pool's policy regarding holding deposits in cash.

(c) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity:

(1) investment transaction confirmations; and

(2) a monthly report that contains, at a minimum, the following information:

(A) the types and percentage breakdown of securities in which the pool is invested;

(B) the current average dollar-weighted maturity, based on the stated maturity date, of the pool;

(C) the current percentage of the pool's portfolio in investments that have stated maturities of more than one year;

(D) the book value versus the market value of the pool's portfolio, using amortized cost valuation;

(E) the size of the pool;

(F) the number of participants in the pool;

(G) the custodian bank that is safekeeping the assets of the pool;

(H) a listing of daily transaction activity of the entity participating in the pool;

(I) the yield and expense ratio of the pool, including a statement regarding how yield is calculated;

(J) the portfolio managers of the pool; and

(K) any changes or addenda to the offering circular.

(d) An entity by contract may delegate to an investment pool the authority to hold legal title as custodian of investments purchased with its local funds.

(e) In this section, "yield" shall be calculated in accordance with regulations governing the registration of open-end management investment companies under the Investment Company Act of 1940, as promulgated from time to time by the federal Securities and Exchange Commission.

(f) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a public funds investment pool that uses amortized cost or fair value accounting must mark its portfolio to market daily, and, to the extent reasonably possible, stabilize at a \$1.00 net asset value, when rounded and expressed to two decimal places. If the ratio of the market value of the portfolio divided by the book value of the portfolio is less than 0.995 or greater than 1.005, the governing body of the public funds investment pool shall take action as the body determines necessary to eliminate or reduce to the extent reasonably practicable any dilution or unfair result to existing participants, including a sale of portfolio holdings to attempt to maintain the ratio between 0.995 and 1.005. In addition to the requirements of its investment policy and any other forms of reporting, a public funds investment pool that uses amortized cost shall report yield to its investors in accordance with regulations of the federal Securities and Exchange Commission applicable to reporting by money market funds.

(g) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a public funds investment pool must have an advisory board composed:

(1) equally of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for a public funds investment pool created under Chapter 791 and managed by a state agency; or

(2) of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for other investment pools.

(h) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.

(i) If the investment pool operates an Internet website, the information in a disclosure instrument or report described in Subsections (b), (c)(2), and (f) must be posted on the website.

(j) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must make available to the entity an annual audited financial statement of the investment pool in which the entity has funds invested.

(k) If an investment pool offers fee breakpoints based on fund balances invested, the investment pool in advertising investment rates must include either all levels of return based on the breakpoints provided or state the lowest possible level of return based on the smallest level of funds invested.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 9, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 7, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 6, eff. June 14, 2017.

Sec. 2256.017. EXISTING INVESTMENTS. Except as provided by Chapter 2270, an entity is not required to liquidate investments that were authorized investments at the time of purchase.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.46(a), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1421, Sec. 10, eff. Sept. 1, 1997.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 2, eff. May 23, 2017.

Sec. 2256.019. RATING OF CERTAIN INVESTMENT POOLS. A public funds investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1421, Sec. 11, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 8, eff. June 17, 2011.

Sec. 2256.020. AUTHORIZED INVESTMENTS: INSTITUTIONS OF HIGHER EDUCATION. In addition to the authorized investments permitted by this subchapter, an institution of higher education may purchase, sell, and invest its funds and funds under its control in the following:

(1) cash management and fixed income funds sponsored by organizations exempt from federal income taxation under Section 501 (f), Internal Revenue Code of 1986 (26 U.S.C. Section 501(f));

(2) negotiable certificates of deposit issued by a bank that has a certificate of deposit rating of at least 1 or the equivalent by a nationally recognized credit rating agency or that is associated with a holding company having a commercial paper rating of at least A-1, P-1, or the equivalent by a nationally recognized credit rating agency; and

(3) corporate bonds, debentures, or similar debt obligations rated by a nationally recognized investment rating firm in one of the two highest long-term rating categories, without regard to gradations within those categories.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.0201. AUTHORIZED INVESTMENTS; MUNICIPAL UTILITY.

(a) A municipality that owns a municipal electric utility that is engaged in the distribution and sale of electric energy or natural gas to the public may enter into a hedging contract and related

security and insurance agreements in relation to fuel oil, natural gas, coal, nuclear fuel, and electric energy to protect against loss due to price fluctuations. A hedging transaction must comply with the regulations of the Commodity Futures Trading Commission and the Securities and Exchange Commission. If there is a conflict between the municipal charter of the municipality and this chapter, this chapter prevails.

(b) A payment by a municipally owned electric or gas utility under a hedging contract or related agreement in relation to fuel supplies or fuel reserves is a fuel expense, and the utility may credit any amounts it receives under the contract or agreement against fuel expenses.

(c) The governing body of a municipally owned electric or gas utility or the body vested with power to manage and operate the municipally owned electric or gas utility may set policy regarding hedging transactions.

(d) In this section, "hedging" means the buying and selling of fuel oil, natural gas, coal, nuclear fuel, and electric energy futures or options or similar contracts on those commodities and related transportation costs as a protection against loss due to price fluctuation.

Added by Acts 1999, 76th Leg., ch. 405, Sec. 48, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 7 (S.B. 495), Sec. 1, eff. April 13, 2007.

Sec. 2256.0202. AUTHORIZED INVESTMENTS: MUNICIPAL FUNDS FROM MANAGEMENT AND DEVELOPMENT OF MINERAL RIGHTS. (a) In addition to other investments authorized under this subchapter, a municipality may invest funds received by the municipality from a lease or contract for the management and development of land owned by the municipality and leased for oil, gas, or other mineral development in any investment authorized to be made by a trustee under Subtitle B, Title 9, Property Code (Texas Trust Code).

(b) Funds invested by a municipality under this section shall be segregated and accounted for separately from other funds of the municipality.

Added by Acts 2009, 81st Leg., R.S., Ch. 1371 (S.B. 894), Sec. 1, eff. September 1, 2009.

Sec. 2256.0203. AUTHORIZED INVESTMENTS: PORTS AND NAVIGATION DISTRICTS. (a) In this section, "district" means a navigation district organized under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(b) In addition to the authorized investments permitted by this subchapter, a port or district may purchase, sell, and invest its funds and funds under its control in negotiable certificates of deposit issued by a bank that has a certificate of deposit rating of at least 1 or the equivalent by a nationally recognized credit rating agency or that is associated with a holding company having a commercial paper rating of at least A-1, P-1, or the equivalent by a nationally recognized credit rating agency.

Added by Acts 2011, 82nd Leg., R.S., Ch. 804 (H.B. 2346), Sec. 1, eff. September 1, 2011.

Sec. 2256.0204. AUTHORIZED INVESTMENTS: INDEPENDENT SCHOOL DISTRICTS. (a) In this section, "corporate bond" means a senior secured debt obligation issued by a domestic business entity and rated not lower than "AA-" or the equivalent by a nationally recognized investment rating firm. The term does not include a debt obligation that:

- (1) on conversion, would result in the holder becoming a stockholder or shareholder in the entity, or any affiliate or subsidiary of the entity, that issued the debt obligation; or
- (2) is an unsecured debt obligation.

(b) This section applies only to an independent school district that qualifies as an issuer as defined by Section 1371.001.

(c) In addition to authorized investments permitted by this subchapter, an independent school district subject to this section may purchase, sell, and invest its funds and funds under its control in corporate bonds that, at the time of purchase, are rated by a nationally recognized investment rating firm "AA-" or the equivalent

and have a stated final maturity that is not later than the third anniversary of the date the corporate bonds were purchased.

(d) An independent school district subject to this section is not authorized by this section to:

(1) invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds, reserves, and other funds held for the payment of debt service, in corporate bonds; or

(2) invest more than 25 percent of the funds invested in corporate bonds in any one domestic business entity, including subsidiaries and affiliates of the entity.

(e) An independent school district subject to this section may purchase, sell, and invest its funds and funds under its control in corporate bonds if the governing body of the district:

(1) amends its investment policy to authorize corporate bonds as an eligible investment;

(2) adopts procedures to provide for:

(A) monitoring rating changes in corporate bonds acquired with public funds; and

(B) liquidating the investment in corporate bonds; and

(3) identifies the funds eligible to be invested in corporate bonds.

(f) The investment officer of an independent school district, acting on behalf of the district, shall sell corporate bonds in which the district has invested its funds not later than the seventh day after the date a nationally recognized investment rating firm:

(1) issues a release that places the corporate bonds or the domestic business entity that issued the corporate bonds on negative credit watch or the equivalent, if the corporate bonds are rated "AA-" or the equivalent at the time the release is issued; or

(2) changes the rating on the corporate bonds to a rating lower than "AA-" or the equivalent.

(g) Corporate bonds are not an eligible investment for a public funds investment pool.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1347 (S.B. 1543), Sec. 1, eff. June 17, 2011.

Sec. 2256.0205. AUTHORIZED INVESTMENTS; DECOMMISSIONING TRUST.

(a) In this section:

(1) "Decommissioning trust" means a trust created to provide the Nuclear Regulatory Commission assurance that funds will be available for decommissioning purposes as required under 10 C.F.R. Part 50 or other similar regulation.

(2) "Funds" includes any money held in a decommissioning trust regardless of whether the money is considered to be public funds under this subchapter.

(b) In addition to other investments authorized under this subchapter, a municipality that owns a municipal electric utility that is engaged in the distribution and sale of electric energy or natural gas to the public may invest funds held in a decommissioning trust in any investment authorized by Subtitle B, Title 9, Property Code.

Added by Acts 2005, 79th Leg., Ch. 121 (S.B. 1464), Sec. 1, eff. September 1, 2005.

Text of section as added by Acts 2017, 85th Leg., R.S., Ch. 773
(H.B. 1003), Sec. 7

For text of section as added by Acts 2017, 85th Leg., R.S., Ch. 344
(H.B. 1472), Sec. 1, see other Sec. 2256.0206.

Sec. 2256.0206. AUTHORIZED INVESTMENTS: HEDGING TRANSACTIONS.

(a) In this section:

(1) "Eligible entity" means a political subdivision that has:

(A) a principal amount of at least \$250 million in:

(i) outstanding long-term indebtedness;

(ii) long-term indebtedness proposed to be issued;

or

(iii) a combination of outstanding long-term indebtedness and long-term indebtedness proposed to be issued; and

(B) outstanding long-term indebtedness that is rated in one of the four highest rating categories for long-term debt instruments by a nationally recognized rating agency for municipal securities, without regard to the effect of any credit agreement or

other form of credit enhancement entered into in connection with the obligation.

(2) "Eligible project" has the meaning assigned by Section 1371.001.

(3) "Hedging" means acting to protect against economic loss due to price fluctuation of a commodity or related investment by entering into an offsetting position or using a financial agreement or producer price agreement in a correlated security, index, or other commodity.

(b) This section prevails to the extent of any conflict between this section and:

(1) another law; or

(2) an eligible entity's municipal charter, if applicable.

(c) The governing body of an eligible entity shall establish the entity's policy regarding hedging transactions.

(d) An eligible entity may enter into hedging transactions, including hedging contracts, and related security, credit, and insurance agreements in connection with commodities used by an eligible entity in the entity's general operations, with the acquisition or construction of a capital project, or with an eligible project. A hedging transaction must comply with the regulations of the federal Commodity Futures Trading Commission and the federal Securities and Exchange Commission.

(e) An eligible entity may pledge as security for and to the payment of a hedging contract or a security, credit, or insurance agreement any general or special revenues or funds the entity is authorized by law to pledge to the payment of any other obligation.

(f) Section 1371.059(c) applies to the execution by an eligible entity of a hedging contract and any related security, credit, or insurance agreement.

(g) An eligible entity may credit any amount the entity receives under a hedging contract against expenses associated with a commodity purchase.

(h) An eligible entity's cost of or payment under a hedging contract or agreement may be considered:

(1) an operation and maintenance expense of the eligible entity;

(2) an acquisition expense of the eligible entity;

- (3) a project cost of an eligible project; or
- (4) a construction expense of the eligible entity.

Added by Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 7, eff. June 14, 2017.

Text of section as added by Acts 2017, 85th Leg., R.S., Ch. 344 (H.B. 1472), Sec. 1

For text of section as added by Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 7, see other Sec. 2256.0206.

Sec. 2256.0206. AUTHORIZED INVESTMENTS: PUBLIC JUNIOR COLLEGE DISTRICT FUNDS FROM MANAGEMENT AND DEVELOPMENT OF MINERAL RIGHTS.

(a) In addition to other investments authorized under this subchapter, the governing board of a public junior college district may invest funds received by the district from a lease or contract for the management and development of land owned by the district and leased for oil, gas, or other mineral development in any investment authorized to be made by a trustee under Subtitle B, Title 9, Property Code (Texas Trust Code).

(b) Funds invested by the governing board of a public junior college district under this section shall be segregated and accounted for separately from other funds of the district.

Added by Acts 2017, 85th Leg., R.S., Ch. 344 (H.B. 1472), Sec. 1, eff. September 1, 2017.

Sec. 2256.021. EFFECT OF LOSS OF REQUIRED RATING. An investment that requires a minimum rating under this subchapter does not qualify as an authorized investment during the period the investment does not have the minimum rating. An entity shall take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.022. EXPANSION OF INVESTMENT AUTHORITY. Expansion of investment authority granted by this chapter shall require a risk

assessment by the state auditor or performed at the direction of the state auditor, subject to the legislative audit committee's approval of including the review in the audit plan under Section 321.013.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2003, 78th Leg., ch. 785, Sec. 42, eff. Sept. 1, 2003.

Sec. 2256.023. INTERNAL MANAGEMENT REPORTS. (a) Not less than quarterly, the investment officer shall prepare and submit to the governing body of the entity a written report of investment transactions for all funds covered by this chapter for the preceding reporting period.

(b) The report must:

- (1) describe in detail the investment position of the entity on the date of the report;
- (2) be prepared jointly by all investment officers of the entity;
- (3) be signed by each investment officer of the entity;
- (4) contain a summary statement of each pooled fund group that states the:
 - (A) beginning market value for the reporting period;
 - (B) ending market value for the period; and
 - (C) fully accrued interest for the reporting period;
- (5) state the book value and market value of each separately invested asset at the end of the reporting period by the type of asset and fund type invested;
- (6) state the maturity date of each separately invested asset that has a maturity date;
- (7) state the account or fund or pooled group fund in the state agency or local government for which each individual investment was acquired; and
- (8) state the compliance of the investment portfolio of the state agency or local government as it relates to:
 - (A) the investment strategy expressed in the agency's or local government's investment policy; and
 - (B) relevant provisions of this chapter.

(c) The report shall be presented not less than quarterly to the governing body and the chief executive officer of the entity within a reasonable time after the end of the period.

(d) If an entity invests in other than money market mutual funds, investment pools or accounts offered by its depository bank in the form of certificates of deposit, or money market accounts or similar accounts, the reports prepared by the investment officers under this section shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the governing body by that auditor.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1421, Sec. 12, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 9, eff. June 17, 2011.

Sec. 2256.024. SUBCHAPTER CUMULATIVE. (a) The authority granted by this subchapter is in addition to that granted by other law. Except as provided by Subsection (b) and Section 2256.017, this subchapter does not:

(1) prohibit an investment specifically authorized by other law; or

(2) authorize an investment specifically prohibited by other law.

(b) Except with respect to those investing entities described in Subsection (c), a security described in Section 2256.009(b) is not an authorized investment for a state agency, a local government, or another investing entity, notwithstanding any other provision of this chapter or other law to the contrary.

(c) Mortgage pass-through certificates and individual mortgage loans that may constitute an investment described in Section 2256.009(b) are authorized investments with respect to the housing bond programs operated by:

(1) the Texas Department of Housing and Community Affairs or a nonprofit corporation created to act on its behalf;

(2) an entity created under Chapter 392, Local Government Code; or

(3) an entity created under Chapter 394, Local Government Code.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 3, eff. May 23, 2017.

Sec. 2256.025. SELECTION OF AUTHORIZED BROKERS. The governing body of an entity subject to this subchapter or the designated investment committee of the entity shall, at least annually, review, revise, and adopt a list of qualified brokers that are authorized to engage in investment transactions with the entity.

Added by Acts 1997, 75th Leg., ch. 1421, Sec. 13, eff. Sept. 1, 1997.

Sec. 2256.026. STATUTORY COMPLIANCE. All investments made by entities must comply with this subchapter and all federal, state, and local statutes, rules, or regulations.

Added by Acts 1997, 75th Leg., ch. 1421, Sec. 13, eff. Sept. 1, 1997.

SUBCHAPTER B. MISCELLANEOUS PROVISIONS

Sec. 2256.051. ELECTRONIC FUNDS TRANSFER. Any local government may use electronic means to transfer or invest all funds collected or controlled by the local government.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.052. PRIVATE AUDITOR. Notwithstanding any other law, a state agency shall employ a private auditor if authorized by the legislative audit committee either on the committee's initiative or on request of the governing body of the agency.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.053. PAYMENT FOR SECURITIES PURCHASED BY STATE. The comptroller or the disbursing officer of an agency that has the power to invest assets directly may pay for authorized securities purchased from or through a member in good standing of the National Association of Securities Dealers or from or through a national or state bank on receiving an invoice from the seller of the securities showing that the securities have been purchased by the board or agency and that the amount to be paid for the securities is just, due, and unpaid. A purchase of securities may not be made at a price that exceeds the existing market value of the securities.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.67, eff. Sept. 1, 1997.

Sec. 2256.054. DELIVERY OF SECURITIES PURCHASED BY STATE. A security purchased under this chapter may be delivered to the comptroller, a bank, or the board or agency investing its funds. The delivery shall be made under normal and recognized practices in the securities and banking industries, including the book entry procedure of the Federal Reserve Bank.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.68, eff. Sept. 1, 1997.

Sec. 2256.055. DEPOSIT OF SECURITIES PURCHASED BY STATE. At the direction of the comptroller or the agency, a security purchased under this chapter may be deposited in trust with a bank or federal reserve bank or branch designated by the comptroller, whether in or outside the state. The deposit shall be held in the entity's name as evidenced by a trust receipt of the bank with which the securities are deposited.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.69, eff. Sept. 1, 1997.

City Council Agenda

City of Lamesa, Texas

DATE OF MEETING: NOVEMBER 13, 2018

AGENDA ITEM: 13

**SUBJECT: ACCEPTANCE OF 2018 TEXAS COMMUNITY DEVELOPMENT
BLOCK GRANT**

SUBMITTED BY: City Staff

SUMMARY STATEMENT

City Council to accept the 2018 Texas Community Development Block Grant of \$291,540 for water infrastructure improvements. *(City Manager)*

COUNCIL ACTION

DISCUSSION _____

Motion by Council Member _____ to accept the 2018 Texas Community Development Block Grant of \$291,540 for water infrastructure improvements. Motion seconded by Council Member _____ and upon being put to a vote the motion _____.

CITY MANAGER'S MEMORANDUM

Recommend approval.



TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER

The Honorable Josh Stevens
Mayor Stevens, City of Lamesa
601 S. 1st St.
Lamesa, Texas 79331-6247

Re: Texas Community Development Block Grant (TxCDBG) Program
Notice of Award – 2018 Community Development Fund

Dear Mayor Stevens,

I am pleased to inform you that the Texas Department of Agriculture (TDA) has approved a Community Development (CD) Fund award for the City of Lamesa in the amount of \$291,540 for water system improvements. These funds are part of the Texas Community Development Block Grant (TxCDBG) Program, federal funding from the U.S. Department of Housing and Urban Development that TDA has dedicated to economic and community development in rural Texas.

We are delighted to assist in the development of viable communities to help provide decent housing and suitable living environments and expanding economic opportunities.

If TDA can be of assistance in navigating the grant process, please don't hesitate to call my office or TxCDBG Program Specialist, Chad Hinds at 512-936-0232.

Sincerely,

A handwritten signature in black ink, appearing to read "Sid Miller", is written over a horizontal line.

Sid Miller
Commissioner

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Fearneyhough", is written.

Jason Fearneyhough
Deputy Commissioner



TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER

October 23, 2018

The Honorable Josh Stevens
Mayor, City of Lamesa
601 S. 1st St.
Lamesa, Texas 79331-6247

Dear Mayor Stevens,

I am pleased to inform you that the Texas Department of Agriculture (TDA) has approved a Community Development Fund (CD) award for the City of Lamesa in the amount of \$291,540 in support of water system improvements. This project will be funded through the Texas Community Development Block Grant (TxCDBG) Program as Contract No. 7218280.

The contract is being drafted and should be emailed to you shortly via DocuSign. The contract must be signed and returned within 30 days of receipt. In addition, TDA acknowledges receipt of your pre-agreement request for administrative and engineering services in your application and TDA approves the request. Costs incurred on or after February 9, 2017 may be considered eligible if all other federal, state, and program requirements have been met.

In an effort to ensure funds are spent in a timely manner, TDA requires any issues related to the approved project or threshold requirements related to administrative capacity or satisfactory performance to be addressed within 90 days after the date of this award letter (4 T.A.C. 30.31(b)). Any issues TDA brings to your attention must be addressed within this 90-day period so that the contract can be written and funding for the project secured.

Thank you for your efforts on behalf of the citizens of the City of Lamesa. Please feel free to contact TxCDBG Program Specialist Chad Hinds at 512-936-0232 should you have any questions about this award.

Sincerely yours,

A handwritten signature in cursive script, reading "Suzanne Barnard", is positioned below the "Sincerely yours," text.

Suzanne Barnard
Office of Rural Affairs

SB/ELG/pm

City Council Agenda

City of Lamesa, Texas

DATE OF MEETING: NOVEMBER 13, 2018

AGENDA ITEM:14

SUBJECT: LEASE OF TORO GREENMASTER TRIFLEX FOR LAMESA
MUNICIPAL GOLF COURSE
PROCEEDING: Action
SUBMITTED BY: City Staff

SUMMARY STATEMENT

City Council to consider a resolution approving a lease of a Toro Greenmaster Triflex for the Lamesa Municipal Golf Course (Buyboard). *(Golf Course Superintendent)*

COUNCIL ACTION

DISCUSSION _____

Motion by Council Member _____ to consider a resolution approving a lease of a Toro Greenmaster Triflex for the Lamesa Municipal Golf Course. Motion seconded by Council Member _____ and upon being put to a vote the motion _____.

VOTING: "AYE" _____ "NAY" _____ "ABSTAIN" _____

CITY MANAGER'S MEMORANDUM

Recommend approval.

RESOLUTION
LEASE NO. 008-0714136-102
DATED AS OF NOVEMBER 1, 2018

A resolution authorizing the negotiation, execution, and delivery of Lease No. **008-0714136-102** dated **November 1, 2018** (the "Lease"), between **City of Lamesa, Texas, 601 South First Street, Lamesa, TX 79331** and **TCF Equipment Finance, a division of TCF National Bank, 1111 West San Marnan Dr, Suite A2 West, Waterloo, IA 50701-8926**; and prescribing other details in connection therewith.

WHEREAS, City of Lamesa, Texas, (the "Lessee") is a political subdivision duly organized and existing pursuant to the Constitution and laws of the State of Texas; and

WHEREAS, Lessee is duly authorized by applicable law to acquire such items of personal property as are needed to carry out its governmental functions and to acquire such personal property by entering into lease-purchase agreements; and

WHEREAS, Lessee hereby finds and determines that the execution of a Lease for the purpose of leasing with the option to purchase the property designated and set forth in the Lease is appropriate and necessary to the function and operations of the Lessee; and

WHEREAS, TCF Equipment Finance, a division of TCF National Bank, (the "Lessor") shall act as Lessor under said Lease; and

WHEREAS, the Lease shall not constitute a general obligation indebtedness of the Lessee within the meaning of the Constitution and laws of the State;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF City of Lamesa, Texas:

Section 1. The Lease, in substantially the form as presently before the governing body of the Lessee, is hereby approved, and the _____ of the Lessee, is hereby authorized to negotiate, enter into, execute, and deliver the Lease and related documents in substantially the form as presently before the governing body of the Lessee, with such changes therein as shall be approved by such officer, and which Lease will be available for public inspection at the offices of Lessee.

Section 2. The Lessee shall, and the officers, agents and employees of the Lessee are hereby authorized and directed to take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution, and to carry out, comply with and perform the duties of the Lessee with respect to the Lease.

Section 3. The Lessee's obligations under the Lease shall be expressly subject to annual appropriation by Lessee; and such obligations under the Lease shall not constitute a general obligation of Lessee or indebtedness of Lessee within the meaning of the Constitution and laws of the State of Texas.

Section 4. All other related contracts and agreements necessary and incidental to the Lease are hereby authorized, ratified and approved.

Section 5. This resolution shall take effect immediately upon its adoption and approval.

CERTIFIED AS TRUE AND CORRECT this ____ day of _____, 20____.

Signature of Clerk, Secretary or Assistant Secretary

Printed Name of Clerk, Secretary or Assistant Secretary



Professional Turf Products, L.P.
1010 North Industrial Blvd.
Euless, Texas 76039
Jason Kerby
(325) 829-7958
kerbyj@proturf.com



Count on it.

| | | | |
|-------------|--|--------------|-----------------------|
| Ship To | City of Lamesa Golf | Date | 10/11/2018 |
| Quotation | BUYBOARD (CONTRACT # 529-17) - Credit Cards Not Accepted | Tax Rate | 0.00000 |
| Contact | Victor Dimas | | |
| Address | 201 N Avenue S | Trade-In | \$0.00 |
| City | Lamesa | Finance | TCF Equipment Finance |
| State | Texas | Account Type | Contract |
| Postal Code | 79311 | Comments: | 2326268 (10-11-2018) |
| Phone | | | |
| Fax | | | |

sat hnl 123

Finance Proposal (Includes Destination)

| Qty | Model # | Description | 48 Month | Selling Price |
|-----|----------|---|-----------|---------------|
| 1 | 04510 | Greenmaster TriFlex 3300 Hydraulic | | |
| 3 | 04655 | 14 BL Cutting Unit | | |
| 1 | 04626 | Narrow Wiehle Roller (.200" Spacing) (Set of 3) | | |
| 1 | 115-4510 | BIMINI FOLDING SHADE ASM | | |
| 1 | 04554 | Light Kit - LED | | |
| 1 | 131-6691 | SEAT COVER, LARGE | | |
| 1 | 30042 | 400 HOUR MAINTENANCE KIT: GR3300/3320 | | |
| | | GR3300 TriFlex | \$ 668.68 | \$ 35,009.58 |

Monthly Payments (FMV)
Tax has not been included
TOTAL

\$ 668.68
\$ -
\$ 668.68

Almost Time to renew our Greenmaster TriFlex

Comments:

For all New Equipment, Demo units may be available for up to 20% savings.

For all New Equipment, Refurbished units may be available for up to 40% savings.

Terms & Conditions:

1. Orders are considered contractual. Order cancellations are subject to fees up to 10% of the original order value.
2. New equipment delivery time is estimated at six weeks from the time credit is approved & documents are executed.
3. Pricing, including finance options, valid for 30 days from time of quotation.
4. After 30 days all prices are subject to change without notice.
5. Used and Demo equipment is in high demand and availability is subject to change.
 - A. Upon firm customer commitment to purchase, said equipment availability will be determined and "locked".
 - B. In the event equipment is unavailable at time of order, PTP will employ every resource to secure an acceptable
 - C. PTP strongly advises the customer to issue a firm PO as quickly as possible after acceptance of quotation.
6. "Trade In Allowances" will be treated as a credit for future parts purchases on PTP account unless other arrangements

Returns Policy:

1. All returns are subject to restocking, refurbishing, usage, and shipping fees.
2. All returns must be able to be sold as new.
3. Items missing parts are non returnable.
4. Professional Turf Products will have sole discretion as to the resalable condition of the product.
5. This policy does not apply to items that are defective, or shipped incorrectly by PTP or one of its vendors.

Payment:

1. Terms are net 10 unless prior arrangements have been made.
2. Quoted prices are subject to credit approval.
 - A. PTP will work with third party financial institutions to secure leases when requested to do so.
 - B. When using third party financiers, documentation fees & advance payments may be required.
 - C. For convenience, monthly payments are estimated based on third party rate factors in effect at time of the quotation.
 - D. PTP assumes no liability in the event credit becomes unavailable or rates change during the approval process.
3. There will be a service charge equal to 1.5% per month (18% per annum) on all past due invoices.
4. By Law we are required to file a "Notice to Owner" of our intent to file lien in the event of payment default. This notice must be sent within 60 days of the date the original invoice and will happen automatically regardless of any special payment arrangements that may have been made.

Authorized Signature: _____

Date: _____

Victor Dimas
10-18-18



Turf Equipment Schedule (Fair Market Value Purchase Option)

| | |
|---|-----------------------|
| The "Lease": Equipment Schedule Number 008-0714136-102 Dated November 1, 2018 to Master Lease Number 7141361 Dated February 1, 2017 | |
| "Lessee": City of Lamesa, Texas, 601 South First Street, Lamesa, TX 79331 | |
| Contact: Robert Ramirez | Phone: (806) 872-2124 |
| "Lessor": TCF Equipment Finance, a division of TCF National Bank, 1111 West San Marnan Dr, Suite A2 West, Waterloo, IA 50701-8926 | |

This Equipment Schedule (this "Schedule") is entered into pursuant to and incorporates the terms of the Master Lease (except as expressly modified by this Schedule) identified above between Lessor and Lessee (the "Master Lease" and, together with this Schedule, this "Lease"). All capitalized terms not otherwise defined in this Schedule have the meanings assigned in the Master Lease. Upon execution and delivery of this Schedule by Lessor and Lessee, and Lessee's acceptance of the Equipment described below, Lessor leases to Lessee and Lessee leases from Lessor the Equipment on the terms and conditions of this Lease.

SUMMARY OF TERM AND RENTAL PAYMENTS:

| Commencement Date | Initial Term | Rent Payment Period | Each Rent Payment | Advance Rent Payment(s) | Interim Rent Daily Factor | Security Deposit |
|-------------------|--------------|---------------------|--|---|---------------------------|------------------|
| | 48 Months | Monthly | \$668.68 plus applicable taxes except financed sales tax included in the Final Cost | \$668.68 For Installments(s): First | N/A | N/A |

EQUIPMENT, PERSONAL PROPERTY, SERVICES AND/OR SOFTWARE (the "Equipment"):

MAXIMUM HOURS:

| | |
|---|----------|
| 201 North Avenue S, Lamesa, TX 79331: (1) Toro Greensmaster 3300 together with any and all attachments thereto | 600/Year |
|---|----------|

Each Rent Payment shall be payable in advance on the Commencement Date and on the same day of each subsequent Rent Payment Period for the Initial Term and any renewal term.

The following additional provisions apply to the Equipment and this Lease only:

- So long as this Lease has not been canceled or terminated early and no Event of Default exists, upon expiration of the Initial Term ("Lease End"), Lessee may purchase all, but not less than all, of the Equipment for the fair market value of the Equipment, as mutually determined by Lessor and Lessee, plus all sales and use taxes arising on the sale of the Equipment. To exercise the foregoing purchase option, Lessee must give written notice thereof to Lessor at least 90 days and no more than 120 days prior to Lease End. If Lessee fails to give such notice, or if the parties cannot agree on the Fair Market Value of the Equipment by 60 days before Lease End, then the purchase option shall lapse. If the purchase option lapses, then at least 30 days before Lease End or the end of any renewal term, Lessee must give Lessor notice of its intent to return the Equipment and request return location instructions. If Lessee fails to give such notice, or gives notice but fails to return the Equipment in accordance with Section 5 of the Master Lease, this Lease will automatically renew, at the same rental and other terms set forth in this Lease, for additional successive non-cancelable 1-month terms after the Initial Term until timely written notice of return and proper return of the Equipment is made.
- If Lessee gives timely notice of election to purchase the Equipment as provided in paragraph 1 and fails to timely pay the purchase price, then Lessor may, in its sole discretion, by written notice to Lessee (a) treat the Equipment as purchased and enforce payment of the purchase price, or (b) declare a failure to meet the purchase conditions whereupon Lessee's interest in the Lease and Equipment shall automatically be canceled and Lessee shall return the Equipment in accordance with Section 5 of the Master Lease.
- Upon Lessee's exercise of the purchase option and Lessor's receipt of the purchase price plus applicable sales and use tax and any rent or other amount owing under this Lease, the Equipment will be deemed transferred to Lessee at its then location and, on Lessee's request at such time, Lessor will deliver to Lessee a bill of sale for the Equipment, "WHERE IS, AS IS" WITHOUT ANY WARRANTY AS TO TITLE OR WITH RESPECT TO THE EQUIPMENT, EXPRESS OR IMPLIED.
- If Lessor suffers a Tax Loss because, for federal or state income tax purposes, for any reason, this Lease is not a true lease or Lessor otherwise is not entitled to depreciate the Equipment in the manner Lessor anticipated when entering into this Lease, then Lessee shall pay Lessor, as additional rent hereunder, a lump-sum amount which, after payment of all federal, state, and local income taxes on the receipt of such amount, and using the same assumptions as to tax benefits and other matters Lessor used in originally evaluating and pricing this Lease, will in Lessor's reasonable opinion maintain Lessor's net after-tax rate of return with respect to this Lease at the same level it would have been had such Tax Loss not occurred. Lessor will notify Lessee of any claim that may give rise to indemnity hereunder and will make a reasonable effort to contest any such claim at the administrative level of the applicable taxing authority. Lessor shall control all aspects of any settlement and contest, and Lessee agrees to pay the legal fees and other out-of-pocket expenses thereof even if Lessor's defense is successful. Notwithstanding the foregoing, Lessee will not be obligated to indemnify Lessor for any Tax Loss caused solely by (a) a casualty Loss to the Equipment if Lessee pays the amount required under Section 8 of the Master Lease, (b) Lessor's sale of the Equipment other than on account of an Event of Default, (c) failure of Lessor to have sufficient income to utilize its anticipated tax benefits or to timely claim such tax benefits, and (d) tax law changes, including rates, effective after the Lease begins. Lessee's indemnity obligations hereunder shall survive cancellation and termination of this Lease. For purposes of this paragraph, the term "Tax Loss", means Lessor's loss of, or loss of the right to claim, or recapture of, all or any part of the federal or state income tax benefits Lessor anticipated as a result of entering into this Lease and owning the Equipment, and the term "Lessor" shall include any member of an affiliated group of which Lessor is (or may become) a member if consolidated tax returns are filed for such affiliated group for federal income tax purposes.
- If this Lease terminates or is cancelled prior to the end of the Initial Term, then the Maximum Hours specified above shall be reduced pro rata based on the number of months remaining in the current year or Initial Term, as applicable. If the Lease is renewed or extended, the Maximum Hours allowed during such renewal or extension shall be calculated pro rata based on the number of Maximum Hours specified above and the number of months of such extension or renewal.
- This Schedule may, in Lessor's sole discretion, be delivered by facsimile or other electronic means ("e-copy"), and such e-copy or a printed version thereof shall be enforceable as an original and admissible as such in any court or other proceeding, provided that there shall be only one original of this Schedule and it shall bear the original signature of Lessor and be marked "Original". Lessee agrees to deliver to Lessor, on request, this Schedule bearing Lessee's original signature. If this Schedule constitutes chattel paper, a security or ownership interest intended to be created through the transfer and possession of this Schedule can be done only by the transfer of the "Original" bearing the original signature of Lessor.

Lessor: TCF Equipment Finance, a division of TCF
National Bank

By: _____

Operations - T.C.

Lessee: City of Lamesa, Texas

By: _____

Shawna Burkhardt, City Manager

OPINION OF COUNSEL

(To be on Attorney's Letterhead)

Date:

Lessee: City of Lamesa, Texas
601 South First Street,
Lamesa, TX 79331

Lessor: TCF Equipment Finance, a division of TCF National Bank
1111 West San Marnan Dr, Suite A2 West
Waterloo, IA 50701-8926

Re: Contract 008-0714136-102, dated as of November 1, 2018, by and between City of Lamesa, Texas and Lessor

Ladies and Gentlemen:

I have acted as counsel to Lessee with respect to the contract described above (the "Lease") and various related matters, and in this capacity have reviewed a duplicate original or certified copy of the Lease and exhibit thereto. Based upon the examination of these and such other documents as I deem relevant, it is my opinion that:

1. Lessee is a public corporation and political subdivision of the State of Texas (the "State") duly organized, existing and operating under the Constitution and laws of the State. The full, true and correct legal name of Lessee is _____.
2. The Uniform Commercial Code, as adopted in the State (the "UCC"), and no other statute of the State, governs the creation, perfection, priority or enforcement of a security interest created by Lessee.
3. Lessee is authorized and has power under State law to enter into the Lease, and to carry out its obligations thereunder and the transactions contemplated thereby.
4. The Lease and the other documents described above have been duly authorized, approved, executed and delivered by and on behalf of Lessee, and the Lease is a valid and binding contract of Lessee enforceable in accordance with its terms, except to the extent limited by State and Federal laws affecting remedies and by bankruptcy, reorganization or other laws of general application relating to or affecting the enforcement of creditors' rights.
5. The authorization, approval and execution of the Lease and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all open meeting laws, public bidding laws and all other applicable State and Federal laws.
6. The execution of the Lease and the appropriation of moneys to pay the payments coming due under the Lease do not result in the violation of any constitutional, statutory or other limitation relating to the manner, form or amount of indebtedness which may be incurred by Lessee.
7. There is no litigation, action, suit, or proceeding pending or before any court, administrative agency, arbitrator or governmental body, that challenges the organization or existence of Lessee; the authority of the organization or existence of Lessee; the authority of its officers; the proper authorization, approval and execution of the Lease and the other documents described above; the appropriation of monies to make Rental Payments under the Lease for the current fiscal year, or the ability of Lessee otherwise to perform its obligations under the Lease and the transactions contemplated thereby.

This opinion of counsel may be relied upon by Lessor and its successors and assigns.

Very truly yours,



CERTIFICATE OF INCUMBENCY
LEASE NO. 008-0714136-102
DATED AS OF November 1, 2018

I, _____, do hereby certify that I am the duly elected or appointed and acting Clerk/Secretary of City of Lamesa, Texas (the "Lessee"), a political subdivision duly organized and existing under the laws of the State of Texas, and that, as of the date hereof, the individuals named below are the duly elected or appointed officers of the Lessee holding the offices set forth opposite their respective names.

| NAME | TITLE | SIGNATURE |
|-------|-------|-----------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |

IN WITNESS WHEREOF, I have duly executed this certificate this _____ day of _____, 20 ____.

Signed: _____

Title: _____

NOTE: The Clerk or Secretary of the Lessee should sign unless that person is also the signor of the documents in which case the President or some other Officer of the Lessee should execute this document.



11100 Wayzata Blvd, Suite 801 Minnetonka, MN 55305

Insurance Certificate Request

| | | | |
|----------------|--------------------------------------|--------------|------------------------|
| To | To Whom It May Concern | From | Marisa Meyers |
| Company | | Fax | (866) 465-3149 |
| Fax | | Phone | (800) 215-4738 x |
| Phone | | Email | mmeyers@financediv.com |
| Subject | INSURANCE CERTIFICATE REQUEST | Date | November 1, 2018 |

Message:

Our mutual customer, City of Lamesa, Texas, is leasing equipment through TCF Equipment Finance, a division of TCF National Bank. We are in need of an INSURANCE CERTIFICATE for the equipment leased prior to us closing out their transaction. Please see below for specifics. Thanks!

Please include the following items on the certificate:

| |
|---|
| 1. INSURED: City of Lamesa, Texas, 601 South First Street, Lamesa, TX 79331 |
| 2. COVERAGES: <ul style="list-style-type: none">• Liability Insurance – Minimum \$1,000,000.00 per occurrence in Combined Single Limit or such greater minimum as may be prescribed by any applicable state law specifying minimum insurance requirements.<ul style="list-style-type: none">➤ Policy Number➤ Policy Effective Date & Policy Expiration Date• Property Damage – Cost: \$35,009.58 or ACV<ul style="list-style-type: none">➤ Comprehensive & Collision Deductibles (if applicable) or Physical Damage Deductible (Shall not exceed \$10,000 or 10% of Total Cost)➤ Policy Number➤ Policy Effective Date & Policy Expiration Date |
| 3. DESCRIPTION OF EQUIPMENT: (1) Toro Greensmaster 3300 with any and all attachments Or reference: "Leased Equipment on TCF Contract Number 008-0714136-102", if the description is too long |
| 4. TCF National Bank, its successors and assigns needs to be listed as Loss Payee & Additional Insured on the Insurance Certificate. |

If you have any questions, please feel free to contact me. Please send the certificate to my attention as soon as possible to mmeyers@financediv.com or fax to (866) 465-3149. Thank you!

Marisa Meyers

Senior Transaction Coordinator

TCF Equipment Finance, a division of TCF National Bank, 1111 West San Marnan Dr, Suite A2 West, Waterloo, IA 50701-8926

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Insurance_CertRequest_Lease ver.09.03.14 369494 SL 11/1/2018 11:34 AM



Invoice

Date of Invoice: 11/01/2018
Application Number: 369494
Contract Number: 008-0714136-102

To: City of Lamesa, Texas
601 South First Street
Lamesa, TX 79331

Advance Payments/Security Deposit

| Description | Contract Payment | Sales/Use Tax | Other | Amount |
|--------------------------|------------------|---------------|--------|-----------------|
| First Payment in Advance | \$668.68 | \$0.00 | | \$668.68 |
| Last Payment in Advance | \$0.00 | \$0.00 | | \$0.00 |
| | | | \$0.00 | \$0.00 |
| Sub Total | | | | \$668.68 |

Other Fees/Charges

| Fee Description | Amount |
|-------------------|----------|
| Documentation Fee | \$250.00 |

Other Fees/Charges Sub Total **\$250.00**

Invoice Total Due

Invoice Total Due **\$918.68**

Remit Payment with 866-465-3149
Completed Documents to: OR
TCF Equipment Finance, a division of TCF
National Bank
1111 West San Marnan Dr, Suite A2 West
Waterloo, IA 50701-8926

Texas Sales and Use Tax Exemption Certification

This certificate does not require a number to be valid.

| | |
|---|------------------------------|
| Name of purchaser, firm or agency | |
| Address (Street & number, P.O. Box or Route number) | Phone (Area code and number) |
| City, State, ZIP code | |

I, the purchaser named above, claim an exemption from payment of sales and use taxes (for the purchase of taxable items described below or on the attached order or invoice) from:

Seller: TCF Equipment Finance, a division of TCF National Bank

Street address: 111 W. San Marnan Dr, Ste A2 W City, State, ZIP code: Waterloo, IA 50701

Description of items to be purchased or on the attached order or invoice:


| |
|--|
| |
| |
| |
| |
| |

Purchaser claims this exemption for the following reason:

| |
|--|
| |
| |
| |
| |
| |

I understand that I will be liable for payment of all state and local sales or use taxes which may become due for failure to comply with the provisions of the Tax Code and/or all applicable law.

I understand that it is a criminal offense to give an exemption certificate to the seller for taxable items that I know, at the time of purchase, will be used in a manner other than that expressed in this certificate, and depending on the amount of tax evaded, the offense may range from a Class C misdemeanor to a felony of the second degree.

| | | |
|---|-------|------|
|  Purchaser | Title | Date |
|---|-------|------|

NOTE: This certificate cannot be issued for the purchase, lease, or rental of a motor vehicle.

THIS CERTIFICATE DOES NOT REQUIRE A NUMBER TO BE VALID.

Sales and Use Tax "Exemption Numbers" or "Tax Exempt" Numbers do not exist.

This certificate should be furnished to the supplier.
Do not send the completed certificate to the Comptroller of Public Accounts.

| |
|---|
| "Lessee" |
| City of Lamesa, Texas, 601 South First Street, Lamesa, TX 79331 |
| "Lessor" |
| TCF Equipment Finance, a division of TCF National Bank, 1111 West San Marnan Dr, Suite A2 West, Waterloo, IA 50701-8926 |

Delivery and Acceptance agreement attached to and made a part of Lease **008-0714136-102** dated **November 1, 2018** (the "Lease").

This Certificate relates to the Equipment (the "Equipment") that is described in the Lease.

Pursuant to the Lease, Lessee acknowledges that Lessor has acquired the Equipment in connection with the Lease and Lessee has either received a copy of the purchase agreement with the vendor of the Equipment on or before signing the Lease or has approved such purchase. Lessee hereby represents, warrants and certifies that (i) all of the Equipment has been delivered to Lessee at the Equipment Location set forth in the Lease and has been installed, tested and inspected by Lessee or duly authorized representatives of Lessee, (ii) the Equipment Description set forth in the Lease is complete and correct, (iii) the Equipment, together with any supporting documentation, is exactly what Lessee ordered, is in good working order, is satisfactory in all respects and has been accepted by Lessee under the Lease as of the Acceptance Date set forth below, and (iv) there has been no adverse change in the business or financial condition of Lessee or any guarantor of the Lease since the day the most recent financial statement of Lessee or any guarantor was submitted to Lessor. If Lessee has made a deposit to the Equipment vendor(s), by signing this Certificate, Lessee hereby transfers all of Lessee's right, title and interest in and to the Equipment to Lessor, except to the extent set forth in the Lease, whether or not Lessee has been reimbursed for the deposit(s).

IMPORTANT: LESSEE SHOULD SIGN THIS CERTIFICATE ONLY AFTER LESSEE HAS RECEIVED AND IS COMPLETELY SATISFIED WITH THE EQUIPMENT. BY SIGNING THIS CERTIFICATE, LESSEE (1) IS IRREVOCABLY ACCEPTING THE EQUIPMENT, (2) BECOMES ABSOLUTELY AND IRREVOCABLY OBLIGATED TO LESSOR UNDER THE LEASE, AND (3) MAY NOT THEREAFTER REJECT THE EQUIPMENT, CANCEL OR TERMINATE THE LEASE OR DENY ANY STATEMENT MADE IN THIS CERTIFICATE, FOR ANY REASON WHATSOEVER

Acceptance Date: _____

Lessee: City of Lamesa, Texas

By: _____ Title: _____

Printed Name: _____

Please Complete and return this document by Fax to 800-741-8079 upon delivery and acceptance of the financed Equipment.

City Council Agenda

City of Lamesa, Texas

DATE OF MEETING: NOVEMBER 13, 2018

AGENDA ITEM: 15

SUBJECT: CITY STAFF REPORTS

SUBMITTED BY: City Staff

SUMMARY STATEMENT

- a. **PARKS, STREETS, SANITATION/LANDFILL REPORT:** Director to report on the city's recent events. (*Parks and Street/Director*)
- b. **UTILITIES DIRECTOR REPORT:** Utilities Director to report on the city's recent events. (*Utilities Director*)

COUNCIL ACTION

No City Council action required.

City Staff to report on recent events

City Council Agenda

City of Lamesa, Texas

DATE OF MEETING: NOVEMBER 13, 2018

AGENDA ITEM: 16

SUBJECT: CITY MANAGER REPORT
SUBMITTED BY: City Manager

SUMMARY STATEMENT

- a. City Hall Closed for Thanksgiving – November 22 & 23, 2018
- b. City Hall Christmas Open House – December 7, 2018 from 11 a.m. to 4 p.m.
- c. City Hall Closed for Christmas – December 24 & 25, 2018
- d. City Hall Closed for New Year's Day – January 1, 2019
- e. PFIA Training (Denton, TX) – December 11-13, 2018

COUNCIL ACTION

No City Council action required.

City Council Agenda

City of Lamesa, Texas

DATE OF MEETING: NOVEMBER 13, 2018

AGENDA ITEM: 17

ADJOURNMENT: *The next regularly scheduled meeting of the City Council of the City of Lamesa, Texas will be December 18, 2018 at 5:30 P.M.*