

**AMENDED ORDER ESTABLISHING POLICY FOR  
INVESTMENT OF MUNICIPAL FUNDS  
AND APPOINTING INVESTMENT OFFICER**

**WHEREAS**, the City of Montgomery, Texas (the "City") is a body politic and a type A general law municipality of the state of Texas; and

**WHEREAS**, Chapter 2256, Texas Government Code (sometimes referred to herein as the "Public Funds Investment Act"), requires that the governing body of the City adopt rules, regulations and policies governing the investment of Municipal funds and designate one or more of its officers or employees to be responsible for the investment of such funds;

**NOW, THEREFORE, IT IS ORDERED BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, THAT** the policies, procedures and provisions set forth herein be and are hereby ADOPTED, and that any order, and every amendment thereto, heretofore adopted by the City Council establishing policies for the investment of City funds and appointing an investment officer shall be and are hereby revoked and superseded effective as of March 22, 2022, the effective date of this Order.

**Section 1. Purpose.** The purpose of this Order Establishing Policy for Investment of Municipal Funds and Appointing Investment Officer (the "Investment Policy") is to adopt rules and regulations which set forth the City's policies with regard to the investment and security of City funds or funds under the City's control. It is further the purpose of this Investment Policy to ensure that purchases and sales of City investments are initiated by authorized individuals, conform to investment objectives and regulations, and are properly documented and approved, and to provide for the periodic review of City investments to evaluate investment performance and security, all as required by applicable law.

**Section 2. Appointment of Investment Officer; Standard of Care.** Mr. Mark M. Burton and Ghia Lewis of Municipal Accounts and Consulting, L.P., the City's Bookkeeper, shall be and is hereby individually designated the Investment Officer of the City, responsible for the supervision of investment of City funds pursuant to this Investment Policy. In the administration of his or her duties hereunder, the City's Investment Officer shall exercise the judgment and care, under prevailing circumstances, that a person of prudence, discretion and intelligence would exercise in the management of his or her own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived; however, the City Council of the City shall retain ultimate responsibility as fiduciaries of the City's assets. The City Council, Tax Assessor-Collector, Financial Advisor and other consultants shall be authorized to assist the Investment Officer in the carrying out of the duties of Investment Officer.

**Section 3. Appointment of Investment Officer and Tax Assessor-Collector for Investment of City Funds.** The City Council hereby designates the City's Investment Officer as the authorized representative of the City to (a) invest and reinvest the funds of the City; (b) withdraw City funds from appropriate accounts of the City for the investment of same in accordance with the terms of this Investment Policy; and (c) arrange for adequate security for uninsured deposits or funds of the City

pursuant to and in compliance with a Public Funds Depositor Collateral Security Agreement which shall be substantially in the form attached hereto as Exhibit "B," and to execute said Agreement(s) and any documentation required in connection therewith on behalf of the City. To the extent that the City's Tax Assessor- Collector is required to perform any of the functions set forth in (a), (b) or (c) above, the Tax Assessor-Collector shall do so in accordance with the provisions of the Public Funds Investment Act and this Investment Policy, and under the supervision of and in consultation with the City's Investment Officer.

**Section 4. Authority and Duties of Investment Officer.** The following rules shall apply to the City's Investment Officer:

- A. The City Council hereby instructs the Investment Officer for the City to maintain the investments of the City in a manner consistent with the rules and regulations set forth in this Investment Policy and the Public Funds Investment Act, as amended.
- B. No persons, other than those designated in Section 3 above, may deposit, invest, transfer, withdraw or otherwise manage City funds without express written authority of the City Council.
- C. The Investment Officer for the City shall invest and reinvest City funds only in those investments authorized under this Investment Policy or by the City Council, and only in the name of and solely for the account of "City of Montgomery, Texas". The Investment Officer for the City shall be authorized to wire transfer funds of the City only (1) for the purchase of investments solely in the name of "City of Montgomery, Texas", (2) for the transfer of all or any portion of the principal of or interest earnings or profits or gains on any investment of the City to one or more previously authorized and established accounts of "City of Montgomery, Texas", (3) for the transfer of City funds to any paying agent of the City for the payment of principal and semiannual interest payments on any outstanding bonds of the City and for the payment of paying agent fees relative to same, or (4) for other purposes, such as the payment of City bills, pursuant to a resolution or other express written instructions of the City Council.
- D. The Investment Officer for the City shall, not later than the first anniversary of the date the Investment Officer takes office or assumes such duties, attend a training session of at least should this not be 10 hours of instruction relating to the Investment Officer's responsibilities under the Public Funds Investment Act, as amended, from an independent source approved by the City Council and thereafter shall attend at least ten hours within each two year period after the first year. Such investment training must include education in investment controls, security risks, diversification of investment portfolio, strategy risks, market risks, and compliance with the provisions of the Public Funds Investment Act, as amended.
- E. Not less frequently than each fiscal quarter, the City's Investment Officer shall prepare and submit to the City Council a written report of investment transactions for all invested funds of the City for the preceding reporting period. Such report must (1) describe in detail the investment position of the City on the date of the report; (2) be prepared by the Investment Officer for the City; (3) be signed by the Investment Officer of the City; (4) contain a summary statement, prepared in compliance with generally accepted

accounting principles, of each pooled fund group, if any has been created by the City, that states the beginning market value for the reporting period, additions and changes to the market value during the period, and ending market value for the period, and fully accrued interest for the reporting period; (5) state the book value and market value of each separately invested asset of the City at the beginning and 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, if the City has any, for which each individual investment was acquired; and (8) state the compliance of the City's investment portfolio as it relates to the investment strategy for each account of the City as set forth in this Investment Policy and relevant provisions of the Public Funds Investment Act, as amended. Such report must be presented to the City Council within a reasonable period of time after the end of each fiscal quarter. If the City invests in other than (i) money market mutual funds, (ii) investment pools or (iii) accounts offered by its depository bank in the form of certificates of deposit, or money market accounts or similar accounts, all of the type authorized under Section 6 of this Investment Policy, the reports prepared under this Section 4.E. shall be formally reviewed at least annually by an independent auditor, and the result of such review shall be reported to the City Council by that auditor.

- F. In the event City funds are invested or reinvested in Certificates of Deposit, the Bookkeeper or Tax Assessor-Collector, as applicable, shall solicit bids from at least two (2) bidders, either orally, in writing, electronically or in any combination of those methods, for each such investment.
- G. All purchases of investments, except investments in investment pools or in mutual funds, shall be made on a delivery versus payment basis.
- H. Not less frequently than each fiscal quarter, and as close as practicable to the end of such reporting period, the City's Investment Officer shall determine the market value of each City investment. Such market values shall be included in the written reports submitted to the City Council pursuant to Section 4.E hereinabove. The following methods shall be used:
  - (1) Certificates of deposit shall be valued at their face value plus any accrued but unpaid interest.
  - (2) Shares in money market mutual funds and investment pools, if any, shall be valued at par plus any accrued but unpaid interest.
  - (3) Other investment securities may be valued in any of the following ways:
    - (a) The lower of two bids for such security obtained from qualified securities brokers/dealers with whom the City may engage in investment transactions;
    - (b) The average of the bid and asked prices for such security as published in The Wall Street Journal or The New York Times;

- (c) The bid price for such security published by any nationally recognized security pricing service; or
- (d) The market value quoted by the seller of the security.

I. A written copy of the City's Investment Policy must be presented to any person offering to engage in an investment transaction with the City and to any investment management firm under contract with the City for the investment and management of its funds. The "qualified representative" of the business organization offering to engage in an investment transaction with the City or an investment management firm shall execute a written instrument in a form acceptable to the City substantially to the effect that the business organization or firm has received and reviewed the Investment Policy of the City and acknowledges that such business organization or firm has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the City and such organization or firm that are not authorized by the City's Investment Policy, except to the extent that such authorization is dependent on an analysis of the makeup of the City's entire investment portfolio or requires an interpretation of subjective investment standards. The City's Investment Officer may not acquire or otherwise obtain any authorized investment described in Section 6 hereof from a person who has not delivered to the City the written statement acknowledging receipt of this Investment Policy in a form substantially similar to that attached hereto as Exhibit "A" (the "Certificate of Compliance"). For purposes of this Section 4.1., the "qualified representative" of a business organization offering to engage in an investment transaction with the City 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:

- (1) 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;
  - (2) 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;
- or
- (3) for an investment pool, the person authorized to sign the written instrument on behalf of the investment pool by the elected official or board with authority to administer the activities of the investment pool.

The "qualified representative" of an investment management firm under contract with the City for the investment and management of its public funds is a person who is an officer or principal of such firm.

J. The Investment Officer for the City shall disclose in writing to the City Council any (i) "personal business relationship" that they may have with a business organization offering to engage in an investment transaction with the City, or (ii) any relationship within the

second degree by affinity or consanguinity, as determined by Chapter 573, Texas Government Code, as amended, to any individual seeking to sell an investment to the City. Any written disclosure statement filed with the City Council by the Investment Officer pursuant to this section must also be filed with the Texas Ethics Commission. For purposes of this Section 4.J., the Investment Officer has a "personal business relationship" with a business organization if:

- (1) the Investment Officer owns ten 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 ten 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 their personal account.

K. In conjunction with the City's annual financial audit, a compliance audit of management controls on investments and adherence to this Investment Policy must be performed. In connection with said compliance audit, the City Council shall review on an annual basis this Investment Policy and its investment strategies. In connection with said annual review, the City Council shall adopt a written resolution stating that it has reviewed this Investment Policy and the investment strategies set forth herein, and shall indicate in said resolution either the continuance of this Investment Policy without amendment or the changes made to the Investment Policy and/or the investment strategies herein.

**Section 5. General Investment Principles and Objectives.** All investments of City funds or funds under the City's control shall be made in accordance with the following general rules, regulations and policies:

- A. Any moneys in any fund of the City or in any fund established by the City Council in connection with the authorization of the City's bonds, including, but not limited to, proceeds from the sale of such bonds, which funds are not required for the payment of obligations due or to become due immediately, shall be invested and reinvested, from time to time, only in the authorized investments specified in Section 6 hereunder; provided, however, that all such investments shall be secured in the manner provided for the security of the funds of municipalities of the State of Texas (The Public Funds Collateral Act, Chapter 2257, Texas Government Code, as amended) or in such other manner as may be authorized by law from time to time and otherwise suitable for the City's needs.
- B. The policy of the City is to invest City funds only in instruments which further the following investment objectives of the City stated in order of importance: (1) preservation and safety of principal; (2) liquidity; and (3) yield. The City will continuously attempt to diversify its portfolio to reduce risks. The type, conditions and maturity date of City investments shall be consistent with the cash flow needs and operating requirements of the City, as determined from time to time by the City Council,

and consistent with the investment strategy for each City account as set forth in Section 7 hereunder; provided, however, that in no event shall the maximum allowable stated maturity of any individual investment owned by the City exceed two (2) years, unless otherwise specifically set forth in this Investment Policy.

- C. If invested in certificates of deposits, the City's funds shall be secured, to the extent that such funds are not insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund, by the pledge to the City of certain types of securities, as determined in the sole discretion of the City, which under the laws of the State of Texas may be used to secure the deposits of municipalities, pursuant to and in compliance with a Public Funds Depositor Collateral Security Agreement which shall be substantially in the form attached hereto as Exhibit "B", the terms and conditions of which are incorporated herein by reference (the "Public Funds Depositor Collateral Security Agreement").
- D. Securities pledged to the City shall be pledged pursuant to and in compliance with a Public Funds Depositor Collateral Security Agreement to be entered into by and between the City and the institution(s) pledging such securities. Securities pledged to the City shall either be deposited and held in safekeeping at the trust or safekeeping department of a commercial banking institution located in the State of Texas not affiliated with the pledging institution(s) or a federal home loan bank, or shall be held in a restricted securities account, joint safekeeping account or other similar account in a branch of the Federal Reserve Bank pursuant to any and all applicable regulations, operating circulars, bulletins and policies of the Federal Reserve Bank, including the terms and conditions of any applicable forms or agreements, as may exist now or hereafter be enacted, promulgated or issued by the Federal Reserve Bank. The City's Investment Officer and Tax Assessor-Collector shall, within the limits of business practicality and consistent with the Federal Deposit Insurance Corporation Statement of Policy dated March 23, 1993, (or any subsequent applicable Statement of Policy issued by the FDIC) relative to the securing of public funds, ensure that the City's uninsured funds are at all times secured as required by the Public Funds Collateral Act (Chapter 2257, Texas Government Code, as amended) and in the manner set forth in the Public Funds Depositor Collateral Security Agreement. The City's Investment Officer and Tax Assessor-Collector are hereby authorized to execute Public Funds Depositor Collateral Security Agreements and any agreements, documents or forms required by the Federal Reserve Bank on behalf of the City, as and when required, and to approve the substitution of securities pledged to the City as collateral pursuant to and in the manner set forth in any Public Funds Depositor Collateral Security Agreement entered into by the City.
- E. The City Council recognizes that, within the framework of the above rules, decisions must be made concerning the type and duration of each investment transaction, and that such decisions are best made by the person responsible for implementing the transaction, based upon the facts and circumstances prevailing at the time. As a guide to making such decisions, it is hereby declared the policy of the City Council that priority should be given to proper security of the City's funds over maximizing the yield on investments. Furthermore, in cases where the rate of return on an investment security offered by competing banking institutions are substantially equivalent, the City's Investment

Officer shall give preference to those investments and investment institutions offering the greatest degree of administrative convenience and proximity, flexibility of investment arrangements and/or similar intangible benefits and community goodwill.

- F. Except as herein provided, nothing herein shall be deemed or construed to authorize the withdrawal, expenditure or appropriation of funds of the City except by check or draft signed by three (3) members of the City Council, or as otherwise provided by applicable statutes or the resolutions, rules, regulations, policies, orders or proceedings of the City Council. Furthermore, the City Council shall retain sole responsibility for establishing and implementing, from time to time, this Investment Policy, and all investment transactions to be undertaken by the City's Investment Officer pursuant to the Investment Policy shall be subject to the further or more specific directions, instructions, orders, resolutions or actions of the City Council.

**Section 6. Authorized Investments.** The following categories of investment are authorized for investment of City funds:

- A. Obligations, including letters of credit, of the United States or its agencies and instrumentalities;
- B. Direct obligations of the State of Texas or its agencies and instrumentalities;
- C. Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, the State of Texas, or the United States or 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, Issued, assumed or guaranteed by the State of Israel or any of their respective agencies and instrumentalities
- D. Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent;
- E. Certificates of deposit issued by a state or national bank domiciled in the State of Texas, a savings bank domiciled in the State of Texas, or a state or federal credit union domiciled in the State of Texas that are:
  - (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 of the type described in Section 2256.010(2), Texas Government Code, as amended, or
  - (3) secured in any other manner and amount provided by law for deposits of the City pursuant to a Public Funds Depositor Collateral Security Agreement approved and executed by the City;

- F. Commercial paper with a stated maturity of 270 days or fewer from the date of issuance which meets the requirements set forth in Section 2256.013, Texas Government Code, as amended;
- G. No-load money market mutual funds that:
  - (1) are registered with and regulated by the Securities and Exchange Commission;
  - (2) provide the City 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.);
  - (3) have a dollar-weighted average stated maturity of 90 days or fewer; and
  - (4) include in their investment objectives the maintenance of a stable net asset value of \$1.00 for each share;
- H. Investment pools which meet the requirements set forth in Section and Section 2256.019, Texas Government Code, as amended; and
- I. Fully collateralized repurchase agreements meeting the requirements set forth in Section 2256.011, Texas Government Code, as amended, provided that the maximum maturity of same shall not exceed seven (7) days.

**Section 7. Investment Strategies.** City investments shall be made upon the evaluation of the specific investment objectives and strategies of each account of the City, with the primary objective for the selection of any City investment being the understanding of the suitability of such investment to the financial requirements of the City. The City's investment strategy for each of its accounts is as follows:

- A. **Operating/General Account:** The operating/general account is used for all operations and maintenance needs of the City and funds therein shall be invested to meet the operating and cash flow requirements of the City as determined by the City Council. The highest priorities for this account are the liquidity and marketability of an investment if the need arises to liquidate the investment before its maturity. Of equal importance is the preservation and safety of the principal of investments in the operating account. When these priorities are met, the yield on investments held in the operating/general account will next be considered.
- B. **Debt Service/Bond Fund Account;** The City's debt service/bond fund account is used to pay the City's debt service on its outstanding bonds. The highest priority for this account is the preservation and safety of principal. Since the City knows the amount of its debt service requirements and when it becomes due, investments for the debt service/bond fund account should be structured to coincide with the amount and timing of the debt service requirements. When the preservation and safety of principal and liquidity considerations for debt service purposes are assured, including the marketability of debt service/bond fund account investments in the event the need arises to liquidate an investment before its maturity, the yield on debt service/bond fund account investments should be considered. Since the amount of City funds in the debt service/bond fund



account can be significant, diversification of the debt service/bond fund account investment portfolio may be necessary. The City may easily liquidate investments in an investment pool and therefore such investments may be appropriate in combination with longer term investments in the debt service/bond fund account.

- C. **Capital Projects/Construction Fund Account:** The capital projects/construction fund account is used to pay for capital improvements of the City. The highest priority for this account is the preservation and safety of principal. In the event that funds held in the capital projects/construction fund account are for particular improvement projects that have been previously identified by the City Council, the City Council will have an idea of the approximate time when disbursements will be required to be made from this account. In this situation, investments in the capital projects/construction fund account should be structured so that they mature or can be liquidated on or about the dates that disbursements are expected to be made. Once the safety of principal and liquidity and marketability of capital projects/construction fund account investments which are to match certain disbursement dates are assured, the yield on such investments may be considered. Since City funds in the capital projects/construction fund account may not be needed for a year or more, longer term instruments should be considered to increase yield. However, if funds available in the City's capital projects/construction fund account are surplus construction funds from prior bond issues or interest earnings on such funds and are not earmarked for specific improvement projects, but rather viewed by the City Council as an emergency reserve fund for major repairs or rehabilitation projects, investments in the capital projects/construction fund account, at least to the extent that they are for emergency reserve purposes, should be kept in relatively short term investments that can be easily marketed and liquidated if necessary, such as investment pools. Alternatively, bond proceeds that may be deposited in the City's capital projects/construction fund account for reimbursement to a developer and which may be in the capital projects/construction fund account for only one or two days, should be kept in the most liquid investment available. Investment diversification for large amounts of City funds that may be deposited into the capital projects/construction fund account for only one or two days may be achieved through the use of an investment pool. Since investment pools are short term in nature, they would normally be used for City funds in this account only if the City knows that it will be dispersing funds in a relative short period of time. However, on some occasions the yield on investment pools is higher than on longer term investments, so their use may be optimal for funds in the capital projects/construction fund account.

#### **Section 8. Miscellaneous.**

- A. In the event of any conflict or inconsistency between the terms of this Investment Policy and applicable requirements of law, such conflict or inconsistency will be resolved in favor of the more restrictive of this Investment Policy or the applicable requirements of law. In the event of any ambiguity or uncertainty as to the intent and application of any part, section/ paragraph or provision hereof, a written request for clarification or approval of a proposed action describing such circumstances shall be submitted to the City Council for a decision as to a proper course of action.

- B. Investments which are prohibited by Government Code chapter 2270 Prohibition on Investing Public Money in Certain Investments and SB 253 (85<sup>th</sup> Legislature Regular Session). That chapter deals primarily with entities conducting business with Sudan, Iran or Foreign Terrorist Organizations. Such “Listed Companies” are prohibited Investments. The Texas Comptroller will regularly update the list of Listed Companies. The Investment Officer will review the updated list when made available by the Comptroller and will follow the requirements of SB 253 with respect to any existing investments in Listed Companies.
- B. The rules, regulations and policies set forth herein shall be and remain in full force and effect unless and until amended, revised, rescinded or repealed by action of the City Council. The City Council specifically reserves the right to change, alter or amend any provision of this Investment Policy at any time.
- C. The provisions of this Investment Policy are severable, and if any provision or part of this Investment Policy or the application thereof to any person or circumstances shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Investment Policy and the application of such provision or part of this Investment Policy shall not be affected thereby.

The Mayor is authorized to execute and the Secretary to attest this Investment Policy on behalf of the City Council.

**PASSED and ADOPTED** this the \_\_\_\_ day of March, 2022.

CITY OF MONTGOMERY, TEXAS

By: \_\_\_\_\_  
Sara Countryman, Mayor

ATTEST:

\_\_\_\_\_  
Nici Browe, City Secretary