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RESOLUTION NO. 13-92

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, ADOPTING AN INVESTMENT POLICY; AND DECLARING AN EFFECTIVE DATE THEREOF.

WHEREAS, the City Council recognizes that effective cash management is essential to good fiscal management; and

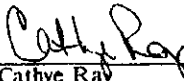
WHEREAS, the City Council realizes the need to adopt an investment policy for the City of Mesquite;

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

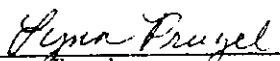
SECTION 1. That the Investment Policy, attached hereto as Exhibit "A", is hereby adopted as the official investment policy of the City of Mesquite.

SECTION 2. That this resolution and the aforementioned investment policy shall take effect immediately from and after its passage as the law in such cases provides.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 6th day of April, 1992.


Cathye Ray
Mayor

ATTEST:


Lynn Prugel
City Secretary

APPROVED:



B.J. Smith
City Attorney

EXHIBIT "A"

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CITY OF MESQUITE
INVESTMENT POLICY

PREFACE

It is the policy of the City of Mesquite (City) that after allowing for the anticipated cash flow requirements of the City and giving due consideration to the safety and risk of investments, all available funds shall be invested in conformance with these legal and administrative guidelines and to the maximum extent possible, at the highest rates obtainable at the time of investment.

Effective cash management is recognized as essential to good fiscal management. An active cash management and investment policy will be pursued to take advantage of investment interest as a viable and material source of revenue to City funds. The City's portfolio shall be designed and managed in a manner responsive to the public trust and consistent with state and local law.

Investments shall be made with the primary objectives of:

- * Safety and preservation of principal
- * Maintenance of sufficient liquidity to meet operating needs
- * Maximization of return on the portfolio

Earnings from investments will be allocated on a pro-rata cash basis by fund and used in a manner that will best serve the interests of the City of Mesquite.

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I. POLICY

It is the policy of the City of Mesquite 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 of the City.

The City is required under the Public Funds Investment Act of 1987, Section 5, (see Appendix A "Public Funds Investment Act") to adopt a formal written Investment Policy for the investment of public funds. The policies and procedures set forth in this policy satisfy the requirement under State law.

II. PURPOSE

The purpose of this investment policy is to establish the scope, objectives, and responsibility for the City investment program and to provide policy guidelines for authorized investments, qualifying institutions, safekeeping, collateral, reporting, and investing procedures.

III. SCOPE

This investment policy shall govern the investment of all financial assets considered to be part of the City entity as defined in the Comprehensive Annual Financial Report and include the General Fund, Special Revenue Funds, Debt Service Funds, Capital Project Funds, Enterprise Funds, Internal Service Funds, and Trust and Agency Funds with the exception of funds governed by Council approved trust agreements and assets administered for the benefit of the City by outside agencies under deferred compensation programs. Additionally, bond funds (including debt service and reserve funds) are governed by the bond ordinance and subject to the provisions of the Internal Revenue Code of 1986 and applicable federal regulations governing the investment of bond proceeds.

IV. INVESTMENT OBJECTIVES

The three objectives of the City's investment activities shall be, in order of priority: safety, liquidity, and yield.

A. SAFETY OF PRINCIPAL

Safety of principal invested is the primary objective in investment decisions of the City of Mesquite. Each investment transaction shall seek to ensure the preservation of capital in the overall portfolio. The risk of loss shall be controlled by investing only in authorized securities as defined by this Policy, by qualifying the financial institutions with whom the City will transact, and by portfolio diversification.

B. MAINTENANCE OF ADEQUATE LIQUIDITY

The investment portfolio should be managed to maintain liquidity to ensure that funds will be available to meet the City's cash flow requirements and by investing in securities with active secondary markets. A security may be liquidated to meet unanticipated cash requirements, or to otherwise favorably adjust the City's portfolio.

C. RETURN ON INVESTMENTS

The City's investment portfolio shall be designed to optimize a market average rate of return on investments consistent with risk constraints and cash flow requirements of the portfolio.

V. INVESTMENT RESPONSIBILITY**A. DELEGATION OF AUTHORITY**

Article IV, Section 26 of the Mesquite City Code designates that the city finance director shall serve as city treasurer and perform any duties of city treasurer as required by the general laws of the State of Texas. The Director of Finance shall be responsible for managing the investment program in compliance with this policy, for considering the quality and capability of staff involved in investment management and procedures, and for establishing a system of internal controls designed to prevent and control losses of public funds.

B. INDEMNIFICATION

The investment officials, acting in accordance with written policies and procedures and exercising due diligence, shall not be held personally responsible for a specific security's credit risk or market price changes, provided that these deviations are reported in a timely manner and that appropriate action is taken to control adverse developments. All employees involved in investment transactions will be bonded.

C. PRUDENCE

The standard of prudence to be applied by the investment officials shall be the "Prudent Person Rule", which states, "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived." The Prudent Person Rule shall be applied in the context of managing the overall investment portfolio.

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D. ETHICAL STANDARDS AND CONFLICTS OF INTEREST

All City officials having direct or indirect role in the investment of City funds shall act as custodians of the public trust avoiding any transaction which might involve a conflict of interest, the appearance of a conflict of interest, or any activity which might otherwise discourage public confidence in the City's managerial ability. 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.

VI. INVESTMENT POLICIES

Safety of principal is the primary objective in investing of public funds and can be accomplished by limiting two types of risk: 1) credit risk, and 2) interest rate risk. Credit risk is the risk associated with the failure of a security issuer or backer. Interest rate risk is the risk that the value of the portfolio will decline due to an increase in the general level of interest rates.

A. AUTHORIZED AND ACCEPTABLE INVESTMENTS

It is the policy of the City to purchase only obligations of the United States government and its agencies and certificates of deposit in financial institutions meeting the City's standards for creditworthiness. The list of authorized investments for the City of Mesquite intentionally excludes some investments authorized by law. These restrictions are placed in order to limit possible credit risk and provide the maximum measure of safety to City funds.

1. United States Treasury Bills - Short-term obligations of the United States government, issued and sold at a discount, with maturities of 13, 26, and 52 weeks.
2. United States Treasury Notes and Bonds - Obligations of the U.S. government issued with a fixed coupon rate and original maturities of one year or more.
3. Other obligations, the principal of and interest on which are unconditionally guaranteed or insured by the United States or its agencies and instrumentalities.
4. Collateralized Certificates of Deposit - Instruments issued by financial institutions (banks) that state specified sums have been deposited for specified periods of time and at specified rates of interest.

The certificates of deposit are to be backed by acceptable collateral securities as dictated by State and local law.

5. The City may participate in the Texas Local Government Investment Pool (TexPool) which is a public funds investment pool created under the Interlocal Cooperation Act, (Tex. Rev. Civ. Stat. Ann. Art. 4413 et seq.) and managed by the State Treasury Department.

B. DIVERSIFICATION

Diversification of investment instruments shall be utilized to avoid incurring unreasonable risks resulting from over concentration of investments in a specific maturity, a specific issue, or a specific class of securities. With the exception of U.S. Treasury securities and authorized pools, no more than 50% of the City's total investment portfolio will be invested in a single security type or with a single financial institution.

C. MAXIMUM MATURITIES

The longer the maturity of investments, the greater their price volatility. Therefore, it is the City's policy to concentrate its investment portfolio in shorter-term securities in order to limit principal risk caused by changes in interest rates.

The City attempts to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the City will not directly invest in securities maturing more than three (3) years from the date of purchase; however, the above described obligations, certificates or agreements may be collateralized using longer dated investments.

Reserve funds may be invested in securities not to exceed five years if the maturity of such investments are made to coincide as nearly as possible with the expected use of the funds.

D. AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS

Financial institutions (Federally insured banks) with and through whom the City invests shall be state or national banks domiciled in this state. No public deposit shall be made except in a qualified public depository as established by state laws. Broker/dealers authorized to provide investment services to the City may include only those designated as reporting dealers by the Federal Reserve Bank of New York, also known as "Primary Government Securities Dealers". Primary dealers include Securities and Exchange commission (SEC) registered securities broker-dealers and banks (see Appendix B "Primary Dealers").

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In selecting qualified institutions, the credit worthiness of institutions shall be considered, and the Finance Director shall maintain and approve all changes to the bidders list. All dealers and banks with whom the City does business are to provide the certification of receipt and understanding of this Investment Policy (see Appendix C "Broker/Dealer Certification"), provide a current audited financial statement, and a completed broker/dealer questionnaire. (see Appendix D "Broker/Dealer Questionnaire")

E. COMPETITIVE BIDS

Competitive quotations must be taken from at least three qualifying institutions for any investment transaction. Investment transactions may be done orally, but followed by electronic or written confirmation. Funds will be authorized to be released after notification that the purchased security has been received. Written confirmation shall be received from the financial institution or broker/dealer. All investments purchased will be held in safekeeping at a third party custodial institution with a safekeeping receipt being sent to the City.

F. DELIVERY VS. PAYMENT

It is the policy of the City that all security transactions entered into by the City of Mesquite shall be conducted on a "DELIVERY VS. PAYMENT" basis (DVP) through the Federal Reserve System. By doing this, City funds are not released until the City has received, through the Federal Reserve wire, the securities purchased.

G. SAFEKEEPING OF SECURITIES

1. SAFEKEEPING AGREEMENT

The City shall contract with a bank or banks for the safekeeping of securities either owned by the City as part of its investment portfolio or held as collateral to secure time deposits.

2. SAFEKEEPING

All securities owned by the City shall be held by its safekeeping agent, except the collateral for certificates of deposit in banks. The collateral for certificates of deposit in banks will be registered in the City's name in the bank's trust department or, alternatively, in a Federal Reserve Bank account in the City's name, or a third-party bank, at the City's discretion. Original safekeeping receipts shall be obtained.

H. COLLATERALIZATION

Consistent with the requirements of the Public Funds Collateral Act (see Appendix E "Public Funds Collateral Act") it is the policy of the City to require full collateralization of all City investments and funds on deposit with a depository bank, other than investments which are obligations of the U.S. government and its agencies. The market value of the investments securing the deposit of public funds shall be at least equal to the amount of the deposits of public funds increased by any accrued interest and reduced to the extent that the deposits are insured by an agency or instrumentality of the United States government. At its discretion, the City may require a higher level of collateralization for certain investment securities. Securities pledged as collateral shall be held by an independent third party with whom the City has a current custodial agreement. The Director of Finance is responsible for entering into collateralization agreements with third party custodians in compliance with this Policy. The agreements are to specify the acceptable investment securities for collateral, including provisions relating to possession of the collateral, the substitution or release of investment securities, ownership of securities, and the method of valuation of securities. A clearly marked evidence of ownership (safekeeping receipt) must be supplied to the City and retained.

The City chooses to limit collateral to only those securities outlined in Section VI.A of this investment policy. Any collateral with a maturity of over 5 years must be approved by the Director of Finance before the transaction is initiated.

VII. INTERNAL CONTROL

The Director of Finance shall be responsible for the establishment of a system of internal controls to be reviewed annually by an independent external auditor. This review will provide assurance of compliance with policies and procedures.

VIII. PERFORMANCE

A. PERFORMANCE STANDARDS

The City's investment portfolio shall be designed to obtain a market average rate of return on investments consistent with risk constraints and cash flow requirements of the City.

B. PERFORMANCE BENCHMARK

It is the policy of the City to manage actively the investment portfolio to enhance overall interest income. Through active fund management, rather than a "buy-and-hold" strategy, portfolio yield

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may be enhanced with no resulting increase in risk. Active management will take place only if prudent within context of the "Prudent Person Rule." (See section V. C) Given this strategy, the basis used by the Director of Finance to determine whether market yields are being achieved shall be to calculate the average days held and the average yield by security type and compare to market yield for investments of similar type maturing within the average number of days held in the portfolio.

IX. REPORTING

An investment report summarizing cash position by fund group and invested funds will be provided in the Monthly Financial Report to the City Council. This report will contain summary information concerning security by types, maturities, portfolio yields, interest earnings, and market yields.

X. INVESTMENT POLICY ADOPTION

The City of Mesquite Investment Policy shall be adopted by resolution of City Council. The City's policies and procedures for investments are subject to revisions as deemed necessary to stay current with changing laws, regulations, and needs of the City. Any changes or modifications to this Policy must be approved by the City Council.

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APPENDIX A
PUBLIC FUNDS INVESTMENT ACT

associations chartered under the laws of Texas or by Federal Savings and Loan Associations domiciled in Texas, then such mortgages, bonds, consolidated bonds issued under the Farm Credit Act of 1971, P.L. 92-181, and as thereafter amended, debentures, notes, collateral trust certificates or other such evidences of indebtedness, "insured accounts," so issued and so secured, or so acquired or insured, shall be regarded for investment purposes by insurance companies as "Texas Securities," within the meaning of the laws of Texas governing such investments.

The provisions of this Act shall be cumulative of all other provisions of the Civil Statutes of the State of Texas, affecting the investment of funds or moneys by fiduciaries, guardians, administrators, trustees and receivers, building and loan associations, savings departments of banks, incorporated and doing business under the laws of Texas, commercial banks, savings banks and trust companies, chartered and doing business under the laws of Texas, insurance companies of any kind and character, chartered and transacting business under the laws of Texas, and all corporate creatures, organized and doing business under the laws of Texas.

It is hereby declared to be the legislative intent to enact a separate provision of this Act independent of all other provisions, and the fact that any phrase, sentence, or clause of this Act shall be declared unconstitutional, shall in no event affect the validity of any of the provisions hereof.

Amended by Acts 1973, 63rd Leg., p. 1252, ch. 455, § 2, eff. June 14, 1973.

§ 12 U.S.C.A. § 1701 et seq.
 § 12 U.S.C.A. § 1724 et seq.
 § 12 U.S.C.A. § 2001 et seq.

Cross References

School Depository Act, securities provided for by this article as approved securities, see V.T. C.A. Education Code, § 23.73(4)(B).

Art. 842a-1. Obligations wholly or partly insured by United States or state, investment in

Cross References

Certificates of title for motor vehicles, disposition and investment of fees, see art. 6687-1, § 57(b).

Art. 842a-2. Public Funds Investment Act

Short Title

Sec. 1. This Act may be cited as the Public Funds Investment Act of 1987.

Authorized Investments

Text of subsec. (a) as amended by Acts 1989, 71st Leg., ch. 39, § 1 and Acts 1989, 71st Leg., ch. 628, § 1

Sec. 2. (a) An incorporated city or town, a county, a public school district, a district or authority created under Article III, Section 52(b)(1) or (2), or Article XVI, Section 59, of the Texas Constitution, an institution of higher education as defined by Section 61.003 of the Education Code, a hospital district, a fresh water supply district, or any nonprofit corporation acting on behalf of any of those entities may, in accordance with this Act, purchase, sell, and invest its funds and funds under its control in the following:

- (1) obligations of the United States or its agencies and instrumentalities;
- (2) direct obligations of the State of Texas or its agencies;
- (3) other obligations, the principal of and interest on which are unconditionally guaranteed or insured by the State of Texas or the United States or its agencies and instrumentalities;
- (4) obligations of states, agencies, counties, cities, and other political subdivisions of any state having been rated as to investment quality by a nationally recognized investment rating firm and having received a rating of not less than A or its equivalent;

BONDS—COUNTY, MUNICIPAL, ETC.
Title 12

Art. 842a-2

Bids

Sec. 3. (a) Investments under Section 2(b) of this Act may be made only after competitive bids are solicited from at least three banks as provided by this section. The bids may be solicited orally.

(b) An incorporated city or town or a public school district must attempt to solicit bids initially from banks located within its boundaries. If there are not three banks available for the investments within the city's, town's, or public school district's boundaries, the city, town, or public school district may solicit bids from banks located within the county or counties in which the city, town, or public school district is located in addition to those banks, if any, that are located within the boundaries of the city, town, or public school district. If there are not three banks available for the investments within the boundaries of the city, town, or public school district, or of the county or counties in which it is located, the city, town, or public school district may solicit bids from any bank within the state in addition to those banks, if any, that are located within the boundaries of the city, town, public school district, county, or counties.

(c) A county must attempt to solicit bids initially from banks located within its boundaries. If there are not three banks available for the investments within the county, the county may solicit bids from any bank within the state in addition to those banks, if any, that are located within the boundaries of the county.

(d) An institution of higher education as defined by Section 61.003 of the Education Code or a navigation district must solicit bids from at least three banks located within the state.

(e) A nonprofit corporation acting on behalf of an incorporated city or town, a county, a public school district, or an institution of higher education as defined by Section 61.003 of the Education Code shall follow the procedures identified in Subsection (b), (c), or (d) of this section, as applicable to the entity on behalf of which the nonprofit corporation is acting.

(f) If a bank has notified a governmental entity or nonprofit corporation that it is unable or unwilling to bid for investments under Section 2(b) of this Act, the governmental entity or nonprofit corporation that receives the notification may presume that the bank is unable or unwilling to bid for the investments until the bank notifies the governmental entity or nonprofit corporation otherwise in writing.

Standard of Care

Sec. 4. Investments shall be made with judgment and care, under circumstances then prevailing, that 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.

Written Policies

Sec. 5. (a) Investments shall be made in accordance with written policies approved by the governing body. The investment policies must address liquidity, diversification, safety of principal, yield, maturity, and quality and capability of investment management, with primary emphasis on safety and liquidity.

(b) A governing body may provide in its written policies that bids for certificates of deposit be solicited orally, in writing, electronically, or in any combination of those methods.

Nonapplication to Retirement Funds

Sec. 6. This Act does not apply to the investment of funds under the control of a public retirement system, as defined by Section 12.001(2), Title 110B, Revised Statutes.¹

¹ Renumbered as V.T.C.A. Government Code, § 802.002(2).

Authority is Additional

Sec. 7. The authority granted by this Act is in addition to that granted by other law. Acts 1987, 70th Leg., ch. 889, §§ 1 to 7, eff. Aug. 31, 1987. Sec. 2 amended by Acts 1989, 71st Leg., ch. 628, § 1, eff. Aug. 23, 1989; Sec. 2(a) amended by Acts 1989, 71st Leg., ch. 39, § 1, eff. April 26, 1989; Acts 1989, 71st Leg., ch. 693, § 4, eff. Aug. 23, 1989; Acts 1989, 71st Leg., ch. 750, § 1, eff. Aug. 23, 1989.

Art. 842a-2

BONDS—COUNTY, MUNICIPAL, ETC.

Title 22

June 15, 1989; Sec. 2(b) amended by Acts 1989, 71st Leg., ch. 750, § 1, eff. June 15, 1989; Sec. 3(d) amended by Acts 1989, 71st Leg., ch. 750, § 2, eff. June 15, 1989; Sec. 5 amended by Acts 1989, 71st Leg., ch. 628, § 2, eff. Aug. 28, 1989; Sec. 2(d) amended by Acts 1991, 72nd Leg., ch. 732, § 1, eff. Aug. 28, 1991.

Historical and Statutory Notes

Acts 1989, 71st Leg., ch. 628, § 5 provides:

"This Act takes effect immediately, except that Subsection (d), Section 2, Public Funds Investment Act of 1987 (Article 842a-2, Vernon's Texas Civil Statutes), as added by Section 1 of this Act, takes effect: (1) immediately with respect to institutions of higher education; and (2) only if the constitutional amendment proposed by the 71st Legislature, Regular Session, 1989, [S.J.R. 59] authorizing local governments to invest their funds as provided by law is approved by the voters with respect to all other entities. If that amendment is not approved, Subsection (d) of Section 2 has no effect for entities other than institutions of higher education."

Its 1989, 71st Leg., S.J.R. 59 was approved by the voters at the Nov. 7, 1989 election.

Title of Act:

An Act relating to the investment of public funds. Acts 1987, 70th Leg., ch. 889.

Cross References

College and university funds, investment according to this act, see V.T.C.A. Education Code, § 61.009(b).

County funds, investments, see V.T.C.A. Local Government Code, § 116.112.

Crime control and prevention districts, boards may not invest funds otherwise than as specified by this article or art. 836 or 837, see art. 2370c-4, § 6.09.

Gaines County solid waste management, investments and reinvestments as specified by this article, see art. 4477-7j.

Navigation districts, investment of bond proceeds, see V.T.C.A. Water Code, § 60.347.

Political subdivisions group benefits program, investments, see V.T.C.A. Local Government Code, § 172.009.

Public Funds Collateral Act, see art. 2529d.

Texas High-Speed Rail Authority, investment of funds, see art. 6674v.2, § 20.

Notes of Decisions

Delegation of authority 2

Validity 1

1. Validity

Insofar as this article purports to authorize political corporations and political subdivisions to invest public funds in bank-oriented money market mutual funds or other securities of private entities, it conflicts with article III, section 52, of the Texas Constitution. Op. Atty. Gen. 1988, No. JM-975.

2. Delegation of authority

The Interlocal Cooperation Act, article 4413(32c), V.T.C.S., does not authorize local governments to delegate to another entity their authority to make investments; nor does article 842a-2, V.T.C.S., or article 4413(34c), authorize such delegation. Op. Atty. Gen. 1988, No. JM-932.

BONDS—COUNTY, MUNICIPAL, ETC.
Title 22

Art. 842a-2

(5) certificates of deposit issued by state and national banks domiciled in this state that are:

(A) guaranteed or insured by the Federal Deposit Insurance Corporation, or its successor; or

(B) secured by obligations that are described by Subdivisions (1)-(4) of this subsection, which are intended to include all direct federal agency or instrumentality issued mortgage backed securities that have a market value of not less than the principal amount of the certificates or in any other manner and amount provided by law for deposits of the investing entities;

(6) certificates of deposit issued by savings and loan associations domiciled in this state that are:

(A) guaranteed or insured by the Federal Savings and Loan Insurance Corporation, or its successor; or

(B) secured by obligations that are described by Subdivisions (1)-(4) of this subsection, which are intended to include all direct federal agency or instrumentality issued mortgage backed securities that have a market value of not less than the principal amount of the certificates or in any other manner and amount provided by law for deposits of the investing entities;

(7) prime domestic bankers' acceptances;

(8) commercial paper with a stated maturity of 270 days or less from the date of its issuance that either:

(A) is rated not less than A-1, P-1, or the equivalent by at least two nationally recognized credit rating agencies; or

(B) is rated at least A-1, P-1, or the equivalent by at least 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 thereof; and

(9) fully collateralized repurchase agreements having a defined termination date, secured by obligations described by Subdivision (1) of this subsection, pledged with a third party selected or approved by the political entity, and placed through a primary government securities dealer, as defined by the Federal Reserve, or a bank domiciled in this state.

Text of subsec. (a) as amended by Acts 1989, 71st Leg., ch. 693, § 4, and Acts 1989, 71st Leg., ch. 750, § 1

Sec. 2. (a) An incorporated city or town, a county, a public school district, an institution of higher education as defined by Section 61.003 of the Education Code, any nonprofit corporation or public funds investment pool created under The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes) acting on behalf of any of those entities, or a navigation district organized under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution may, in accordance with this Act, purchase, sell, and invest its funds and funds under its control in the following:

(1) obligations of the United States or its agencies and instrumentalities;

(2) direct obligations of the State of Texas or its agencies;

(3) other obligations, the principal of and interest on which are unconditionally guaranteed or insured by the State of Texas or the United States;

(4) obligations of states, agencies, counties, cities, and other political subdivisions of any state having been rated as to investment quality by a nationally recognized investment rating firm and having received a rating of not less than A or its equivalent;

(5) certificates of deposit issued by state and national banks domiciled in this state that are:

(A) guaranteed or insured by the Federal Deposit Insurance Corporation, or its successor; or

(B) secured by obligations that are described by Subdivisions (1)-(4) of this subsection, which are intended to include all direct federal agency or instrumentality issued mortgage backed securities rated AAA by a nationally recognized rating agency, or by Chapter 726, Acts of

the 67th Legislature, Regular Session, 1981 (Article 2529b-1, Vernon's Texas Civil Statutes), and that have a market value of not less than the principal amount of the certificates;

(6) fully collateralized direct repurchase agreements having a defined termination date, secured by obligations described by Subdivision (1) of this subsection, pledged with a third party selected or approved by the political entity, and placed through a primary government securities dealer, as defined by the Federal Reserve, or a bank domiciled in this state; and

(7) certificates of deposit issued by savings and loan associations domiciled in this state that are:

(A) guaranteed or insured by the Federal Savings and Loan Insurance Corporation or its successor; or

(B) secured by obligations that are described by Subdivisions (1)-(4) of this subsection, which are intended to include all direct federal agency or instrumentality issued mortgage backed securities that have a market value of not less than the principal amount of the certificates.

(b) In addition to investment in obligations, certificates, or agreements described in Subsection (a) of this section, bond proceeds of an incorporated city or town, a county, a public school district, or a navigation district, or local revenue of an institution of higher education, may be invested in common trust funds or comparable investment devices owned or administered by banks domiciled in this state and whose assets consist exclusively of all or a combination of the obligations described by Subsection (a) of this section. Common trust funds of banks domiciled in this state may be used if they:

(1) are available;

(2) comply with the provisions of the Internal Revenue Code of 1986 and applicable federal regulations governing the investment of bond proceeds; and

(3) meet the cash flow requirements and the investment needs of the political subdivision or institution.

(c) In this section:

(1) "Bond proceeds" includes but is not limited to proceeds from the sale of bonds and reserves and funds maintained for debt service purposes.

(2) "Prime domestic bankers' acceptances" means a bankers' acceptance with a stated maturity of 270 days or less from the date of its issuance that will be, in accordance with its terms, liquidated in full at maturity, that is eligible for collateral for borrowing from a Federal Reserve Bank, and that is accepted by a bank organized and existing under the laws of the United States or any state, the short-term obligations of which (or of a bank holding company of which the bank is the largest subsidiary) are rated at least A-1, P-1, or the equivalent by at least one nationally recognized credit rating agency.

(3) "Repurchase agreement" means a simultaneous agreement to buy, hold for a specified time, and then sell back at a future date, obligations described by Subsection (a)(1) of this section, the principal and interest of which are guaranteed by the United States or any of its agencies, in market value of not less than the principal amount of the funds disbursed. The term includes direct security repurchase agreements and reverse security repurchase agreements.

(d) In addition to the investments described by Subsection (a) of this section, an entity listed in that subsection may, in accordance with this Act, purchase, sell, and invest its funds and funds under its control in an SEC-registered, no-load money market mutual fund with a dollar-weighted average portfolio maturity of 120 days or less whose assets consist exclusively of the obligations that are described by Subsection (a) of this section and whose investment objectives include seeking to maintain a stable net asset value of \$1 per share. No entity listed in Subsection (a) of this section is authorized by this Act to invest in the aggregate more than 80 percent of its monthly average fund balance, excluding bond proceeds, in money market mutual funds described in this subsection or to invest its funds or funds under its control, excluding bond proceeds, in any one money market mutual fund in an amount that exceeds 10 percent of the total assets of the money market mutual fund.

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APPENDIX B
PRIMARY DEALERS

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**LIST OF THE PRIMARY GOVERNMENT SECURITIES REPORTING
TO THE MARKET REPORTS DIVISION OF THE FEDERAL
RESERVE BANK OF NEW YORK**

Bank of America NT & SA
Bankers Trust Company
Bear, Stearns & Co., Inc.
Brophy, Gestal, Knight & Co., L.P.
Carroll McEntee & McGinley Incorporated
Chase Manhattan Government Securities, Inc.
Chemical Bank
Citibank, N.A.
Continental Illinois National Bank and Trust Company of Chicago
Daiwa Securities America Inc.
Dean Witter Reynolds, Inc.
Discount Corporation of New York
Donaldson, Lufkin & Jenrette Securities Corp.
Drexel Burnham Lambert Government Securities Inc.
The First Boston Corporation
First Interstate Capital Markets, Inc.
First National Bank of Chicago
Goldman, Sachs, & Co.
Greenwich Capital Markets, Inc.
Harris Trust and Savings Bank
E.F. Hutton & Company, Inc.
Irving Securities, Inc.
Kidder, Peabody & Co., Inc.
Kleinwort Benson Government Securities, Inc.
Aubrey G. Lanston & Co., Inc.
Manufacturers Hanover Trust Co.
Merrill Lynch Government Securities, Inc.
Midland-Montagu Government Securities, Inc.
J.P. Morgan Securities, Inc.
Morgan Stanley & Co. Inc.
Nomura Securities International, Inc.
Paine Webber Inc.
Prudential-Bache Securities, Inc.
L.F. Rothschild and Co.
Salomon Brothers, Inc.
Security Pacific National Bank
Shearson Lehman Government Securities, Inc.
Smith Barney, Harris Upham & Co., Inc.
Thomson McKinnon Securities, Inc.
Westpac Pollock Government Securities, Inc.

NOTE: This list has been compiled and made available for statistical purposes only and has no significance with respect to other relationships between dealers and the Federal Reserve Bank of New York. Qualification for the reporting list is based on the achievement and maintenance of reasonable standards of activity.

Markets Reports Division
Federal Reserve Bank of New York

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APPENDIX C
BROKER/DEALER CERTIFICATION

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CERTIFICATION

I hereby certify that I have personally read and understand the investment policies of the City of Mesquite and have implemented reasonable procedures and controls designed to fulfill those objectives and conditions. Transactions between this firm and the City of Mesquite will be directed towards precluding imprudent investment activities and protecting the City from credit or market risk.

All the sales personnel of this firm dealing with the City of Mesquite account have been informed and will be routinely informed of the City's investment horizons, limitations, strategy and risk constraints, whenever we are so informed.

This firm pledges due diligence in informing the City of foreseeable risks associated with financial transactions connected to this firm.

(Firm)

Primary Representative

(Signature)

(Name)

(Title)

(Date)

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APPENDIX D
BROKER/DEALER QUESTIONNAIRE

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SECURITY BROKER/DEALER QUESTIONNAIRE

1. Name of firm _____
2. Primary Representative Account Executive
Name _____ Name _____
Title _____ Title _____
Telephone _____ Telephone _____
3. Does your firm have primary dealer status? ()yes ()no
4. Is your firm registered with the Texas Securities Commission?
()yes ()no
Please provide a photocopy of your certificate.
5. Does your firm conform to the Uniform Net Capital Rule?
Rule 15c 3-1 ()yes ()no
6. What was your firm's total volume in US treasuries/agencies
last year? (Not necessary to complete if primary dealer)
Firmwide \$ _____ # Transactions _____
Local Office \$ _____ # Transactions _____
7. Which instruments are traded regularly by the local desk?
() Treasuries () Other
() Agencies _____
() Mortgage Backed _____
8. Please identify your most directly comparable public sector
client:

9. Has your firm, or a primary partner/owner, ever been subject
to a regulatory or state/federal agency investigation for
alleged improper, fraudulent, disreputable, or unfair
activities related to the sale of securities? ()no ()yes
Not necessary if primary. If yes, please explain fully on a
separate sheet.
10. Please submit your trading authorization form.
11. Does your firm agree to comply with the Federal Reserves
capital adequacy requirements on a continuous basis? ()yes
()no
12. Through which firm do you clear?

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APPENDIX E
PUBLIC FUNDS COLLATERAL ACT

DEPOSITORIES

Art. 2529d

Title 47

The Texas Rehabilitation Commission is authorized to deposit funds received from local agencies under a federal establishment grant in a local depository. Op. Atty. Gen. 1971, No. M-944.

A bank is not disqualified from serving as a county depository where an officer, director, and 1.0% shareholder of the bank is the county judge, so long as the county judge does not participate in the voting on the selection of the county depository and his interest in the bank stock combined with that of any other members of the commissioners court does not exceed 10%, but the bank may be disqualified by virtue of the county judge's ownership of 17% of the outstanding capital stock of the bank holding company, depending upon the judge's resulting "beneficial interest" in the bank stock. Op. Atty. Gen. 1982, No. MW-605.

Art. 2529d. Public Funds Collateral Act

Short Title

Sec. 1. This Act may be cited as the Public Funds Collateral Act.

Definitions

Sec. 2. In this Act:

- (1) "Board" means the State Depository Board.
- (2) "Control" and "bank holding company" have the same meanings assigned by Article 2, Chapter I, The Texas Banking Code (Article 342-102, Vernon's Texas Civil Statutes).
- (3) "Deposits of public funds" means public funds of a public entity that:
 - (A) are not managed by the state treasurer under Chapter 404, Government Code; and
 - (B) are held as a demand or time deposit at a bank or other depository institution expressly authorized by law to accept demand or time deposits of the public entity.
- (4) "Eligible security" means:
 - (A) surety bonds;
 - (B) investment securities; and
 - (C) ownership or beneficial interests in investment securities but not any option contract to purchase or sell investment securities.
- (5) "Exempt institution" means:
 - (A) a public retirement system, as defined by Section 802.001, Government Code; and
 - (B) the permanent school fund, as defined by Section 15.01, Education Code.
- (6) "Investment security" means:
 - (A) a direct obligation of the United States;
 - (B) 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;
 - (C) an obligation, the principal of and interest on which are unconditionally guaranteed by the United States;
 - (D) an obligation of an agency or instrumentality of the United States, including a mortgage-backed security of the agency or instrumentality;
 - (E) a general or special obligation issued by a public agency, payable from taxes, revenues, or a combination of taxes and revenues that has been rated as to investment quality by a nationally recognized rating agency and that has a current rating of not less than A or its equivalent; and
 - (F) any security in which a public entity may invest under the Public Funds Investment Act of 1987 (Article 842a-2, Vernon's Texas Civil Statutes).
- (7) "Permitted institution" means:
 - (A) a Federal Reserve Bank;
 - (B) a "clearing corporation" as defined in Subsection (c), Section 8.102, Business Commerce Code;
 - (C) any bank eligible to be a custodian under Subsection (c) of Section 6 of this Act; and
 - (D) any state or nationally chartered bank, which bank is controlled by a bank holding company that controls a bank eligible to be a custodian under Subsection (c) of Section 6 of this Act.

Art. 2529d

DEPOSITORIES
Title 47

(8) "Public agency" means any state or any political or governmental entity, agency, instrumentality, or subdivision of a state, including without limitation municipalities, state-supported educational institutions, junior colleges, districts established pursuant to Article XVI, Section 59, of the Texas Constitution, and public hospitals.

(9) "Public entity" means any public agency in this state that is not an institution of higher education as defined by Section §1.003, Education Code.

(10) "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 constitution or a statute of this state.

(11) "Trust receipt" means evidence of receipt, identification, and recording, including but not limited to physical controlled trust receipt or written or electronically transmitted advice of transaction.

Authorized Collateral

Sec. 3. Deposits of public funds shall be secured by eligible security to the extent and in the manner required by this Act.

Level of Collateral

Sec. 4. The total of the face value of the surety bonds and the market value of the investment securities securing the deposits of public funds shall be in an amount at least equal to the amount of the deposits of public funds increased by the amount of any accrued interest and reduced to the extent that the deposits are insured by an agency or instrumentality of the United States government.

Collateral Policy: Public Entity Contracts

Sec. 5. (a) Investment securities eligible to secure deposits of public funds shall be determined in accordance with written policies approved by the governing body of the public entity. The written policies may address matters including security of the institution obtaining or holding investment securities, substitution or release of investment securities, and the method of valuation of investment securities used to secure deposits of public funds.

(b) A public entity may contract with a bank domiciled in this state to determine the terms and conditions for securing deposits of public funds. The contract may contain terms and conditions relating to the investment securities used as security for deposits of public funds that are acceptable to the public entity, including provisions relating to the possession of the collateral, the substitution or release of investment securities, the ownership of the investment securities of the bank used to secure deposits of public funds, and the method of valuation of investment securities used to secure deposits of public funds.

(c) The public entity shall inform the depository for its deposits of public funds of significant changes in the amount or activity of deposits of public funds reasonably in advance of such changes.

Possession of Collateral

Sec. 6. (a) In addition to all other authority granted by law, a depository for any public entity may deposit the securities pledged to secure deposits of public funds with a custodian as provided in this Act. At the request of the public entity, the depository shall place the pledged securities with a custodian as provided in Subsection (c) of this section. The public entity may require that the depository not be the custodian or permitted institution or a branch of either with respect to the particular securities pledged by the depository to secure deposits of public funds.

(b) Notwithstanding Subsection (a) of this section, the depository of deposits of public funds for any state agency shall place the pledged securities with a custodian as provided in Subsection (c) of this section. The custodian and the state agency shall execute a written agreement to determine the terms and conditions for securing deposits of public funds. The depository for a state agency shall not be the custodian or permitted institution or a branch of either with respect to the particular securities pledged by the depository to secure deposits of public funds.

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DEPOSITORIES
Title 47

Art. 2529d

(c)(1) A depository for a public entity may deposit investment securities pledged to secure deposits of public funds with a custodian that the public entity has approved as a custodian and that is either:

(A) a state or national bank which is domiciled within this state, which has been designated a state depository by the board, and which has a capital stock and permanent surplus of not less than \$5 million;

(B) the Texas Treasury Safekeeping Trust Company; or

(C) a Federal Reserve Bank or its branches.

(2) The securities shall be held in trust by the custodian to secure the deposits of public funds of the public entity in the depository pledging the securities.

(d) On receipt of the investment securities, the custodian shall immediately, by book entry or otherwise, identify on its books and records the pledge of the securities to the public entity and shall promptly issue and deliver to the appropriate official of the public entity trust receipts for the securities pledged. The security evidenced by the trust receipts is subject to inspection by the public agency or its agents at any time.

(e) A custodian holding in trust investment securities of a depository under Subsection (c) of this section may deposit the pledged securities with a permitted institution. The securities shall be held by the permitted institution to secure funds deposited by the public entity in the depository pledging the securities. On receipt of the securities, the permitted institution shall immediately issue to the custodian an advice of transaction or other document evidencing the deposit of the securities. When the pledged securities held by a custodian are deposited, the permitted institution may apply book entry procedures to the securities. The records of the permitted institution shall at all times reflect the name of the custodian depositing the pledged securities. The trust receipts the custodian issues to the public entity shall indicate that the custodian has deposited with the permitted institution the pledged securities held in trust for the depository pledging the securities.

Venue

Sec. 7. Any legal action or proceeding by or against the public entity, arising out of or in connection with the duties of the depository, the custodian, or a permitted institution under this Act, shall be brought and maintained as provided in the contract with the public entity.

Priority

Sec. 8. Any custodian under this Act and any custodian of securities pledged to an institution of higher education as defined by Section 61.003, Education Code, acting alone or through a permitted institution, shall for all purposes under state law, notwithstanding anything in Chapters 8 and 9 of the Business & Commerce Code to the contrary, be the bailee or agent of the public entity or institution depositing such public funds with the depository, and the security interest arising out of a pledge of securities to secure deposits of the public entity or institution shall be created, shall attach, and shall be perfected for all purposes under state law from the time that the custodian identifies the pledge of the securities on its books and records and issues the trust receipts and remains as of that time perfected in the hands of all subsequent custodians and permitted institutions.

Records; Reports

Sec. 9. (a) The depository for a public entity shall maintain separate, accurate, and complete records relating to all deposits of public funds, the pledged investment securities, and all transactions relating to the pledged investment securities.

(b) The custodian for a public entity shall maintain separate, accurate, and complete records relating to the pledged investment securities and all transactions relating to the pledged investment securities.

(c) The board or the public entity may examine and verify at any reasonable time all pledged investment securities and all records maintained pursuant to Subsections (a) and (b) of this section.

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DEPOSITORIES
Title 47

(d) As a part of each internal or external audit or regulatory examination of the depository for a public entity and of the custodian for a public entity, the auditor or examiner shall examine and verify the pledged investment securities and the records maintained pursuant to Subsections (a) and (b) of this section and shall report any significant or material noncompliance with the provisions of this Act to the board.

(e) The custodian for the public entity shall file a collateral report with the board in the manner and on the dates prescribed by the board.

Penalties

Sec. 10. (a) The board may revoke a designation as a state depository if, after notice and a hearing, the board makes a written finding that the depository, acting in its capacity either as a depository or a custodian, as the case may be, does not maintain reasonable compliance with this Act and has failed to remedy any violation of this Act within a reasonable period of time after written notice of such violation. Such revocation shall be effective for a period of one year.

(b) If the board makes a written finding that the depository has not maintained reasonable compliance with this Act and has acted in bad faith in not remedying any violations of this Act, the board may permanently revoke the designation as a state depository.

(c) If the board determines that the depository has remedied all violations of this Act and has given assurances satisfactory to the board that the depository will maintain reasonable compliance with this Act, the board may reinstate its designation as a state depository.

(d) When making the findings required by Subsection (a) or (b) of this section, the board shall consider the totality of the circumstances regarding the performance of the depository or the custodian, including but not limited to the extent to which the noncompliance with this Act is minor, isolated, temporary, or nonrecurrent. The board shall not find that either the depository or the custodian does not maintain reasonable compliance with this Act if such noncompliance is a result of the failure of the public entity to comply with Subsection (c) of Section 5 of this Act.

(e) Subsection (d) of this section shall not relieve the depository or the custodian of the obligation to secure deposits of public funds with eligible security in the amount and manner required by this Act within a reasonable time after the public entity deposits the deposits of public funds with the depository.

Act Controlling

Sec. 11. (a) To the extent of any conflict between this Act and another law relating to security for deposits of public funds, this Act prevails.

(b) An exempt institution is not required to have its funds at all times fully insured or collateralized if such funds are held by a custodian of its assets pursuant to a trust agreement or held by an entity in connection with investment-related transactions and if, in the exercise of its fiduciary responsibilities, the governing body of the exempt institution determines that the exempt institution is adequately protected through the use of trust agreements, special deposits, surety bonds, substantial deposit insurance, or any other method commonly used by such institutions. This Act does not prohibit prudent investment by the exempt institution in certificates of deposit or restrict the selection of depositories by the governing body of the exempt institution in accordance with its fiduciary duties.

(c) This Act does not apply to funds maintained and administered by a public entity pursuant to a deferred compensation plan the federal income tax treatment of which is governed by Section 401 or 457 of the Internal Revenue Code of 1986.¹

Acta 1989, 71st Leg., ch. 627, eff. Sept. 1, 1989.

¹ 26 U.S.C.A. §§ 401, 457.

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DEPOSITORIES

Arts. 2544 to 2548
Repealed

Title 47

Historical and Statutory Notes

Title of Act:

An Act relating to the collateral eligible to secure deposits of public funds. Acts 1969, 71st Leg., ch. 627.

Arts. 2530 to 2535. Repealed by Acts 1985, 69th Leg., ch. 240, § 2, eff. Aug. 26, 1985

Historical and Statutory Notes amended by Acts 1983, 68th Leg., p. 2671, ch. 463, § 1.
Prior to repeal, art. 2530 was amended by Acts 1975, 64th Leg., p. 1021, ch. 390, § 1; Acts 1977, 65th Leg., p. 560, ch. 196, § 1; and art. 2532 was See, now, art. 4393-1.

Art. 2537. Repealed by Acts 1985, 69th Leg., ch. 240, § 2, eff. Aug. 26, 1985

Historical and Statutory Notes
See, now, art. 4393-1.

Arts. 2543a to 2543b-1. Repealed by Acts 1985, 69th Leg., ch. 240, § 2, eff. Aug. 26, 1985

Historical and Statutory Notes
See, now, art. 4393-1.

Art. 2543c. Repealed by Acts 1971, 62nd Leg., p. 3319, ch. 1024, art. 1, § 3, eff. Sept. 1, 1971

Historical and Statutory Notes Prior to repeal, this article was amended by Acts 1971, 62nd Leg., p. 3072, ch. 1024, repealing this article, enacts Title 3 of the Texas Education Code. Acts 1967, 60th Leg., p. 1092, ch. 481, § 1.

Art. 2543d. Repealed by Acts 1985, 69th Leg., ch. 240, § 2, eff. Aug. 26, 1985

Historical and Statutory Notes See, now, art. 4393-1.
The repealed article which related to disposition of interest on time deposits was added by Acts 1969, 61st Leg., p. 2703, ch. 325, § 1.

CHAPTER TWO—COUNTY DEPOSITORIES

Article
2546a. Repealed.
2546b. Repealed.

WESTLAW Electronic Research
See WESTLAW Electronic Research Guide following the Preface.

Arts. 2544 to 2548. Repealed by Acts 1987, 70th Leg., ch. 149, § 49(1), eff. Sept. 1, 1987

Historical and Statutory Notes Former art. 2546a, relating to the prohibition of the designation of a depository outside the state, was derived from Acts 1971, 62nd Leg., p. 1240, ch. 305.

Section 1 of Acts 1987, 70th Leg., ch. 149, repealing these articles, enacts the Local Government Code. Without reference to repeal of art. 2547 by Acts 1987, 70th Leg., ch. 149, § 49(1), art. 2547 was amended by adding subds. (d) and (e) by Acts 1987, 70th Leg., ch. 846, § 1, eff. Sept. 1, 1987. Acts 1987, 70th Leg., ch. 846 was repealed by Acts 1989, 71st Leg., ch. 1, § 15(d), eff. Aug. 28, 1989.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding V.T.C.A. Local Government Code.

Former art. 2544 was amended by Acts 1985, 69th Leg., ch. 145, § 3.
Former art. 2546 was amended by Acts 1981, 67th Leg., p. 88, ch. 48, § 1.

Former art. 2547 was amended by Acts 1981, 67th Leg., p. 88, ch. 48, § 1.