WINDCREST
TEXAS

AGENDA
CITY OF WINDCREST, TEXAS

SPECIAL CITY COUNCIL MEETING

December 01, 2014

6:00 P.M.

NOTICE IS HEREBY GIVEN THAT A SPECIAL WINDCREST CITY COUNCIL MEETING WILL BE HELD AT WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS ON THE 01ST DAY OF DECEMBER 2014 STARTING AT 6:00 P.M. DURING THE MEETING THE FOLLOWING SUBJECTS WILL BE CONSIDERED AND THE COUNCIL MAY TAKE ACTION ON ANY OF THE LISTED SUBJECTS.

THE CITY COUNCIL RESERVES THE OPTION TO RECESS THE MEETING DURING THE EVENING OF DECEMBER 01, 2014 AND TO RECONVENE THE MEETING ON THE FOLLOWING DAY, DECEMBER 02, 2014 AT 9:00 A.M. AT THE WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS.

IT IS ANTICIPATED THAT MEMBERS OF OTHER CITY BOARDS, COMMISSIONS AND COMMITTEES MAY ATTEND THE MEETING IN NUMBERS THAT MAY CONSTITUTE A QUORUM OF SUCH OTHER CITY BOARDS, COMMISSIONS AND COMMITTEES, SO THAT NOTICE IS HEREBY GIVEN THAT THE MEETING IS ALSO A MEETING OF THE OTHER CITY BOARDS, COMMISSIONS AND COMMITTEES WHOSE MEMBERS ARE IN ATTENDANCE. THE MEMBERS OF THE OTHER CITY BOARDS, COMMISSIONS AND COMMITTEES MAY PARTICIPATE IN DISCUSSIONS WHICH OCCUR AT THE MEETING, BUT NO ACTION WILL BE TAKEN BY THE OTHER BOARDS, COMMISSIONS AND COMMITTEES WHOSE MEMBERS ARE IN ATTENDANCE.

Ordinance No. 618 (09/20/10), Repealing Ordinance No. 593
At all City Council, City Commission or City Board meetings, the agenda shall include a “citizens to be heard” item. It is suggested that Citizens wishing to speak during this item sign in on the sign up roster prior to the meeting. During “citizens to be heard” comments, each individual may speak on an agenda item or any other matter affecting the city. In addition to the “citizens to be heard” portion of meetings, a person may make comments on agenda items prior to the vote on the agenda item. A member of the public will have a total of six (6) minutes to be heard during a City Council, City Commission or City Board Meeting. This does not include any responses from the body. The six (6) minutes time limit authorized herein may not be transferred to another speaker in whole or in part. The presiding Officer or his/her designee will assign a Time Keeper to each meeting. The Time Keeper will maintain strict compliance of the six (6) minute rule, stopping speakers who exceed the allotted time. As authorized by Section 551.042 of the Texas Government Code, the Presiding Officer may direct a City Official to make: a statement of specific factual information in

response to an inquiry made by a member of the public or of the City Council, or; a recitation of existing policy in response to an inquiry made by a member of the public or the City Council. Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting. Any question posed by a Citizen, Council Member, Board Member or Commission Member for which an answer is not available at a meeting shall be answered by a member of the staff or Presiding Officer at the next regular meeting of the Body, if an answer is reasonably available and prudent. If the information is sensitive, staff will seek advice from the City Attorney.

REQUEST ALL PAGERS AND CELL PHONES BE TURNED OFF, EXCEPT EMERGENCY ON-CALL PERSONNEL. CITIZENS ARE ASKED TO REFRAIN FROM TALKING DURING COUNCIL PROCEEDINGS.

Meeting Chair: please remind each participant in your meeting that they must speak into a microphone; the recording is the Official Minutes of your meeting and all who speak must be recorded. All guest speakers and citizens to be heard must speak from podium. Please interrupt speakers during meeting if you recognize that they are not speaking into microphone and have them do so.

I. Call to Order, Pledge of Allegiance, Invocation and Announcement

II. Citizens to be Heard on Subsequent and Non-Subsequent Agenda Items

1. A member of the public will have three (3) minutes to discuss non-subsequent agenda items.

2. A member of the public will have six (6) minutes to discuss subsequent agenda items.

3. City Council may discuss and respond to current and past agendas on subsequent and non-subsequent agenda items by citizens to be heard.

III. Ordinances

"In conjunction with the first reading of an ordinance, a motion should be made to either "reject the proposed ordinance" or "to forward the proposed ordinance to a subsequent City Council meeting for final adoption at its second reading".

1. City Council will review, discuss and may take action on Ordinance No. 2014-721(O), an ordinance amending Chapter 103, Buildings and Building Regulations, Article II, Technical Codes, Division 1, Generally, Section 103-23, by repealing outdated national and international codes and adopting the current versions of said codes." ***(Second Reading)*** (Ref: 11.17.14 RCCM http://windcresttx.granicus.com/MediaPlayer.php?view_id=8&clip_id=1358) (Att. 1)

IV. Resolutions

1. City Council will review, discuss and may take action on Resolution No. 2014-522(R), a resolution adopting an Investment Policy. (Att. 2)

2. City Council will review, discuss and may take action on Resolution No. 2014-523(R), a resolution adopting the City of Windcrest Purchasing Policy. (Att. 3)

V. Discuss and Act

1. City Council will review, discuss and may take action on a possible ordinance amending Chapter 109, Signs, of the Code of Ordinances by repealing current subsections 109-19 (d) (1) a.-f. pertaining to the placement of signs on public property and amending Subsection 109-19 (d) (2) to clarify the type of election authorized. (Ref: 11.17.14 RCCM http://windcresttx.granicus.com/MediaPlayer.php?view_id=8&clip_id=1358) (Att. 4)

2. City Council will review, discuss and may take action on a recommendation from Parks & Recreation Commission requiring non Windcrest residents to purchase a day fishing permit to fish in Windcrest City ponds. (Ref 08.04.14 Joint SCCM / Planning & Zoning Meeting http://windcresttx.granicus.com/MediaPlayer.php?view_id=8&clip_id=1297 // 09.10.14 P&R http://windcresttx.granicus.com/MediaPlayer.php?view_id=8&clip_id=1317 //10.08.14 P&R http://windcresttx.granicus.com/MediaPlayer.php?view_id=8&clip_id=1333)

VI. General Announcements & Future Agenda Items Requested

Per Ordinance No. 618, repealing Ordinance No. 593; Section 9: Every agenda shall include an item entry granting a member the opportunity to propose an item for consideration of future agendas for Regular or Special Meetings. Any member may request the inclusion of such items at any meeting.

VII. Adjournment

The City Council reserves the right to retire into executive session whenever it is considered necessary and legally justified under the Texas Government Code, Subchapter D, Sections 551.071 et. seq. including, but not limited to, consultation with attorney, real property, prospective gifts, personnel matters, exclusion of witness, security devices, and economic development matters.

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the City Council of the City of Windcrest is a true and correct copy of said Notice and was posted on the bulletin board at City Hall of said City in a convenient place to the public and said Notice was posted more than seventy-two hours prior to the meeting on December 01, 2014.

By: Kelly Rodriguez **, City Secretary**

In compliance with the Americans With Disabilities Act, the City of Windcrest Council Chambers are wheelchair accessible, and accessible parking spaces are available. The City of Windcrest will provide for reasonable accommodations for persons attending City Council meetings. To better serve you, requests should be received 48 hours prior to the meetings. Please contact Kelly Rodriguez, City Secretary, at 210-655-0022 ext. 2150 or Fax 210-655-8776.

I certify that the attached notice and agenda of items to be considered by the City Council was removed by me from the City Hall bulletin board on the ____ December, 2014.

______________________________ Title: __________________________

City Council Agenda Item Report
REVISED

December 1, 2014

Ordinance No. 2014-721(O)

Contact – Heather Weidenbach
hweidenbach@windcrest-tx.gov

SUBJECT: An ordinance amending Chapter 103, Building and Building Regulations, Article II, Technical Codes, Division 1, generally, by adopting certain update National and International Codes and repealing the current versions of said codes

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1. BACKGROUND/HISTORY

On June 15, 2009 the City of Windcrest City Council adopted Ordinance No. 588 which adopted the 2009 editions of the International Building Code, International Mechanical Code, International Plumbing Code, International Fire Code, International Sign Code, International Administrative Code, International Residential Code, International Fuel Gas Code, International Energy Conservation Code and International Property Maintenance Code (including appendices, standards, supplements and errata). Ordinance 588 furthermore adopted the 2008 edition of NFPA, The National Electrical Code and the 2009 edition of the Life and Safety Code that were both published by the National Fire Protection Association.

2. FINDINGS/CURRENT ACTIVITY

- The Building Official has reviewed the 2015 editions of the International Building codes that have been published and recommends the city consider adopting the new codes to replace/update the current codes to include, but not limited to 2015 edition of International Residential Code, 2015 edition of the International Building Code, 2015 edition of the International Plumbing Code, 2015 edition of the International Mechanical Code, 2015 edition of the International Property Maintenance Code, 2014 edition of the National Electric Code, and the 2014 edition of the NFPA 70.

- There are changes to the new code that will improve the quality of new construction within the city.
- The updated codes not only reflect much of the new technology available, it now clarifies some of the grey areas that are within the current codes.
- The city's ISO (insurance scores are based on the code edition year adopted; the older the edition the lower potential score.
- Adoption of the current codes will bring uniformity to the area relative to surrounding communities.

3. FINANCIAL IMPACT –

- APPROXIMATELY $548.00 TO PURCHASE NEW SET OF CODE BOOKS:
  2015 INTERNATIONAL BUILDING CODE BOOK $131.00
  2015 INTERNATIONAL PLUMBING CODE BOOK $84.00
  2015 INTERNATIONAL RESIDENTIAL CODE BOOK $122.00
  2015 INTERNATIONAL MECHANICAL CODE BOOK $80.00
  2015 INTERNATIONAL PROPERTY MAINTENANCE BOOK $39.00
  2014 NFPA 70 REFERENCING THE 2014 NATIONAL ELECTRIC CODE $92.00

4. ACTION OPTIONS/RECOMMENDATION

Staff recommends approving Ordinance No. 2014-721(O).

October 2, 2014

Mr. Rafael Castillo, Jr
City Manager
City of Windcrest
8601 Midcrown Dr.
Windcrest, TX 78239

Re: Adoption of current Building Codes

Dear Mr. Castillo,

The 2015 Editions of the International Building Codes have been published and we have been able to take a brief look through them this past month. We would like to recommend that the city consider adopting these codes to replace/update the ones currently in place. There are a several reasons to adopt the new codes:

- The newer codes made some changes that will improve the quality of new construction within the city.
- The codes have been updated to not only reflect much of the new technology available but to clarify some of the grey areas within the current codes.

The city's ISO (insurance) scores are based on the code edition year adopted and the older the adoption, the lower the potential score. ISO typically requires a city stay within two code series to be considered current. Adoption of the 2015 Building Codes and 2014 National Electric Codes means we will not have to address this issue for several more years. The International Code Council (ICC) is responsible for updating the codes and does so every three years.

Adoption of the current codes will bring more uniformity to the area relative to surrounding communities. San Antonio is currently on the 2012 series but we anticipate them to move to 2015 shortly.

A review of some information from the Texas Municipal League's general consul indicates there are only four basic codes we need to adopt:

- 2015 International Residential Code – covers all aspects of residential construction including energy conservation and efficiency.
- 2015 International Building Code – covers construction other than residential (commercial and some multi-family).
- 2015 International Plumbing Code – covers plumbing requirements for construction other than residential.
- 2014 National Electric Code – covers all phases of electrical requirements.

If you have any questions with regards to the updates, please contact me.

Bruce Bealor, Building Official
BB Inspections

WINDCREST
TEXAS

ORDINANCE NO. 2014-721(O)

AN ORDINANCE AMENDING CHAPTER 103, BUILDINGS AND BUILDING REGULATIONS, ARTICLE II, TECHNICAL CODES, DIVISION 1, GENERALLY, BY ADOPTING CERTAIN UPDATED NATIONAL AND INTERNATIONAL CODES AND REPEALING THE CURRENT VERSIONS OF SAID CODES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that Chapter 103, Article II, Division 1, of the Code of Ordinances is amended by repealing references to the 2009 editions of International Building Code, International Mechanical Code, International Plumbing Code, International Residential Code (IRC), International Property Maintenance Code and National Electrical Code (NEC), repealing references to the 2008 NFPA 70, and by adopting the latest editions of the International Building Code, the International Mechanical Code, the International Plumbing Code and NFPA 70, so that Section 103-23 shall read as follows:

"**Sec. 103-23. - Codes adopted by reference.**

(a) *Adopted.* The latest editions of the International Building Code, the International Mechanical Code, the International Plumbing Code and NFPA 70 (including appendices, standards, supplements and errata) are adopted for the City of Windcrest, Texas.

(b) *Clarification.* If any provision of the International Code adopted in this article conflicts with or contravenes any provision of any chapter of this Code or any other city ordinance, the provision of this Code or city ordinance shall prevail."

PASSED and APPROVED this ____ day of December, 2014.

____
ALAN BAXTER, Mayor

ATTEST:

____

KELLY RODRIGUEZ, City Secretary

APPORVED AS TO FORM:

____

MICHAEL S. BRENAN, City Attorney

WINDCREST
TEXAS

City Council Agenda Item Report

December 1, 2014

Contact – Sarah Mangham
smangham@windcrest-tx.gov

Resolution #: 2014-522(R)

SUBJECT: DELIBERATION AND POSSIBLE ACTION ON A RESOLUTION APPROVING THE REVISED INVESTMENT POLICY.

1. **BACKGROUND/HISTORY**
   Every year the Council should review and approve the Investment Policy.

2. **FINDINGS/CURRENT ACTIVITY**
   Only 2 changes were made to the Policy.
   1st change was to expand the EDC investment group.
   2nd change is to delete repurchase agreements as an investment.

3. **FINANCIAL IMPACT -**
   N/A

4. **ACTION OPTIONS/RECOMMENDATION**
   Staff recommends to take action on the Resolution to adopt the revised Investment Policy.

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 $95 million in book value on May 1, 1995;

(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.

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; and

(E) a requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis.

(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. 1

(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 person offering to engage in an investment transaction with an investing entity or to an investment management firm under contract with an investing entity to invest or manage the entity's investment portfolio. For purposes of this subsection, a business organization includes investment pools and an investment management firm under contract with an investing entity to invest or manage the entity's investment portfolio. 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 is dependent on an analysis of the makeup of the entity's entire portfolio or requires an interpretation of subjective investment standards.

(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 person who 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.

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 in a two-year period 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.

Sec. 2256.008. INVESTMENT TRAINING; LOCAL GOVERNMENTS. (a) Except as provided by Subsections (b) and (e), 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) except as provided by Subsections (b) and (e), attend an investment training session not less than once in a two-year period 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.

(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. 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.

(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.

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.

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;

(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;

(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; and

(6) bonds issued, assumed, or guaranteed by the State of Israel.

(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.

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 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 depository institution that has its main office or a branch office in this state and that is selected by the investing entity;

(2) 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;

(4) the depository institution selected by the investing entity under Subdivision (1) acts as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity; and

(5) at the same time that the funds are deposited and the certificates of deposit are issued for the account of the

investing entity, the depository institution selected by the investing entity under Subdivision (1) receives an amount of deposits from customers of other federally insured depository institutions, wherever located, that is equal to or greater than the amount of the funds invested by the investing entity through the depository institution selected under Subdivision (1).

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, Sec. 1, eff. September 1, 2005.

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 obligations described by Section 2256.009(a)(1); and

(3) requires the securities being purchased 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.

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

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.);

(3) has a dollar-weighted average stated maturity of 90 days or fewer; and

(4) includes in its investment objectives the maintenance of a stable net asset value of $1 for each share.

(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;

(3) is invested exclusively in obligations approved by this subchapter;

(4) is continuously rated as to investment quality by at least one nationally recognized investment rating firm of not less than AAA or its equivalent; and

(5) conforms to the requirements set forth in Sections 2256.016(b) and (c) relating to the eligibility of investment pools to receive and invest funds of investing entities.

(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.

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.

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.

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.

(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; and

(12) the performance history of the pool, including yield, average dollar-weighted maturities, and expense ratios.

(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;

(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 created to function as a money market mutual fund must mark its portfolio to market daily, and, to the extent reasonably possible, stabilize at a $1 net asset value. 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, portfolio holdings shall be sold as necessary to maintain the ratio between 0.995 and 1.005.

(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.

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.

Sec. 2256.017. EXISTING INVESTMENTS. 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.

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 or no lower than investment grade by at least one nationally recognized rating service with a weighted average maturity no greater than 90 days.

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.

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, 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, Sec. 1, eff. September 1, 2009.

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, Sec. 1, eff. September 1, 2005.

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, prepared in compliance with generally accepted accounting principles, of each pooled fund group that states the:

(A) beginning market value for the reporting period;

(B) additions and changes to the market value during the period;

(C) ending market value for the period; and

(D) fully accrued interest for the reporting period;

(5) state the book value and 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;

(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.

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), 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.

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 of Windcrest
Investment Policy

I. Policy Statement

It is the policy of the City that the administration of its funds and the investment of those funds shall be handled as its highest public trust. Investments shall be made in a manner which will provide the maximum security of principal invested through limitations and diversification while meeting the daily cash flow needs of the City and conforming to all applicable state statutes governing the investment of public funds.

The receipt of a market rate of return will be secondary to the requirements for safety of principal and liquidity. It is the intent of the city to be in complete compliance with local law and the Texas Public Funds Investment Act (the "Act"). The earnings from investments will be used in a manner that best serves the interests of the City.

II. Scope

This investment policy applies to all the financial assets and funds of the City. The City commingles its funds into one pooled investment fund for investment purposes for efficiency and maximum investment opportunity. These funds are defined in the City's Annual Financial Report and include:

- General Funds
- Garbage Funds
- Special Revenue Funds
- Debt Service Funds
- Capital Project Funds
- Proprietary Funds
- All Other Funds

And any new funds created by the City unless specifically exempted by the City Council and this policy.

III. Objectives and Strategy

It is the policy of the City that all funds shall be managed and invested with four primary objectives, listed in order of their priority: safety of principal, liquidity, diversification, and yield. Investments are to be chosen in a manner which promotes diversity by market sector, credit and maturity. The choice of high-grade government investments and high-grade, money market instruments are designed to assure the marketability of those investments should liquidity needs arise. To match anticipated cash flow requirements the maximum weighted average maturity of the overall portfolio may not exceed six months.

<u>Safety of Principal</u>

Safety of principal is the foremost objective of the City. Investments of the City shall be undertaken in a manner that seeks to insure the preservation of capital in the overall portfolio.

<u>Liquidity</u>

The City's investment portfolio will be based on a cash flow analysis of needs and will remain sufficiently liquid to enable it to meet all operating requirements which might be reasonably anticipated.

Diversification

Diversification of the portfolio will include diversification by maturity and market sector and will include the use of a number of broker/dealers for diversification and market coverage. Competitive bidding will be used on each sale and purchase.

Yield

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

Effective cash management is recognized as essential to good fiscal management. Cash management is defined as the process of managing monies in order to ensure maximum cash availability. The City shall maintain a comprehensive cash management program which includes collection of accounts receivable, prudent investment of its available cash, disbursement of payments in accordance with invoice terms and the management of banking services.

IV. Legal Limitations, Responsibilities and Authority

Direct specific investment parameters for the investment of public funds in Texas are found in the Public Funds Investment Act, Chapter 2256, Texas Government Code, (the "Act"). The Act is attached as Exhibit A. The Public Funds collateral Act, Chapter 2257, Texas Government Code, specifies collateral requirements of all public funds deposits. All investments will be made in accordance with these statutes.

V. Delegation of Investment Authority

The City Manager and the Municipal Finance Officer, acting on behalf of the City, are designated as the Investment Officers of the City and are responsible for investment management decisions and activities. The City Manager and the Municipal Finance Officer are also responsible for considering the quality and capability of staff, investment advisors, and consultants involved in investment management and procedures. All participants in the investment process shall seek to act responsibly as custodians of the public trust and in accordance with this policy.

The EDC Director and the Municipal Finance Officer, acting on behalf of the EDC and the EDC Investment Committee, are designated as the Investment Officers of the EDC and is responsible for investment management decisions and activities. The EDC Investment Committee is also responsible for considering the quality and capability of staff, investment advisors, and consultants involved in investment management and procedures. All participants in the investment process shall seek to act responsibly as custodians of the public trust and in accordance with this policy.

The Investment Officers shall develop and maintain written administrative procedures for the operation of the investment program which are consistent with the Investment Policy. Procedures will include reference to safekeeping, require and include the "Bond market master Repurchase Agreements" (as applicable), wire transfer agreements, banking service contracts, and other investment related activities.

The Investment Officers shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials and staff. The Investment Officer shall designate a staff person as a liaison/deputy in the event circumstances require timely action and the Investment Officer is not available.

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

<u>Authorization Resolution</u>
A Trading Resolution is established with this investment policy and attached hereto, authorizing the Investment Officer to engage in investment transactions on behalf of the City. The persons authorized by the Trading Resolution to transact business for the
City are also authorized to approve wire transfers used in the process of investing.

VI. Prudence

The standard of prudence to be used in the investment function shall be the "prudent investor" rule and shall be applied in the context of managing the overall portfolio. This standard 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 expected income to be derived."

<u>Limitation of Personal Liability</u>
The Investment Officers and those delegated with investment authority under this Policy, when acting in accordance with the written procedures and this Policy and in accordance with the Prudent Person Rule, shall be relieved of personal liability in the management of the portfolio provided that deviations from expectations for a specific security's credit risk or market price change or portfolio shifts are reported in a timely manner and that appropriate action is taken to control adverse market effects.

VII. Internal Controls

The Investment Officer shall establish a system of written internal controls which will be reviewed annually with the independent auditor of the City. The controls shall be designed to prevent loss of public funds due to fraud, employee error, misrepresentation by third parties, unanticipated market changes, or imprudent actions by employees of the City.

<u>Cash Flow Forecasting</u>

Cash flow forecasting is designed to protect and sustain cash flow requirements of the City. Supplemental to the financial and budgetary systems, the Investment Officer will maintain a cash flow forecasting process designed to monitor and forecast cash positions for investment purposes.

VIII. Authorized Investments

Acceptable investments under this policy shall be limited to the instruments listed below and as further described by the Public Funds Investment Act.

A. Obligations of the United State Government, its agencies and instrumentalities, and government sponsoring enterprises, not to exceed two years to stated maturity, excluding collateralized mortgage obligations (CMOs);
B. Fully insured or collateralized certificates of deposit from a bank doing business in the State of Texas and under the terms of a written depository agreement with that bank, not to exceed one year to stated maturity;
C. No-load, SEC registered money market funds, each approved specifically before use by the City
D. Constant dollar Texas Local Government Investment Pools as defined by the Public Funds Investment Act; and,

If additional types of securities are approved for investment by public funds by state statute, they will not be eligible for investment by the City until this policy has been amended and the amended version approved by the City Council.

Competitive Bidding Requirement
All securities, including certificates of deposit, will be purchased or sold after five brokers/banks are notified, and at least two bids obtained to assure competitive bidding. This process must be completed in writing.

Delivery versus Payment
All security transactions, including collateral for repurchase agreements, entered into by the city, shall be conducted on a delivery versus payment (DVP) basis.

All transactions shall be required to have the same signature/authority as the cash accounts.

IX. Authorized Financial Dealers and Institutions

All investments made by the City will be made through either the City's banking services bank or a primary dealer. The Investment Committee will review the list of authorized broker/dealers annually. At least five brokers/banks will be notified, and at least two bids must be obtained to assure competitive bidding. The Investment Committee shall be made up of the Mayor and 2 Council Members, and the Board President 2 EDC Board Members. Each respective body shall choose their committee members.

Securities broker/dealers must meet certain criteria as determined by the Investment Officer. The following criteria must be met by those firms on the list:

> Provision of an audited financial statement each year,

> Proof of certification by the National Association of Securities Dealers (NASD) and provision of CRD number,

> Proof of current registration with the State Securities Commission, and > Completion of a City questionnaire.

Every broker/dealer and bank with whom the City transacts business will be provided a copy of this Investment Policy to assure that they are familiar with the goals and objectives of the investment program. A representative of the firm will be required to return a signed certification stating that the Policy has been received and reviewed and that controls are in place to assure that only authorized securities are sold to the City.

X. Diversification and Maturity Limitations

It is the policy of the City to diversify its investment portfolio. Invested funds shall be diversified to minimize risk or loss resulting from over-concentration of assets in a specific maturity, specific issuer, or specific class of securities. Diversification strategies shall be established and periodically reviewed. At a minimum, diversification standards by security type and issuer shall be:

Security Type	***Max% ofPortfolio***
U. S. Treasury Obligations	100%
U. S. Government agencies and instrumentalities	not to exceed 50%
Fully insured or collateralized CDs	not to exceed 40%
*Must comply with Government Code 2256.010	
Repurchase agreements	100%
*Must comply with Government Code 2256.011	
Money Market funds	100%
For Bond funds	80%
Local Government Investment Pools	100%
For Bond Funds	100%
Liquidity Pools	not to exceed 30%
Maximum percent ownership of pool	not to exceed 20%

The Investment Officers shall be required to diversify maturities. The Investment Officer, to the extent possible, will attempt to match investment with anticipated cash flow requirements. Matching maturities with cash flow dates will reduce the need to sell securities prior to maturity, thus reducing market risk. Unless matched to specific requirements, the Investment Officers may not invest more than 20% of the portfolio for a period greater than one (1) year.

XI. Safekeeping and Collateralization

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

All safekeeping arrangements shall be designated by the Investment Officer and an agreement of the terms executed in writing. The third party custodian shall be required to issue safekeeping receipts to the City listing each specific security, rate, description, maturity, cusip number, and other pertinent information. Each safekeeping receipt will be clearly marked that the security is held for the City or pledged to the City.

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

Collateralization

Collateralization on time and demand deposits over FDIC insurance coverage and repurchase agreements.

In order to anticipate market changes and provide a level of additional security of all funds, the collateralization level required will be 102% of the market value of the principal and accrued interest. Collateral will be held by an independent third party safekeeping agent.

XII. Performance Evaluation and Reporting

The Investment Officer shall submit monthly to the City Manager and City Council reports containing sufficient information to permit an informed outsider reader to evaluate the performance of the investment program and consistent with statutory requirements. All reports shall be in compliance with the Act. Market prices for market evaluations will be obtained from an independent source.

XIII. Depositories

The City will designate one banking institution through a competitive process as its central banking services provider at least every three years. This institution will be used for normal banking services including disbursements, collections, and safekeeping of securities. Other banking institutions from which the City may purchase certificates of deposit will also be designated as a depository after they provide their latest audited financial statements to the City.

XIV. Investment Policy Adoption by Council

The City's Investment Policy shall be adopted annually by the Council. The policy and strategies shall be reviewed on an annual basis by the Council or a designated Committee of the Council. A written resolution approving that review and changes to the policy will be passed and recorded by the Council.

**APPENDIX B: Illustrative Broker/Dealer
Certification Form**

BROKER DEALER CERTIFICATION FORM
(As required by Texas Government Code 2256.005 (k))

The City acknowledges that the only means the firm has to preclude unauthorized investment transactions between the firm and the City of Windcrest is to confirm that all provisions of the City's investment policy are followed in investment transactions conducted between the firm and the City, and, the second paragraph below should be read accordingly.

I, ______________________________ as a qualified representative for the firm ___________________________ do hereby certify that I and the broker covering this account, __________________________________have received and thoroughly reviewed the investment policy of the City of Windcrest.

I acknowledge that this firm has implemented reasonable internal procedures and controls in an effort to preclude investment transactions not authorized by the City's investment policy.

_______________________________________ Signature

Name:

Title:

Date:

WINDCREST
TEXAS

RESOLUTION NUMBER 2014-522(R)

A RESOLUTION ADOPTING AN INVESTMENT POLICY

WHEREAS, the City Council adopted an Investment Policy in accordance with Chapter 2256 of the Government Code, commonly known as the "Public Funds Investment Act" and now desires to adopt a revised Investment Policy.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that the attached Investment Policy is hereby adopted as the Investment Policy of the City of Windcrest, Texas.

PASSED AND APPROVED this the ______ day of ________________, 2014.

____
Alan Baxter, Mayor

ATTEST:

____
Kelly Rodriguez, City Secretary

APPROVED AS TO FORM:

____
Michael S. Brenan, City Attorney

WINDCREST
TEXAS

City Council Agenda Item Report

December 1, 2014

Contact – Sarah Mangham

smangham@windcrest-tx.gov

Resolution #: 2014-523(R)

SUBJECT: DELIBERATION AND POSSIBLE ACTION ON A RESOLUTION APPROVING THE REVISED PURCHASING POLICY.

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1. **BACKGROUND/HISTORY**
Every year the Council should review and approve the Purchasing Policy. The original Policy was adopted via Council on September 17, 2012.

2. **FINDINGS/CURRENT ACTIVITY**
No changes from existing policy.

3. **FINANCIAL IMPACT -**
N/A

4. **ACTION OPTIONS/RECOMMENDATION**
Staff recommends to take action on the Resolution to adopt the revised Purchasing Policy.

PURCHASING POLICY

Original Adopted: April 18, 2011

Revised Adopted: December 1, 2014

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1. INTRODUCTION

This policy is intended to establish and describe the basic procurement policies under which the City of Windcrest (the “City”) will operate. This policy is effective immediately upon issuance, and supersedes all previous purchasing instructions or directives.

The Finance Department is the City’s oversight department for buying and contracting for the acquisition, storage and disposal of goods, and for the procurement of services and construction. Each Department Head will be responsible for following the purchasing policy.

2. FINANCE DEPARTMENT POLICY STATEMENT

The City Manager is responsible for the administrative affairs of the City. The City Manager has delegated the purchasing responsibility within the guidelines established in this manual to the Department Heads and the Finance Department. Each Department Head is authorized to execute orders on behalf of the City within these policy guidelines. Any interpretation of these guidelines necessary for the effective operation of the purchasing function will be made by the City Mayor .

3. PURCHASE CATEGORIES

The City’s purchasing categories are outlined below.

A. PURCHASE CARDS & CHARGE ACCOUNTS

Purchase Cards and Charge Accounts are to be used for purchasing small dollar (less than $ 999.99), high volume items, and for official City travel. Purchase Cards and Charge Accounts are for official City business purposes only and shall not be used for any personal transactions. Use of the Purchase Card to make purchases of capitalized equipment is prohibited. Improper use of a Purchasing Card or Charge Account may result in disciplinary action, up to and including termination of employment.

All purchase cardholders must be approved by both the Municipal Finance Officer and, City Manager.

All open credit accounts must be approved by the Municipal Finance Officer. An example of open credit accounts would be like Home Depot, Office Max, Sam’s, etc…

Purchase Cardholder responsibilities:

1. All purchase transactions processed against the Purchase Card or Charge Account must be made by the purchase cardholder.

2. The Cardholder or Charge Account Holder shall forward all documentation of all purchases to the Finance Department within 2 business days of the purchase.

3. The cardholder shall be responsible for maintaining the security of the card and shall be personally liable for any charges that are assessed against the card for other than official City business conducted in accordance with the policies contained herein.

4. The cardholder shall immediately advise the Municipal Finance Officer of any lost or stolen cards or any suspicion of identity theft related to the card.

5. Purchase Card purchase approvals: The department manager or department head must review all charge documentation and approve all cardholder statements. Each statement cycle a copy of the statement will be provided to the City Manager for review and approval.

Purchase Card dollar limitations:

1. The Purchase Card and / or Charge Accounts are to be used for purchases of goods or certain business services under $1,000 without a Purchase Requisition or Purchase Order, except as provided in the next paragraph. This means if the total payment, including freight, to be made to a vendor is equal to or more than $1,000 , a purchase order must be used. Purchase Card purchases exceeding $1,000 will be used for travel only. There are only going to be 2 Purchase Cards, and will be held by the Finance Department. If a purchase needs to be made by a department on the Purchase Card, it will need to be checked out from Finance.

2. Purchase Cards may be used where vendors will not accept a purchase order or there are exceptional circumstances for the purchase. The Purchase Card holder must have written approval from the City Manager or his designee for the purchase prior to placing an order.

Suspension/Termination of Credit Cards: Cardholders who do not abide by City policies will have their Purchase Card privileges suspended and may face further disciplinary action, up to and including termination and prosecution by the City. The Purchase Card shall be immediately canceled when the cardholder's employment with the City is terminated.

B. PURCHASES OF $2,999.99 OR LESS BUT GREATER THAN $1,000.

Purchases that are $1,000.00 to $2,999.99 will be completed by the Accountant I in the Finance Department. The Department will submit in writing (email is sufficient), the item(s), make, model, and recommended vendor. A visual picture of the products will assist the Finance Department in the purchasing of the item(s). Finance will obtain three informal quotes (verbal / web) on goods or services with a total cost within this spending authority. Staff will always look at Buyboard or the State Procurement Website as part of the 3 quotes. Once obtained, the recommended vendor and price will be provided to the Department Head for final approval prior to processing the purchase order. The Purchase will be accomplished by the means of a City Purchase Order and Telephone /Written Quote Form. ***City employees are prohibited from making "separate, sequential, or component" purchases to avoid purchase order requirements.*** Competitive quotations or bidding are not required. Each purchase is anticipated to be completed within 3 business days from date of request. An awarded purchase order will be provided to the Vendor and the Department Head. Once goods are received, the Department will document on purchase order that the goods are received and provide the purchase order and the invoice to Finance for payment.

Monthly reports will be submitted to Council as part of the Monthly Finance Report.

C. PURCHASES OF $ 9,999.99 OR LESS BUT GREATER THAN $3,000

Purchases that are $3,000 to $9,999.99 will be completed by the Accountant I in the Finance Department. The Department will submit in writing (email is sufficient), the item(s), make, model, and recommended vendor. A visual picture of the products will assist the Finance Department in the purchasing of the item(s). Finance will obtain three formal quotes (verbal / web) on goods or services with a total cost within this spending authority. Staff will always look at Buyboard or the State Procurement Website as part of the 3 quotes and will submit the quote form to at least 1 HUB. Please refer to www.window.state.tx.us/procurement for a list of the current HUB vendors for the commodity that is being purchased. Once obtained, the recommended vendor and price will be provided to the Department Head for final approval prior to processing the purchase order. The Purchase will be accomplished by the means of a City Purchase Order and Written Quote Form. ***City employees are prohibited from making "separate, sequential, or component" purchases to avoid purchase order requirements.*** Each purchase is anticipated to be completed within 5 to 7 business days from date of request. An awarded purchase order will be provided to the Vendor and the Department Head. Once goods are received, the Department will document on purchase order that the goods are received and provide the purchase order and the invoice to Finance for payment. ***All such expenditures must be approved by the Municipal Finance Officer and City Manager prior to awarding the purchase.***

Monthly reports will be submitted to Council as part of the Monthly Finance Report.

D. PURCHASES OF $24,999.99 OR LESS BUT GREATER THAN $10,000

Purchases that are $10,000 to $24,999.99 will be completed by the Accountant I in the Finance Department. The Department will submit in writing (email is sufficient), the item(s), make, model, and recommended vendor. A visual picture of the products will assist the Finance Department in the purchasing of the item(s). Finance will obtain three formal quotes (verbal / web) on goods or services with a total cost within this spending authority. Staff will always look at Buyboard or the State Procurement Website as part of the 3 quotes and will submit the quote form to atleast 1 HUB. Please refer to www.window.state.tx.us/procurement for a list of the current HUB vendors for the commodity that is being purchased. Once obtained, the recommended vendor and price will be provided to the Department Head for final approval prior to processing the purchase order. The Purchase will be accomplished by the means of a City Purchase Order and Written Quote Form. ***City employees are prohibited from making "separate, sequential, or component" purchases to avoid purchase order requirements.*** Each purchase is anticipated to be completed within 5 to 7 business days from date of request. An awarded purchase order will be provided to the Vendor and the Department Head. Once goods are received, the Department will document on purchase order that the goods are received and provide the purchase order and the invoice to Finance for payment. ***All such expenditures must be approved by the Municipal Finance Officer and the City Manager and the City Council prior to awarding the purchase. A formal resolution thru the City Council shall be attached to the purchase order.***

> MINOR CONSTRUCTION PROJECTS: Minor construction projects are construction activities under $25,000. The Project Manager for all minor construction projects for all City facilities will be determined by the City Manager (see section 2 below).

Change Orders: After any contract is signed, if changes are necessary in the scope of work, the contract price, or the contract time, a change order must be prepared on a City approved form for execution by the Contractor and the City. All change orders must be submitted thru the Accountant I in Finance.

- If a change order involves a decrease or an increase of $25,000 or less, the governing body may grant general authority to an administrative official of the municipality to approve the change orders.

- The original contract price may not be increased under this section by more than 25 percent. The original contract price may not be decreased under the Local Government Code by more than 25 percent without the consent of the contractor.

Payment Requisitions: Payment requisitions must be prepared, properly completed with **all** necessary signatures except the Finance Department and certified that all information contained on the Payment Requisition is correct including certification that the payment request is in compliance with the contract.

- PROFESSIONAL SERVICES: For professional services involving an anticipated fee of $25,000 or less, the requesting Accountant I will create a Professional Services Contract for legal review.

All purchases $10,000 or greater must be approved by the City Council prior to award.

Monthly reports will be submitted to Council as part of the Monthly Finance Report.

E. PURCHASES OVER $25,000

The Texas Local Government Code requires competitive bidding or proposals for city purchases exceeding $50,000 in amount, with very few exceptions. The City of Windcrest requires competitive bidding or proposals for city purchases exceeding $25,000 in amount with very few exceptions. Unless approved thru City Council to not complete the competitive bidding or proposals. ***City employees are prohibited from making "separate, sequential, or component purchases to avoid the competitive bidding requirements". A violation of these prohibitions is a Class B misdemeanor ($1,000 fine and/or 180 days in jail), and conviction results in immediate removal from office or employment and ineligibility for other public office or employment for four years after the date of conviction (Local Gov't. Code Section 271.029 and 271.030).***

Purchases must be made through formal, written, sealed competitive bids or proposals. ***Departments are prohibited from splitting purchases to avoid the formal bid requirement.***

City Council approval is required for the award of contracts for all purchases for goods and services of over $10,000. If the formal bid process is used and the low bid is $9,999.99 or below, the City Manager has the authority to execute the contract award.

- HIGH TECHNOLOGY PURCHASES: High technology purchases in excess of $25,000 must be made through formal, written, sealed proposals. ***Departments are prohibited from splitting purchases to avoid the formal proposal requirement.*** State law requires that the relative importance of price and other evaluation factors be specified in the RFP. All RFP's for high technology purchases must be approved by the Department Head, IT

Committee, Legal, and the City Manager or his designee prior to advertisement of the RFP.

- PROFESSIONAL SERVICES: "Professional Services" are services which involve mental or intellectual skills, usually accompanied by formal certification or licensing by a state agency, such as accounting, architecture, engineering, medicine, planning, economics, law, financial advisory services and scientific or laboratory consulting services.

State law prohibits the purchase of professional services by competitive bidding. User departments must select professional service consultants on the basis of demonstrated competence and qualifications, and must negotiate fees on the basis of what is fair and reasonable for the type of services, rather than on a "low bid" basis. Except for architects and engineers, discussed below, both price and qualifications can be considered in selecting consultants.

For services involving an anticipated fee of more than $25,000, use the formal Request-For-Proposals ("RFP") procedure in coordination with the City Manager. Deviations from the RFP requirement must be based on unusual circumstances, and a written waiver must be approved by the City Manager.

Architects/Engineers:

In the case of architectural or engineering services a two step process must be followed. The first step is initial selection of the consultant based on demonstrated competence and qualifications (and not considering price); and the second step involves negotiation of a fee with the selected consultant. If fee negotiations are not successful, then fee negotiations with the second most qualified consultant may be undertaken, and so forth. It is important to keep in mind that price may **not** be considered in the initial selection of an engineer or architect.

The RFP and calendar (a schedule for the RFP & project) must be approved by the City Manager and the Attorney prior to issuance of the RFP. If the amount payable under the contract exceeds $9,999, award of the contract will require City Council approval.

Contract amendments: All contract amendments must be approved by the City Council.

Change in Services: The consultant must receive written approval from the City prior to initiating any additional work. Additional services for which compensation exceeds $10,000 of current contract amount must be approved by the City Council. All change of services for which compensation is less than $50,000 may be approved by the City Manager.

- <u>CONSTRUCTION PROJECTS</u>

Construction projects include construction activities for buildings, streets, and utility system improvements including renovations and demolitions. The City Manager will designate a Project Manager for each construction project. These projects sometimes involve the acquisition by the City of real property, right-of-way or easements, which must be completed before the contractor enters the project area. In addition, state law requires most public works projects to be designed and overseen by a registered professional engineer or architect, who can be either in house (Engineering Department) or a contracted consultant.

Technical specifications/plans and supplementary conditions are developed by the Architect/ Engineer.

a. Asbestos Abatement: If the project involves renovation or demolition work on an existing City building, state law requires an asbestos abatement survey to be conducted by a state licensed person, and material samples must be collected and submitted for analysis at a state certified laboratory. If asbestos is found, the Project Manager must contact the Engineering Department for additional information regarding asbestos abatement. All demolition projects require notification to the Texas Department of Health regardless of whether asbestos is present.

b. Elimination of Architectural Barriers: If the project involves construction of a building with an estimated construction cost of $50,000 or more, the City is required to submit all plans and specifications for the construction or renovation to the Texas Department of Licensing and Regulation for review for removal of barriers to persons with disabilities.

c. Change Orders: After the contract is signed, if changes are necessary in the scope of work, the contract price, or the contract time, the Architect/Engineer advises the Project Manager. With the Project Manager's approval, the Architect/ Engineer prepares a change order on a City approved form in triplicate originals for execution by the Contractor, the City, and the Architect/Engineer.

   The net amount of all change orders cannot increase the original contract price by more than 25%. The net amount of all change orders cannot decrease the original contract price by more than 25% without the Contractor's consent.

   Change orders involving an increase or decrease of less than $10,000 or less will be executed by the City Manager.

Change orders involving an increase of more than $10,000 must be approved by City Council.

Payment Requisition: It is the responsibility of the Project Manager and the Engineer/Architect to ensure that the correct Payment Requisition forms are properly completed with **all** necessary signatures except the Finance Department, and/or the City Manager, which are obtained after the completed and signed Payment Requisition, is sent to the Finance Department. The City Manager's signature is only required on the final payment.

Final Payments: The City Manager signs all Final Payment Requisitions.

Monthly reports will be submitted to Council as part of the Monthly Finance Report.

4. EXEMPT PURCHASING FUNCTIONS

State law provides a few exemptions from competitive bidding. Such examples include:

- The purchase of land or rights-of-ways;
- Personal or professional services, such as engineering, architectural, or planning services;
- Property bought at an auction;
- Property bought at a going-out-of-business sales; and
- Property bought from another political subdivision or state or federal government.
- In case of public calamity, where it becomes necessary to act at once to provide relief for local citizens or to preserve or protect the public health;
- In case of unforeseen damage to public property, machinery, or equipment, where immediate repair is necessary;
- Procurement necessary to preserve or protect public health or safety of the City's residents;
- Procurement for work that is performed and paid for by the day as the work progresses;
- Purchase of land or right-of-way; or
- Other matters as set forth in Section 252.022 of the Texas Local Gov't. Code.

The application of exemptions from competitive bidding requirements for purchases in excess of $10,000 must be approved in each case by the City Manager and the City Council.

5. **EMERGENCY PURCHASES**

Emergency purchases are those purchases caused by an unforeseen and dangerous situation that requires immediate action to preserve the health and safety of people or property in the City. When emergency purchases are made, the user department must make the purchase at the best possible price considering all existing circumstances and the necessity for prompt action. The Finance Department will issue a verbal approval upon request when an emergency occurs which must be followed-up with a purchase order as soon as time permits, or within 48 hours of purchase, whichever occurs first. The user department must submit a purchase requisition within 48 hours after the emergency purchase is made.

Emergency purchase orders in excess of $10,000 **must** be authorized by the Municipal Finance Officer and City Manager and ratified by the City Council at the next scheduled Council Meeting.

6. **SOLE SOURCE PURCHASES**

State laws allow for a limited exemption from competitive bidding for the purchase of goods where the functional requirements of the City can be satisfied by only one source. This applies to: purchases where competition is precluded because of:

the existence of patents, copyrights, secret processes or natural monopolies;

the purchase of films, manuscripts or books; purchases of electric power, gas, water, and other utility services;

the purchase of captive replacement parts or components for equipment; and

other items as specified in Section 252.022(a)(7) of the Texas Local Gov't. Code.

A product is eligible for sole source purchase only when there is a significant functional difference between the product and other similar products on the market, and when the item is available only from one vendor. The following are **not** sufficient justifications for a sole source purchase:

A product is made by only one manufacturer, if products from other manufacturers are available that perform a similar function.

A particular name brand of product is preferred over other brands.

Only one local vendor offers a product, if other vendors who offer the product can meet the City's needs and delivery time is critical.

Sole source purchases in excess of $10,000 must be approved by the City Manager and the City Council prior to the purchase. When City Council approval is necessary, a detailed explanation of the sole source basis for the purchase must be included by the user department on the agenda request form.

7. RENTAL AND LEASE EQUIPMENT

All lease agreements are accomplished by sealed bids/proposals if the amount of the lease is expected to exceed $50,000 over the **term** of the lease agreement. A lease of equipment is subject to the requirements for competition that apply to purchases. Rental or lease equipment agreements will be processed on a standard purchase order.

The user department must identify the source of funds to cover payments of lease charges for the entire period of the lease.

8. BLANKET PURCHASE ORDERS

The user department shall submit a purchase order for a blanket purchase order approval for an amount of estimated annual recurring expenditures. For example, a department would set up a blanket purchase order for vendors from whom they regularly purchase needed supplies. Examples might include office supplies, equipment parts, lubricants, fuel, and so forth.

9. INTERGOVERNMENTAL PURCHASES

It is the policy of the City to facilitate joint purchasing arrangements on an inter-governmental basis. The Municipal Finance Officer will work with other governmental entities to take advantage of the benefits of joint purchasing arrangements. In addition, the Municipal Finance Officer will utilize various cooperative programs available to the City.

10. COMPUTER HARDWARE AND SOFTWARE PURCHASES

The City has adopted the following policy for the purchase of computer hardware and software.

Any City staff employee can make purchases for computer supplies/equipment less than $100 (consumable items, such as diskettes, CD's, DVD's, ink cartridges, mice.)

Purchases of computer supplies/equipment $100.00 to $999.99 must have the approval of the Department Director, IT Director, and Municipal Finance Officer.

Purchase of computer supplies/equipment $1,000 - $25,000 must be approved by the Department Director, the IT Director, Municipal Finance Officer, and the City Manager.

If cost is estimated to exceed $50,000 the RFP policy applies.

All original program diskettes/CD's shall be kept by the City Secretary for retention filing at the Records Storage Center. The original software license is kept by the user department for its files.

11. **CITY COUNCIL AUTHORIZATION**

Contracts for the purchase of goods and services involving an expenditure in excess of $10,000 require the approval of the City Council, whether or not the purchase is to be obtained through a competitive bidding or proposals procedure. The Department Head is responsible for timely processing of City Council Agenda Request forms to the City Manager when Council approval is necessary for a purchase.

12. **BUYING LOCALLY**

The City encourages purchases from vendors in Windcrest when the needs of the City and the requirements for competition in this manual can be met. State law, however, does not permit purchases to be limited to Windcrest vendors when competition is afforded by out-of-town vendors who can meet the City's delivery and/or service requirements.

In purchasing any real property or personal property that is not affixed to real property, if the City receives one or more bids from local bidders, and the bids are within five percent of the lowest responsible bid received by the City from a nonresident bidder, City may award the contract to the lowest responsible bidder who is a local bidder, if the City determines in writing that the local bidder offers the City the best combination of contract price and additional economic development opportunities for the City created by the contract award including the employment of local residents, and increased tax revenues to the city.

13. HISTORICALLY UNDERUTILIZED BUSINESSES (HUB'S)

The City is taking the following actions to assist Historically Underutilized Businesses (HUB's) in doing business with the City.

The Department Heads insures that HUB's are given a fair and equal opportunity to bid on City contracts.

The Department Heads ensures that, before the City makes an expenditure of more than $3,000 but less than $50,000, at least one HUB is contacted on a rotating basis, based on information provided by the Texas Building and Procurement Commission.

It is the City's intent that these actions will promote participation of HUB's within the City.

14. FIXED ASSETS

The City is responsible for keeping records of all of its fixed assets. All new assets which have an original cost of $2,500 or more and a three year life span are fixed assets and will be added to the fixed assets records. Fixed assets are charged to the general ledger account code XXXXX. All duties and responsibilities of the fixed assets inventory records are supervised by the Finance Department. Effort by the directors and department heads throughout the City is necessary if the system is to work; however, this effort is centrally organized, monitored, and reported by the Finance Department staff.

15. SURPLUS

All surplus computer hardware and software must be returned to the IT Director. For all other surplus goods, contact the Finance Department for disposal either by on-line auction, or City Auction.

16. TRAVEL

All travel must be approved by the Municipal Finance Officer and the City Manager, using the attached Travel Request Form. All travel requests shall be made within 2 weeks of the travel date(s). The mileage rate to be reimbursed for all mileage will be the same rate of reimbursement used by the Federal Government.

17. RECYCLED PRODUCTS

The City encourages all user departments to assist in the purchase of recycled products and supports the entire process of recycling.

18. DOCUMENTS

REQUISITIONS: The Requisition requests authorization for the User Department to enter into a contract with a vendor to purchase goods and/or services for the user department and to charge the appropriate department or project budget once all approvals have been obtained.

THE PURCHASE ORDER: The primary purchasing document used by the City to secure supplies and/or equipment is the Purchase Order ("PO"). The PO is a binding written agreement between the City and a vendor obligating the City to pay for specified goods or services when delivered in accordance with the purchase order terms. PO's will be issued by the Finance Department only. **NO ORDER IS BINDING UPON THE CITY UNTIL A PURCHASE ORDER HAS BEEN ISSUED. NO EMPLOYEE SHALL CONSENT TO AN ORDER ON THE "CONFIRMING" BASIS BEFORE A PURCHASE ORDER HAS BEEN ISSUED. ANY PURCHASE ORDER THAT IS CONFIRMED WITH A VENDOR BEFORE BEING ISSUED A PURCHASE ORDER, WILL BE CONSIDERED AN AUTHORIZED PURCHASE AND WILL NEED TO BE REIMBURSED BY THE EMPLOYEE TO THE CITY.**

RECEIPTS: The user department is required to process a Material Receiving Report for complete delivery of an order prior to payment. This will be completed on the Requisition.

TRANSFERS OF FUNDS: In the event that the department director needs to transfer funds between line items the transfers of funds form must be completed.

FIXED ASSET ACTIVITY FORM: The Fixed Asset Activity Form must be completed for each fixed asset that is added, deleted or transferred. A fixed asset is a cost of $2,500 or greater at the time of purchase.

TRAVEL AUTHORIZATION FORM: All travel must be approved using the attached form. It must be submitted within 2 weeks of the travel date(s).

WINDCREST
TEXAS

RESOLUTION NUMBER 2014-523(R)

A RESOLUTION ADOPTING THE CITY OF WINDCREST PURCHASING POLICY

WHEREAS, the City Council adopted a standardized purchasing policy on or about September 17, 2012; and

WHEREAS, the City Council desires to adopt a revised standardized purchasing policy.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Windcrest, Texas, that:

1. The attached Purchasing Policy is adopted and shall provide the standard guidelines for the purchase of items using the City of Windcrest funds.

2. All previous purchasing policies are hereby repealed.

DULY PASSED AND APPROVED, on the ______ day of _____________, 2014 at a regular meeting of the City Council of the City of Windcrest, Texas, which meeting was held in compliance with the Open Meetings Act, Tex. Gov't. Code, §551.001, et. seq. at which meeting a quorum was present and voting.

____
Alan Baxter, Mayor

ATTEST:

____
Kelly Rodriguez, City Secretary

APPROVED AS TO FORM:

____
Michael S. Brenan, City Attorney

ORDINANCE NO. 2014-*(O)**

AN ORDINANCE AMENDING CHAPTER 109, SIGNS, OF THE CODE OF ORDINANCES BY REPEALING CURRENT SUBSECTIONS 109-19 (d) (1) a.-f. PERTAINING TO THE PLACEMENT OF SIGNS ON PUBLIC PROPERTY AND AMENDING SUBSECTION 109-19 (d) (2) TO CLARIFY THE TYPE OF ELECTION AUTHORIZED.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that Chapter 109, Signs, is amended by repealing current Subsections 109-19 (d) (1) a.-f. and by renumbering current g. to a., h. to b. and i. to c.

BE IT FURTHERMORE ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that Chapter 109, Signs, is amended by revising subsection 109-19 (d) (2) to read as follows:

"(2) Such signs must relate to a scheduled City of Windcrest, Northeast School Board or Bexar County Water Control and Improvement District No. 10 election or an event held by a church or non-profit organization located within the City of Windcrest and may not be erected, used or installed more than twenty (20) days preceding the commencement of early voting for the election or twenty (20) days preceding the church or non-profit organization event to which the sign pertains and shall be removed no later than forty-eight (48) hours after the conclusion of the election or the event to which the sign pertains. Such signs may not exceed four (4) square feet in area. Such signs may not be illuminated or have any moving elements, or extend over sidewalks or driveways.

This ordinance shall take effect five (5) days after publication of its caption.

PASSED and APPROVED this ____ day of ______________, 2014.

____
Mayor

2014-722(O)

ATTEST:

____

City Secretary

APPROVED AS TO FORM:

____

City Attorney