WINDCREST
TEXAS

AGENDA
CITY OF WINDCREST, TEXAS

REGULAR CITY COUNCIL MEETING

June 6, 2016

6:30 P.M.

NOTICE IS HEREBY GIVEN THAT A REGULAR WINDCREST CITY COUNCIL MEETING WILL BE HELD AT WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS ON THE 6th DAY OF JUNE 2016 STARTING AT 6:30 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 JUNE 6, 2016 AND TO RECONVENE THE MEETING ON THE FOLLOWING DAY, JUNE 7, 2016 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.

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

Ordinance No. 2016-618B(O) establishes certain protocols for City Council meetings.
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", citizens may address the City Council on topics not on the agenda for no more than three (3) minutes. In addition to the foregoing, citizens shall also have the opportunity to address the City Council during consideration of posted agenda items for no more than six (6) minutes. Each citizen shall therefore have the opportunity to address the City Council for a total of nine (9) minutes. 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, a city official may make a statement of specific factual information in response to an inquiry made by a member of the public or a recitation of existing city policy. 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.

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

1. Citizens may address the City Council on topics not on the agenda for no more than three (3) minutes.

2. In addition to the foregoing, citizens shall also have the opportunity to address the City Council during consideration of posted agenda items for no more than six (6) minutes.

3. A City Official may make a statement of specific factual information in response to an inquiry made by a member of the public, or a recitation of existing policy in response to an inquiry made by a member of the public.

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. 2016-745(O), an ordinance accepting the transfer of property in the Winnbrook Estates subdivision from the Winnbrook Estates Home Owners Association to the city for use as a park. *Mike Brenan, City Attorney requested* (05.16.16 RCCM http://windcresttx.granicus.com/MediaPlayer.php?view_id=8&clip_id=1701) ***Second Reading*** (Att. 1)

2. City Council will review, discuss and may take action on Ordinance No. 2016-592A(O), an ordinance amending Ordinance 592 relating to the city newsletter. *CCM Pam Dodson requested* (07.20.2009 RCCM http://windcresttx.granicus.com/MediaPlayer.php?view_id=8&clip_id=173 // 05.02.16 RCCM http://windcresttx.granicus.com/MediaPlayer.php?view_id=8&clip_id=1689 // 05.16.16 RCCM http://windcresttx.granicus.com/MediaPlayer.php?view_id=8&clip_id=1701) ***Second Reading*** (Att. 2)

3. City Council will review, discuss and may take action on Ordinance No. 2016-746(O), an ordinance establishing the City Council process for handling complaints against elected officials in accordance with the city charter; providing for severability and setting an effective date. *Mayor Alan Baxter and CCM Pam Dodson requested* (02.17.16 SCCM http://windcresttx.granicus.com/MediaPlayer.php?view_id=8&clip_id=1657) ***First Reading*** (Att. 3)

IV. Resolutions

City Council will review, discuss and may take action on Resolution No. 2016-582(R), a resolution reviewing and adopting an investment policy. *Rafael Castillo, Jr., City Manager and Natalia Witmer, Purchaser/Accountant requested* (12.01.14 SCCM http://windcresttx.granicus.com/MediaPlayer.php?view_id=8&clip_id=1364 // 05.16.16 RCCM http://windcresttx.granicus.com/MediaPlayer.php?view_id=8&clip_id=1701) (Att. 4)

V. Discuss & Act

1. City Council will review, discuss and may take action to amend the policy governing Department Head reports at City Council meetings to promote greater efficiency and thoroughness. *CCM Matt Vandenberg requested.* (Att. 5)

2. City Council will review, discuss and may take action on spraying for mosquitos in the City of Windcrest. *Mayor Alan Baxter, CCM Gerd Jacobi and CCM Kimberly Wright requested.* (Att. 6)

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 June 6, 2016.

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 ____ June, 2016.

________________________________ Title: ___________________________

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE

DEED
(WITHOUT WARRANTY)

STATE OF TEXAS §
§ KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF BEXAR §

Date: 4-4-16, 2016

Grantor: WINN BROOK ESTATES HOMEOWNERS ASSOCIATION,
a Texas nonprofit corporation

Grantor's Mailing Address: 300 Sonterra Blvd., Ste. 250
San Antonio, Bexar County, Texas 78258

Grantee: THE CITY OF WINDCREST, TEXAS

Grantee's Mailing Address: 8601 Midcrown
San Antonio, Bexar County, Texas 78239

Consideration: Good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged

Property (including any improvements): See Exhibit A attached hereto and incorporated herein for all purposes

Reservations from and Exceptions to Conveyance and Warranty: This conveyance is made subject to any and all conditions, covenants, restrictions, easements, exceptions, reservations, conveyances, rights-of-way, and outstanding mineral and royalty interests, if any, of record in the Official Public Records of Real Property of Bexar County, Texas, to the extent the same are valid and subsisting and affect the Property, and any zoning laws and/or ordinances of municipal or other governmental authorities.

Grantor, for the Consideration and subject to the Reservations from and Exceptions to Conveyance and Warranty, hereby BARGAINS, SELLS, AND CONVEYS unto the Grantee all of Grantor's right, title and interest in and to the Property, TO HAVE AND TO HOLD it unto Grantee, and Grantee's heirs, successors, and assigns forever, together with all and singular, the rights and appurtenances thereto in anywise belonging, without express or implied warranty. All warranties that might arise by common law as well as the warranties in Section 5.023 of the Texas Property Code (or its successor) are excluded from this conveyance.

Grantor and Grantee agree that Grantee and Grantee's successors and assigns shall forever be restricted to use the Property for the purposes listed on the plats for the Property, as applicable, and for no other purpose.

Grantor and Grantee agree that ad valorem taxes on the Property for the calendar year 2016, and all successive years, are hereby assumed by Grantee.

As a material part of the consideration for this Deed Without Warranty, GRANTOR AND GRANTEE AGREE THAT GRANTEE IS TAKING THE PROPERTY WITH ANY AND ALL LATENT AND PATENT DEFECTS AND THAT THERE IS NO WARRANTY BY GRANTOR THAT THE PROPERTY IS FIT FOR A PARTICULAR PURPOSE. GRANTEE ACKNOWLEDGES THAT IT IS NOT RELYING UPON ANY REPRESENTATION, STATEMENT OR OTHER ASSERTION WITH RESPECT TO THE PROPERTY CONDITION, BUT IS RELYING UPON ITS OWN EXAMINATION OF THE PROPERTY. GRANTEE TAKES THE PROPERTY UNDER THE EXPRESS UNDERSTANDING THAT THERE ARE NO WARRANTIES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THIS DEED IS MADE AND ACCEPTED WITHOUT RECOURSE ON GRANTOR, AND WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND (WHETHER EXPRESS, IMPLIED, OR STATUTORY) BY GRANTOR. GRANTOR IS CONVEYING THE PROPERTY COVERED BY THIS DEED WITHOUT WARRANTY ON AN "AS IS, WHERE IS" BASIS, WITH ALL FAULTS, AND WITHOUT REPRESENTATION OR WARRANTY (ALL OF WHICH GRANTOR DISCLAIMS).

[SIGNATURES ON FOLLOWING PAGES]

EXECUTED AND EFFECTIVE as of the date first set forth above.

GRANTOR:

WINN BROOK ESTATES HOMEOWNERS ASSOCIATION,
a Texas nonprofit corporation

By: [signature]
Name: GARY A. CALLISON
Title: President Winn Brook Estates

STATE OF TEXAS §
§
COUNTY OF Bexar §

BEFORE ME, the undersigned authority, on this day personally appeared Gary Callison, President of WINN BROOK ESTATES HOMEOWNERS ASSOCIATION, a Texas nonprofit corporation, known by me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes and consideration therein expressed and in the capacity therein expressed.

Given under my hand and seal of office, this 4th day of April, 2016.

MELINDA YBARRA
NOTARY PUBLIC
STATE OF TEXAS
ID 12441770
EXP. 03-26-2020

[signature]
Notary Public, in and for the State of Texas

{00125271}

AGREED AND ACCEPTED as of the date first set forth above.

GRANTEE:

THE CITY OF WINDCREST, TEXAS

By: ______________________
Name: Rafael Castillo Jr
Title: Windcrest City Manager

STATE OF TEXAS §
§
COUNTY OF Bexar §

BEFORE ME, the undersigned authority, on this day personally appeared Rafael Castillo, City Manager of THE CITY OF WINDCREST, TEXAS, known by me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes and consideration therein expressed and in the capacity therein expressed.

Given under my hand and seal of office, this 4th day of April, 2016.

MELINDA YBARRA
NOTARY PUBLIC
STATE OF TEXAS
ID 124411770
EXP. 03-26-2020

____
Notary Public, in and for the State of Texas

After recording, please return to:
Pulman, Cappuccio, Pullen, Benson & Jones, LLP
Attn.: Buck Benson
2161 NW Military Hwy., Ste. 400
San Antonio, Texas 78213

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Lot 60, Block 2, Winn Brook Estates Subdivision, Unit 1, a subdivision of the City of Windcrest, Bexar County, Texas according to map or plat thereof recorded in Volume 9562, Page 54-56 of the Official Public Records of Real Property of Bexar County, Texas

Lot 11, Block 4, Winn Brook Estates Subdivision, Unit 1, a subdivision of the City of Windcrest, Bexar County, Texas according to map or plat thereof recorded in Volume 9562, Page 54-56 of the Official Public Records of Real Property of Bexar County, Texas

Lot 9, Block 2, Winn Brook Estates Subdivision, Unit 2, a subdivision of the City of Windcrest, Bexar County, Texas according to map or plat thereof recorded in Volume 9569, Page 209 of the Official Public Records of Real Property of Bexar County, Texas

Any provision herein which restricts the sale, or use of the described real property because of race is invalid and unenforceable under Federal law
STATE OF TEXAS, COUNTY OF BEXAR
I hereby Certify that this instrument was FILED in File Number Sequence on this date and at the time stamped hereon by me and was duly RECORDED in the Official Public Record of Real Property of Bexar County, Texas on:

APR 05 2016

COUNTY CLERK BEXAR COUNTY, TEXAS

COUNTY CLERK BEXAR COUNTY, TEXAS

Doc# 20160062217 Fees: $42.00
04/05/2016 4:31PM # Pages 5
Filed & Recorded in the Official
Public Records of BEXAR COUNTY
GERARD C. RICKHOFF COUNTY CLERK

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Lot 60, Block 2, Winn Brook Estates Subdivision, Unit 1, a subdivision of the City of Windcrest, Bexar County, Texas according to map or plat thereof recorded in Volume 9562, Page 54-56 of the Official Public Records of Real Property of Bexar County, Texas

Lot 11, Block 4, Winn Brook Estates Subdivision, Unit 1, a subdivision of the City of Windcrest, Bexar County, Texas according to map or plat thereof recorded in Volume 9562, Page 54-56 of the Official Public Records of Real Property of Bexar County, Texas

Lot 9, Block 2, Winn Brook Estates Subdivision, Unit 2, a subdivision of the City of Windcrest, Bexar County, Texas according to map or plat thereof recorded in Volume 9569, Page 209 of the Official Public Records of Real Property of Bexar County, Texas

WINDCREST
TEXAS

ORDINANCE NO. 2016-745(O)

AN ORDINANCE ACCEPTING THE TRANSFER OF PROPERTY IN THE WINN BROOK ESTATES SUBDIVISION FROM THE WINN BROOK ESTATES HOME OWNERS ASSOCIATION TO THE CITY FOR USE AS A PARK

WHEREAS, Winn Brook Estates Subdivision designates certain properties for park use and the Winn Brook Estates Homeowners Association desires to transfer ownership and responsibility for said properties as parks to the City of Windcrest; and

WHEREAS, the City Council of the City of Windcrest desires to accept said properties as parks and to assume responsibility for said park properties.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that the properties described in the attached Exhibit A are hereby accepted as park properties by the City of Windcrest effective April 4, 2016.

PASSED AND APPROVED, on the ___day of May, 2016 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

APPOVED:

____
Michael S. Brenan, City Attorney

ORDINANCE NO. 592

AN ORDINANCE REPEALING ORDINANCE 436 AND ADOPTING NEW PROCEDURES RELATING TO THE CITY NEWSLETTER.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that Ordinance No. 436 passed and adopted on April 19, 2004 is herby repealed.

BE IT FURTHER ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that the following procedures shall govern publication of the City newsletter:

1. The City Manager is responsible for publishing the city newsletter.

2. In addition to the Mayor, other members of the City Council may write articles for inclusion in the city newsletter provided that such articles are presented to the City Manager or his designee by the City Manager's deadline for article inclusion.

3. Articles from any source, including the Mayor, Council Members or others, shall not indulge in personalities, use offensive language, question motives of the Mayor or other members of the City Council, or staff, or indulge in advocacy of political positions or candidates. The intent of the newsletter will be to inform the public of actions, activities and events of interest to the citizens of Windcrest.

4. In accordance with the City Charter, the City Attorney shall review the content of all articles prepared for publication to assure compliance with applicable laws concerning the use of public resources.

5. The city newsletter will be published monthly electronically on the city's web-site, with courtesy copies available at city hall. A fee based subscription service, covering the costs of duplication, handling and postage may be required.

6. Commercial and political advertising will be prohibited. Windcrest schools, churches and civic groups may submit articles announcing special community events.

7. A community calendar will be published in each newsletter issue announcing city, civic, school and church event dates and times. It will be the responsibility of each group to submit their information by the publication deadline.

PASSED and APPROVED this 20th day of July, 2009.

Richard Bruns, Mayor

ATTEST:

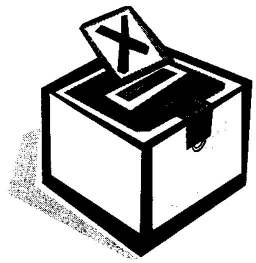
____
Tracy Freimarck, City Secretary

APPROVED AS TO FORM:

____
Michael S. Brenan, City Attorney

front cover April 2010

From the City Secretary's Office



The City of Windcrest will be holding a General Election on May 8, 2010 for Council Place 1, Council Place 2 and Council Place 3. **Early Voting** for this election will take place at Takas Park Civic Center beginning April 26th and will run through May 4th. Below is a schedule for Early Voting:

April 26, 2010 through April 30, 2010........................8:00am to 6:00pm
May 1, 2010...10:00am to 6:00pm
May 2, 2010...12:00pm to 6:00pm
May 3, 2010 through May 4, 2010............................ 8:00am to 8:00pm

Election Day is May 8, 2010 from 7:00am to 7:00pm. Voting on **Election Day** will be conducted at Windcrest Elementary, 465 Faircrest.

If you have any questions regarding Voter's Registration, Ballot by Mail or any other issues related to the May election and/or voting, please contact Bexar County Elections Office at 335-VOTE (8683).

Windcrest Garden Club

April Field Trip

We will have a special event in April as we visit the Yturri-Edmunds Mill House and Mission Concepcion for our spring field trip. We will meet at the Windcrest Civic Center at 9:00 a.m. on Monday, April 5th, where we will have a brief business meeting and then carpool to the Yturri-Edmunds Mill House. Please make plans to attend as it promises to be a very interesting trip!

Upcoming Events

Board Meeting
Monday, April 26th, 10:00 a.m.
Celeste Cook, hostess
634 Candleglo

Installation Luncheon
Monday, May 3rd, 11:00 a.m.
Pompeii Italian Grill
16109 Nacogdoches Rd.

Online edition 8th page - can be found in archives

From the City Secretary's Office

The City of Windcrest will be holding a General Election on May 8, 2010 for Council Place 1, Council Place 2 and Council Place 3. Early Voting for this election will take place at Takas Park Civic Center beginning April 26th and will run through May 4th. Below is a schedule for Early Voting.

April 26, 2010 -April 30, 2010..........8:00am to 6:00pm

May 1, 2010.....................................10:00am to 6:00pm

May 2, 2010.....................................12:00pm to 6:00pm

May 3, 2010 -May 4, 2010..................8:00am to 8:00pm

Election Day is May 8, 2010 from 7:00am to 7:00pm. Voting on Election Day will be conducted at Windcrest Elementary, 465 Faircrest.

If you have any questions regarding Voter's Registration, Ballot by Mail or any other issues related to the May election and/or voting, please contact Bexar County Elections Office at 335-VOTE (8683).

Stormwater Management

Stormwater runoff is generated when precipitation from rain and snowmelt events flows over land or solid surfaces and does not get into the ground. As the runoff flows over the land or hard surfaces (paved streets, parking lots, and building rooftops), it accumulates debris, chemicals, sediment or other pollutants that could adversely affect water quality if the runoff is discharged untreated. The primary method to control stormwater discharges is the use of best management practices. Do not let oil, antifreeze, or transmission fluid from your automobile leak onto the street. Do not let excess fertilizer, pesticides, or herbicides run into the street or green space. These best practices will better assure quality water.

Women's Club

14 April Appreciation Luncheon at the Windcrest Civic Center 11:00 a.m. - 2:00 p.m.

The Officers and Board Members want to thank all our members who worked so hard this year to make the Women's Club so successful by honoring them with this luncheon. We would like for you to join us and also show your appreciation for all they do.

Please mark your calendar and make plans to attend. Reservations are required. Please call Hazel Freeman at 655-3919.

28 April "The Fun and Trials of Writing a Book" presented by Barbara Morse 10 a.m. - Noon at the Windcrest Civic Center.

Barbara a long time Windcrest resident and a member of the Windcrest Women's Club for many years will be our guest speaker. She will share with us "The Fun and Trials of Writing a book". Her first book "Things your Mama Meant to Teach you, But Never Got Around To" came out in October of 2009.

Barbara graduated from Trinity University with a BA degree and is a certified classroom teacher for Elementary Ed and for High School German and Spanish. She is currently a substitute teacher for NEISD and teaches cooking classes every Thursday at FEAST, a home school co-op. Her hobbies are gardening, cooking, traveling, reading and singing.

Mark your calendar and maybe you might like to try your hand at writing a book.

Upcoming Events

26 May - Installation of New Officers and Luncheon at Randolph AFB Officer's Club, 11:30 - 2:00 p.m., RESERVATIONS REQUIRED.

WINDCREST
TEXAS

ORDINANCE NO. 2016-592A(O)

AN ORDINANCE AMENDING ORDINANCE 592 RELATING TO THE CITY NEWSLETTER

WHEREAS, Ordinance 592 adopted on July 20, 2009 prohibits commercial advertising in the city newsletter; and

WHEREAS, the City Council has determined that commercial advertising in the city newsletter is beneficial to the city because it defrays a portion of the cost of publishing the city newsletter.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that Ordinance No. 592 passed and adopted on July 20, 2009 is herby amended by deleting the words “Commercial and” at the beginning of paragraph 6 of Ordinance 592, so that the following procedures shall govern publication of the city newsletter:

1. The City Manager is responsible for publishing the city newsletter.

2. In addition to the Mayor, other members of the City Council may write articles for inclusion in the city newsletter provided that such articles are presented to the City Manager or his designee by the City Manager's deadline for article inclusion.

3. Articles from any source, including the Mayor, Council Members or others, shall not indulge in personalities, use offensive language, question motives of the Mayor or other members of the City Council, or staff, or indulge in advocacy of political positions or candidates. The intent of the newsletter will be to inform the public of actions, activities and events of interest to the citizens of Windcrest.

4. In accordance with the City Charter, the City Attorney shall review the content of all articles prepared for publication to assure compliance with applicable laws concerning the use of public resources.

5. The city newsletter will be published monthly electronically on the city's web-site, with courtesy copies available at city hall. A fee based subscription service, covering the costs of duplication, handling and postage may be required.

6. Political advertising will be prohibited. Windcrest schools and civic groups may submit articles announcing special community events.

7. A community calendar will be published in each newsletter issue announcing city, civic, school and church event dates and times. It will be the responsibility of each group to submit their information by the publication deadline.

THAT, this Ordinance shall become effective upon its approval.

PASSED and APPROVED this ___ day of _______________, 2016.

____
Mayor

ATTEST:

____
City Secretary

APPROVED AS TO FORM:

____
City Attorney

WINDCREST
TEXAS

ORDINANCE NO. 2016-746(O)

AN ORDINANCE ESTABLISHING THE CITY COUNCIL PROCESS FOR HANDLING COMPLAINTS AGAINST ELECTED OFFICIALS IN ACCORDANCE WITH THE CITY CHARTER; PROVIDING FOR SEVERABILITY AND SETTING AN EFFECTIVE DATE.

WHEREAS, the City Charter of the City of Windcrest ("City") was adopted in 2007 and amended in November 2010 and May 2015; and

WHEREAS, in accordance with Section 3.07 of the Windcrest City Charter, the City Council shall be the judge of the grounds for forfeiture of office under complaints filed under Section 3.08, and in order to exercise these powers, the City Council shall have power to subpoena witnesses, administer oaths, and require the production of evidence; and

WHEREAS, Section 3.08 of the Windcrest City Charter outlines the framework for the initiation of a complaint against a Windcrest elected official and it also sets out that the remaining members of the City Council must conduct the hearing to hear and review evidence regarding a sworn complaint and the Councilmember complained against shall have a right to representation at the hearing and to question and cross-examine all witnesses, but must not vote on the question of removal; and

WHEREAS, Section 3.08 of the Windcrest City Charter further requires the City Council to make a decision in public on whether the member should be removed from office and issue an order setting out its decision and if the City Council decides that a member should be removed from office, the decision must be made by a unanimous vote; and

WHEREAS, the City Council now desires to establish objective procedures as to how it will handle the hearings required under Section 3.08 in order to ensure a fair and equitable process for the complainant and the Councilmember complained against.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS THAT:

Section 1. Process. When a complaint is filed against an elected official under Section 3.08 of the Windcrest City Charter, the City shall follow the following process:

1. The Mayor as presiding officer shall call the meeting to Order. The Mayor or Mayor Pro Tem shall call the Agenda Item regarding the Complaint. (The Mayor Pro Tem will be presiding officer if the complaint is against the Mayor).

2. The Presiding officer shall announce the process for the handling of complaint.

   a. Pursuant to City Charter Section 3.08, this is a hearing to hear a complaint against an elected official.
   b. This is not a court so the **Rules of Evidence and Rules of Civil Procedure will not apply**.
   c. In accordance with Section 551.074 of the Texas Government Code which provides that a closed session may be conducted to hear a complaint or charge against an officer, the City Council declares that the evidentiary component of the hearing shall be conducted in a closed session unless the official accused requests a public hearing, in which event the evidentiary component of the hearing shall be held in public.
   d. If the evidentiary component of the hearing is held in closed session, the Complainant and accused official shall be permitted to attend the entire closed session.
   e. In either the closed or open evidentiary session, as the case may be, only the Complainant and official accused will be allowed to testify. The City Secretary shall administer an oath to the Complainant and accused official. The Complainant may testify regarding the complaint against the elected city official and the accused official may testify in response.
   f. The city official accused or his/her representative may question the Complainant and the Complainant may question the accused official.
   g. The remaining elected officials will be allowed to question the Complainant and accused official.

3. After all questioning, the presiding officer shall ask the Councilmembers (other than the accused city official) in public session the following: "Is there any Councilmember, even though all the allegations in the testimony provided by the Complainant were proven true, who would still vote **not** to remove?"
   a. If there is at least one elected official who would vote **not** to remove the accused elected official, then a vote shall be taken to terminate the hearing and dismiss the complaint.
   b. Council shall then issue an Order dismissing the complaint and terminating the hearing.

4. If all Councilmembers presiding over the complaint determine the need to hear further evidence, the hearing continues after a vote in public to continue the hearing is taken.

5. If the vote is to continue the hearing, the accused official shall be given the opportunity to request a new date and time to continue the hearing in order to retain a representative (if requested) and to determine the need to call witnesses. Presiding Officer shall grant at minimum thirty (30) day continuance and up to a forty-five (45) day continuance.

6. At the continued hearing, steps 1, 2 and 3 shall be repeated, with the following exceptions:

   a. Fact witnesses with first-hand knowledge will be allowed to testify in either a closed or open session after the city secretary has administered an oath to them. If fact witnesses are called to testify in a closed session, they will only be allowed to attend the closed session during their testimony and questioning, and must leave the room when they have completed their testimony. There shall be no character witnesses.

b. Fact witnesses may be questioned by the accused city official or his/her representative, by the Complainant and by the City Council members.

c. At the conclusion of the testimony, the Complainant ant the accused official may present closing statements.

7. At the conclusion of the final hearing, the Councilmembers shall vote to deny the complaint or to remove the accused official. An Order granting or denying the removal of the accused official shall be issued by the City Council.

Section 2. Severability. That should any part, section, subsection, paragraph, sentence, clause or phrase contained in this ordinance be held to be unconstitutional or of no force and effect, such holding shall not affect the validity of the remaining portion of this ordinance, but in all respects said remaining portion shall be and remain in full force and effect.

Section 3. Form of Orders. The attached forms may be utilized by the City Council to implement this Ordinance.

Section 4. Effective Date. This Ordinance shall be in force and effect from and after the date of its adoption, and it is so ordained.

PASSED and APPROVED this ____day of________, 2016.

____
Alan E. 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 #: 2014-522(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:

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

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.

Safety of Principal

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.

Liquidity

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.

Authorization Resolution

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.”

Limitation of Personal Liability

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.

Cash Flow Forecasting

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.

<u>Competitive Bidding Requirement</u>
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.

<u>Delivery versus Payment</u>
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:

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.

WINDCREST
TEXAS

RESOLUTION NUMBER 2016-582 (R)

A RESOLUTION REVIEWING AND ADOPTING AN INVESTMENT POLICY

WHEREAS, Section 2256.005 of the Government Code requires an investing entity to review its investment policy and investment strategies not less than annually and to adopt a written 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 ______, 2016.

____
Alan Baxter, Mayor

ATTEST:

____
Kelly Rodriguez, City Secretary

APPROVED AS TO FORM:

____
Michael S. Brenan, City Attorney

TO: Mayor Baxter, Members of the City Council, and the City Manager

FROM: City Council Member Matt Vandenberg

DATE: June 1, 2016

RE: Proposed Revision to Department Head Reports

Background: The City Council serves an important role as the protector of city funds, information, and resources. To serve that purpose, the Council relies upon information from the various city departments. At the same time, there is also a constant balancing act between this need for information and the desire not to misuse the time of city staff.

To balance these potentially competing interests, the city presently relies in part on a process that involves department heads personally appearing at city council meetings to present reports previously sent to council members. This process, while well intentioned, seems not to be as effective or necessary as it might have once been.

First, when a written report is clear and easily understood and there are no questions, there is no need to extensively review it at a City Council meeting. On the other hand, if questions are posed at City Council meetings, department heads are often (and very understandably) unable to provide a detailed and accurate answer on the spot. Or, if an answer is given, the department head often does not have the documentation necessary to support the answer.

To address these concerns, and to balance the interests of public access, accurate information, and to best allocate the time and other resources of city employees, the following policy is proposed. Thanks are offered to Mayor Baxter with whom I coordinated on the preparation of early drafts of this plan.

Summary of Proposed Policy:

1. Department heads will continue to prepare written reports each month and these reports will be attached to the agenda for the second Regular City Council Meeting (or, if there is only one meeting in a month, to that meeting's agenda).

2. Unless the City Manager, Mayor, an individual Council Member or a department head requests in advance, department heads will no longer present oral reports at city council meetings. If a Council Member has questions upon receipt of a written report, and those questions either have not been resolved by communicating with the department head or the answer is a matter of public concern, then the Council Member can place an item on a meeting agenda to discuss the topic.

Form of Action to Be Taken: This practice may be implemented without any vote at all with an instruction from the City Manager or simply omitting department reports from future agendas. However, a motion is likely the best way to provide clear instructions.

Fiscal Impact: None, or a possible net gain related to reduced employee time spent at City Council meetings.

Practical Impact: If this plan is implemented, department heads would no longer regularly attend City Council meetings. Rather, they would only attend when requested to do so, or if they chose to attend and coordinated with the City Manager to have an item added to the meeting agenda.

If a member of the public raises a concern about something from a department report, he or she would be encouraged to reach out to the City Manager and/or any member of the Council. As necessary, meetings can be arranged between the member of the public and a department head. Alternatively, the City Manager or a City Council Member could request, in response to a request from a member of the public, that an item be placed on an agenda and that a department head attend the meeting when the agenda item is discussed.

Evaluation of Efficacy: The goal of this plan is to *increase* the quality of reports received by the City Council and the public and to replace potentially frustrating exercise of having a department head attend the meeting and either a) not be asked anything; or b) be asked something that he or she cannot possibly answer without prior notice and the opportunity to research the issue. However the practice should not be continued indefinitely without review. As a result, it is recommended that this protocol be initially implemented for three months, after which time it would be evaluated to determine whether it merits permanent adoption.

The Best Way to Control Mosquitoes
Integrated Mosquito Management explained

The perfect control for mosquitoes would protect us immediately from bites and mosquito-borne diseases, and it would be simple, inexpensive and safe for the environment. Initially, when modern pesticides were first introduced for control of public health pests in the middle of the 20th century, some thought the perfect control had been discovered. Unfortunately, despite some early successes, pesticides ultimately proved to be the less-than-perfect solution for long-term mosquito control.

Experience has shown that pesticides alone rarely produce complete or lasting control of pests, whether battling cockroaches in kitchens, or mosquitoes in marshes. This observation is the basis of a control strategy called “integrated mosquito management” (IMM).

Mosquitoes are controlled most efficiently with an approach that blends the use of both chemical and non-chemical control measures. This is the essence of IMM, the preferred approach for governmental mosquito control programs. Integrated mosquito management works best when done over a large area, like a neighborhood, community or county.

COMMUNITY MOSQUITO MANAGEMENT

Most community mosquito control programs are coordinated by city or county health departments. Because of the high profile of most mosquito spraying operations, with their truck-mounted fogging machines and highly publicized treatment schedules, many people assume that mosquito control is essentially spraying. But spraying is only a small part of an IMM program. Chances are that your area health departments are actively involved in all aspects of IMM. The acronym SSLAP is sometimes used to describe the essential parts of an integrated mosquito management program. SSLAP is Surveillance, Source Reduction, Larval Mosquito Control, Adult Control, and Public Education.

Surveillance. Without a well-designed sampling and surveillance program, it is difficult to know what is really going on with mosquitoes in your community. Knowing what species of mosquitoes are active provides clues as to where breeding is occurring and whether public health is threatened. In addition to monitoring mosquito population changes, surveillance programs may monitor the presence of health-threatening viruses in wild animal and bird populations. This information is useful in determining whether and when spraying is needed, and allows health departments to issue health alerts and target awareness programs to affected parts of the community.

Source Reduction. Mosquitoes lead two separate lives. Most people think of mosquitoes as the delicate winged insects that fly about biting humans and pets. But before reaching the adult stage, mosquitoes live in water. Without these aquatic breeding sites, there would be no adult mosquitoes. Locating and eliminating the breeding sites of mosquitoes is one of the most important parts of a community mosquito control program.

Larval mosquito control means treating water breeding sites that cannot be drained, filled or otherwise eliminated. Typically the largest portion of community mosquito control budgets are devoted to larval mosquito control. Mosquito larvae can be controlled biologically or through the use of low-impact pesticides that selectively kill only mosquitoes. Biological control of mosquitoes is usually done by releasing *Gambusia* (mosquito) fish, or similar minnow species, into water where mosquitoes are breeding. Mosquito fish are excellent predators and, where established, can quickly bring mosquitoes under control. Mosquito fish releases are usually made into creeks that periodically dry up and lose their fish populations.

Certain pesticides may also be used to control mosquitoes in small bodies of water that are inaccessible or impossible to drain. Included are the methoprene granules (Pre-Strike™ or Altosid®) or the bacterial insecticides: *Bacillus thuringiensis israelensis* and *Bacillus sphaericus* (sold in “dunks,” granules or liquids). Special polymers (e.g., Arosurf® SF, or Agnique® MMF) or oil formulations (e.g., Golden Bear (GB-1111)) are sometimes used to coat the surface of water breeding sites, making it difficult for mosquito larvae to attach to the surface of the water to breath.

Adult Control. When source reduction proves inadequate, surveillance programs are used to direct health department to parts of your community at highest risk of mosquitoes or mosquito-borne diseases. There are several good reasons to limit the use of sprays for adult mosquitoes. Besides the high cost of such programs, the widespread use of insecticides often leads to community health concerns (especially among highly sensitive individuals) and the inevitable impact on beneficial insect species. Overuse of insecticides can also have the unintended effect of increasing the risk of insecticide resistance among target mosquito species. For these reasons, adult mosquito control is usually the action of last resort for most health departments.

Public Education. Most of us know how painful and annoying mosquito bites can be, but many people are still unaware of health threats posed by these insects and what individuals can do to prevent mosquito problems. At least 25% of mosquito complaint calls can be traced to the caller’s property. Learning how to recognize mosquito breeding sites, how to report suspected breeding sites and how to protect oneself from bites, are important learning objectives for community education programs.

BACKYARD MOSQUITO MANAGEMENT

Despite the desirability of community-wide mosquito control, sometimes the best place to start is in your own backyard. As a homeowner you have access to all potential breeding sites in your yard, and can start your own IMM program. The ingredients for a backyard IMM program are similar to those used by community health departments.

Source Reduction and Larval Control. The first step in developing a backyard integrated mosquito management program is to make sure you aren’t contributing to your own problem. Take a walk through your yard looking for potential mosquito breeding sites.

All a mosquito needs to breed is a few leaves or small amount of organic material (which provides the microoranisms mosquito larvae use as food) and water. In as little as a week, this water can produce mosquitoes. Mosquito breeding sites are more common in your backyard than you might think, and at least one site can be found in nearly every back yard during the warm months.

Backyard source reduction starts with “dump it, clean it, drain it or fill it.” Buckets, wheel barrows, cans, tarps over pools or boats or anything that holds water should be dumped and stored. Gutters should be cleaned regularly, and bird baths cleaned at least weekly. Cisterns or rain barrels should be tightly sealed and screened. Tire swings should have holes drilled at the bottom to allow them to drain, and low areas or ditches should be drained or filled with soil or gravel. Several products (e.g., mosquito dunks and methoprene granules) are available to consumers for treating standing water that cannot be easily drained or filled.

Adult Control. Adult mosquitoes typically rest on foliage during the day, coming out in the evening to bite. Many professional pest control companies now offer backyard spray services to control adults resting on foliage and in shady areas around the home with long-lasting, residual insecticides. Such treatments can provide 4 to 6 weeks of suppression of mosquito biting rates. Aerosol, do-it-yourself treatments are also available.

Some pest control companies and independent installers offer permanent, outdoor insecticide misting system for season-long control of mosquitoes around residences. Pyrethrum, the principal active ingredient used in these systems, is a proven general purpose insecticide with relatively low toxicity to humans and short life in the environment. Besides the initial cost of installation, the biggest concerns about these systems include impacts on beneficial insects, the potential for insecticide overuse and possible unwanted drift into neighboring properties.

You can temporary suppress mosquitoes by applying short-lived, non-residual fogs to the yard and surrounding foliage. Such treatments have the advantage of temporarily suppressing biting activity with little long-lasting effect on beneficial insects like butterflies and honey bees. Relatively inexpensive propane- or electric-powered foggers can be purchased at many discount and hardware stores. These units are ideal for fogging just before a picnic or other special event in the backyard.

Other backyard devices sold for mosquito protection include candles, bug zappers, ultrasonic mosquito repelling machines and mosquito suction devices. Citronella candles and torches have been shown to provide relief from mosquito bites in the areas where the smoke wafts. But wind can limit the size of the protection zone and disrupt candle effectiveness. Research has shown that bug zappers provide little mosquito control and actually kill more beneficial insects than pests. Despite extensive research there is no evidence that electronic devices sold to repel mosquitoes via sound really work.

Electric or propane-powered suction traps for mosquitoes have been tested and found to work to varying degrees. Unfortunately, according to the American Mosquito Control Association, advertising claims for these devices are sometimes “overstated” in the size of the area protected by a single unit. Under the right conditions it appears that these devices can significantly reduce biting mosquito numbers. If you desire to test one of these in your backyard, ask the seller about a satisfaction guarantee.

Pest Proofing and Personal Protection. The first line of defense against mosquitoes is screened windows and doors. Make sure all house windows are screened and that screens are in good repair. Protecting yourself and your family from nighttime biting mosquitoes is as important for your health as it is for getting a good night’s sleep.

Limiting your outdoor activities during evening and morning hours when mosquitoes are most active is another effective practice. If you must be outdoors during these times, wear protective clothing (long-sleeved shirt and pants) or a proven insect repellent. The longest-lasting, most widely sold and effective repellent is DEET (N, N-Diethyl-3-Methylbenzamide). DEET provides up to 6 hours of high protection from mosquitoes and has an excellent safety record. People who dislike the smell or oily feel of DEET can choose from two excellent new repellents. Lemon oil of eucalyptus (an aromatic, plant-derived repellent) and picaridin (odorless) provide excellent, though somewhat less long-lived protection than DEET.

As in community-wide management programs, it's best to rely on more than one control tactic when treating yourself or your backyard for mosquitoes.

Funding

Provided by the U.S. Environmental Protection Agency, Region VI office, Dallas, Texas.

Authors

Dr. Mary G. Grodner, Professor & Pesticide Coordinator, Department of Entomology, Louisiana State University AgCenter, Louisiana Cooperative Extension Service; Dr. Jim Criswell, Pesticide Coordinator, Oklahoma State University, Dr. Carol Sutherland, Extension Entomologist at New Mexico State University and State Entomologist for the New Mexico Department of Agriculture; Mr. Ples Spradley, Associate Professor - Pesticide Education, Dept. of Plant Pathology, University of Arkansas, Division of Agriculture; Dr. Don L. Renchie, (Extension Program Leader for Agricultural and Environmental Safety; Coordinator-Pesticide Safety Education Project (PSEP); Assistant Professor and Extension Specialist); Dr. Michael E. Merchant, BCE (Professor and Extension Urban Entomologist, Texas A&M University Research and Extension Center, Dallas); Dr. Mark Johnsen, (Extension Assistant, Agricultural and Environmental Safety) and Mr. Scott Sawlis, MS (County Entomologist, Dallas County Health Department, Dallas, Texas).

Date of publication

June, 2007

Safety Data Sheet

Section 1: Identification

Product identifier

Product Name • **Perm-X UL 4-4**

Synonyms • 100208938; 100208939; 100208943; 100208989; 100208990; EPA Reg. No.: 89459-47

Product Description • Clear amber liquid.

Relevant identified uses of the substance or mixture and uses advised against

Recommended use • Insecticide.

Restrictions on use • Keep out of reach of children. Avoid release to the environment. Avoid contact with skin, eyes, or clothing. Do not take internally.

Details of the supplier of the safety data sheet

Manufacturer • Central Garden & Pet Company

1501 E. Woodfield Road, Suite 200W
Schaumburg, IL 60173
United States

www.central.com

Emergency telephone number

Manufacturer • 1-800-234-2269

Manufacturer • 1-800-424-9300 - CHEMTREC

Manufacturer (Transportation) • 1-703-527-3887 - Chemtrec - Outside US collect calls accepted

Section 2: Hazard Identification

United States (US)

According to: OSHA 29 CFR 1910.1200 HCS

Classification of the substance or mixture

OSHA HCS 2012 • Acute Toxicity Inhalation 4
Specific Target Organ Toxicity Single Exposure 1
Skin Sensitization 1
Aspiration 1

Label elements

OSHA HCS 2012

DANGER

Hazard statements • Harmful if inhaled
Causes damage to organs - nervous system.
May cause an allergic skin reaction
May be fatal if swallowed and enters airways

Precautionary statements

Prevention • Avoid breathing dust, fume, gas, mist, vapors and/or spray.
Use only outdoors or in a well-ventilated area.
Contaminated work clothing should not be allowed out of the workplace.
Wear protective gloves.

Response • IF SWALLOWED: Immediately call a POISON CENTER or doctor/physician.
Do NOT induce vomiting.
IF INHALED: Remove person to fresh air and keep comfortable for breathing. Call a poison control center or doctor if you feel unwell.
IF ON SKIN: Wash with plenty of soap and water.
If skin irritation or rash occurs: Get medical advice/attention.
Wash contaminated clothing before reuse.
IF exposed: Call POISON CENTER or doctor/physician.

Storage/Disposal • Dispose of content and/or container in accordance with local, regional, national, and/or international regulations.
Avoid release to the environment.
Store locked up.

Other hazards

OSHA HCS 2012 • This product is extremely toxic to aquatic organisms, including fish and invertebrates. This product is highly toxic to bees exposed to direct treatment on blooming crops or weeds. Under United States Regulations (29 CFR 1910.1200 - Hazard Communication Standard), this product is considered hazardous.

Section 3 - Composition/Information on Ingredients

Substances

• Material does not meet the criteria of a substance according to United Nations Globally Harmonized System of Classification and Labeling of Chemicals (GHS)

Mixtures

Composition		
Chemical Name	**Identifiers**	**%**
Permethrin	**CAS:**52645-53-1	4%
Piperonyl butoxide	**CAS:**51-03-6	4%
Petroleum distillates, hydrotreated (mild) heavy paraffinic	**CAS:**64742-54-7	91.74%
Petroleum distillates, hydrotreated (mild) light paraffinic	**CAS:**64742-55-8	*above*
Other ingredients	NDA	Balance

Section 4: First-Aid Measures

Description of first aid measures

Inhalation • IF INHALED: If breathing is difficult, remove person to fresh air and keep at rest in a position comfortable for breathing. Call a POISON CENTER or doctor/physician if you feel unwell.

Skin • IF ON SKIN: Wash with plenty of soap and water. Take off contaminated clothing. If

	irritation or rash occurs, get medical advice/attention.
Eye	• IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing. If eye irritation persists: Get medical advice/attention.
Ingestion	• IF SWALLOWED: Immediately call a poison control center or doctor. Do NOT induce vomiting.

Most important symptoms and effects, both acute and delayed

- Causes damage to organs - nervous system. Harmful if inhaled. May cause an allergic skin reaction in individuals with a sensitivity to piperonyl butoxide. Aspiration hazard. Refer to Section 11 - Toxicological Information.

Indication of any immediate medical attention and special treatment needed

Notes to Physician	• Contains petroleum distillate vomiting may cause aspiration pneumonia. Treat symptomatically and supportively.

Section 5: Fire-Fighting Measures

Extinguishing media

Suitable Extinguishing Media	• SMALL FIRES: Dry chemical, CO2, water spray or regular foam.
Unsuitable Extinguishing Media	• Avoid heavy hose streams.
Firefighting Procedures	• Do not use direct stream of water. A direct stream of water may spread fire. Do not allow fire fighting water to escape into waterways or sewers.

Special hazards arising from the substance or mixture

Unusual Fire and Explosion Hazards	• None known.
Hazardous Combustion Products	• Decomposes upon heating to produce toxic vapors/gases which may include oxides of carbon.

Advice for firefighters

- Wear positive pressure self-contained breathing apparatus (SCBA).

Section 6 - Accidental Release Measures

Personal precautions, protective equipment and emergency procedures

Personal Precautions	• Avoid breathing fumes. Wear appropriate personal protective equipment, avoid direct contact. Keep all sources of ignition away.
Emergency Procedures	• Stop leak if you can do it without risk. Avoid release into the environment. Avoid unnecessary personnel and equipment traffic in the spill area. Do not allow runoff into water, storm drains or drainage ditches. Wear appropriate personal protective equipment (PPE).

Environmental precautions

- Avoid run off to waterways and sewers.

Methods and material for containment and cleaning up

Containment/Clean-up Measures	• Cover liquid spill with sand, earth or other non-combustible absorbent material. Wear appropriate personal protective equipment, avoid direct contact. Prevent entry into waterways, sewers, basements or confined areas.

Section 7 - Handling and Storage

Precautions for safe handling

Handling	• Handle and open container with care. Avoid release to the environment. Do not breathe

(dust, vapor or spray mist) Use only in well ventilated areas. Wash thoroughly with soap and water after handling and before eating, drinking, or using tobacco. Wear appropriate personal protective equipment, avoid direct contact. Do not breathe (dust, vapor or spray mist.)

Conditions for safe storage, including any incompatibilities

Storage
- Keep out of reach of children. Store in a well-ventilated place. Keep container tightly closed. Store locked up. Keep from freezing. Store away from oxidizers strong acids and strong bases.

Incompatible Materials or Ignition Sources
- Strong acids, strong bases, and oxidizing agents.

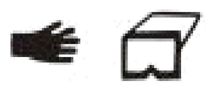
Section 8 - Exposure Controls/Personal Protection

Control parameters

Exposure controls

Engineering Measures/Controls
- Adequate ventilation systems as needed to control concentrations of airborne contaminants below applicable threshold limit values.

Personal Protective Equipment

Pictograms
- 

Respiratory
- In case of insufficient ventilation, wear suitable NIOSH approved respiratory protection.

Eye/Face
- Wear chemical splash safety goggles.

Skin/Body
- If prolonged exposure is anticipated, it is recommended for handlers to wear appropriate clothing to prevent skin contact.

Environmental Exposure Controls
- Avoid release to the environment.

Other Information

- See product label for specific use PPE instructions.

Section 9 - Physical and Chemical Properties

Information on Physical and Chemical Properties

Material Description			
Physical Form	Liquid	Appearance/Description	Clear amber liquid.
Color	Amber	Odor	Slight solvent and licorice.
General Properties			
Boiling Point	No data available	Melting Point/Freezing Point	No data available
Decomposition Temperature	No data available	pH	No data available
Specific Gravity/Relative Density	0.9807 g/ml (8.2 lb/gal)	Water Solubility	Insoluble
Viscosity	18.5 Centipoise (cPs, cP) or mPas @ 40 °C(104 °F)		
Volatility			
Vapor Pressure	No data available	Vapor Density	No data available
Evaporation Rate	No data available		
Flammability			
Flash Point	260°F (127°C)	UEL	No data available

LEL	No data available	Autoignition	No data available
Flammability (solid, gas)	No data available		
Environmental			
Octanol/Water Partition coefficient	No data available		

Section 10: Stability and Reactivity

Reactivity

- Non-reactive under normal handling and storage conditions.

Chemical stability

- Stable

Possibility of hazardous reactions

- Hazardous polymerization will not occur.

Conditions to avoid

- Avoid storage with or near toxic substances. Direct sunlight. Excessive heat >110°F.

Incompatible materials

- Heat, strong acids, strong bases and oxidizing agents.

Hazardous decomposition products

- Carbon monoxide and carbon dioxide.

Section 11 - Toxicological Information

Information on toxicological effects

Components		
Permethrin (4%)	52645-53-1	**Acute Toxicity:** Ingestion/Oral-Rat LD50 • 500 mg/kg; Inhalation-Rat LC50 • 2.65 mg/L 4 Hour(s); Skin-Rabbit LD50 • >2000 mg/kg; **Irritation:** Eye-Rabbit • Mild irritation; Skin-Rabbit • Essentially non-irritating
Piperonyl butoxide (4%)	51-03-6	**Acute Toxicity:** Ingestion/Oral-Rat • 4300 mg/kg; Inhalation-Rat • >5 mg/L 4 Hour(s); Skin-Rat LD50 • >2000 mg/kg; **Irritation:** Eye-Rabbit • Essentially non-irritating; Skin-Rabbit • Essentially non-irritating

GHS Properties	Classification
Acute toxicity	**OSHA HCS 2012** • Acute Toxicity - Dermal - Classification criteria not met; Acute Toxicity - Inhalation 4; Acute Toxicity - Oral - Classification criteria not met
Skin corrosion/Irritation	**OSHA HCS 2012** • Classification criteria not met
Serious eye damage/Irritation	**OSHA HCS 2012** • Classification criteria not met
Skin sensitization	**OSHA HCS 2012** • Skin Sensitizer 1
Respiratory sensitization	**OSHA HCS 2012** • Classification criteria not met
Aspiration Hazard	**OSHA HCS 2012** • Aspiration 1
Carcinogenicity	**OSHA HCS 2012** • Classification criteria not met
Germ Cell Mutagenicity	**OSHA HCS 2012** • Classification criteria not met
Toxicity for Reproduction	**OSHA HCS 2012** • Classification criteria not met
STOT-SE	**OSHA HCS 2012** • Specific Target Organ Toxicity Single Exposure 1

STOT-RE	**OSHA HCS 2012** • Classification criteria not met

Route(s) of entry/exposure
- Inhalation, skin, eye, and ingestion.

Potential Health Effects

Inhalation

Acute (Immediate)
- Harmful if inhaled. Permethrin affects nervous system. Symptoms of overexposure to permethrin include diarrhea, salivation, tremors, convulsions, hyperactivity and hypersensitivity.

Chronic (Delayed)
- No data available

Skin

Acute (Immediate)
- May cause an allergic reaction in individuals with a sensitivity to piperonyl butoxide.

Chronic (Delayed)
- No data available

Eye

Acute (Immediate)
- Under normal conditions of use, no health effects are expected.

Chronic (Delayed)
- No data available

Ingestion

Acute (Immediate)
- Harmful if ingested. Permethrin affects nervous system. Symptoms of overexposure to permethrin include diarrhea, salivation, tremors, convulsions, hyperactivity and hypersensitivity. Aspiration hazard - small amounts of liquid aspirated into the lungs during ingestion or from vomiting may cause chemical pneumonitis or pulmonary edema.

Chronic (Delayed)
- No data available

Mutagenic Effects
- Permethrin was not mutagenic in a battery of in vitro and in vivo tests. Piperonyl butoxide was not mutagenic in a battery of tests.

Carcinogenic Effects
- Permethrin caused at high dose levels an increased incidence of tumours in mice in the following organ(s): liver, lungs. The mechanism that triggers tumors in rodents is not relevant for the low exposures encountered under normal use conditions. Permethrin is not classified as carcinogen by NTP, IARC and OSHA. Piperonyl butoxide is not classified as carcinogen by NTP, IARC and OSHA.

Reproductive Effects
- Permethrin does not cause birth defects or adverse effects on reproduction. Piperonyl butoxide did not produce any birth defects or adverse effects on reproductive parameters in tests with rats and rabbits.

Section 12 - Ecological Information

Toxicity

Components		
Permethrin (4%)	52645-53-1	**Aquatic Toxicity-Fish:** 96 Hour(s) LC50 *Blue gill* 0.00079 mg/L [Acute] 96 Hour(s) LC50 *Atlantic silverside* 0.0022 mg/L [Acute] NOEC *Fathead minnow* 0.0003 mg/L [Chronic] NOEC *Sheepshead minnow* 0.00083 mg/L [Chronic] **Aquatic Toxicity-Crustacea:** NOEC *Daphnia magna* 0.000039 mg/L [Chronic] NOEC *Mysid shrimp* 0.000011 mg/L [Chronic] LC50 *Hexagenia bilineuta* 0.0001 mg/L [Acute] 96 Hour(s) LC50 *Mysid shrimp* 0.000019 mg/L [Acute]
Piperonyl butoxide (4%)	51-03-6	**Aquatic Toxicity-Fish:** LC50 *Rainbow Trout* 1.9 mg/L [Acute] LC50 *Sheephead minnow* 3.94 mg/L [Acute] NOEC *Fathead minnow* 0.04 mg/L [Chronic] **Aquatic Toxicity-Crustacea:** LC50 *Gammarus fasciatus (amphipod)* 0.51 mg/L [Acute] LC50 *Mysid shrimp* 0.49 mg/L [Acute] NOEC *Daphnia magna* 0.03 mg/L [Chronic]

Persistence and degradability

- No data available

Bioaccumulative potential

- Permethrin has a Log Pow of 6.1, but because of the ease with which biological systems degrade the molecule, the potential for bioconcentration and accumulation in the environment is low (BCF = 500). Permethrin: Bioconcentration factor (BCF) 300; Does not bioaccumulate.

Mobility in Soil

- Permethrin has a high affinity for organic matter (Koc = 86,000), there is little potential for movement in soil or entry into groundwater. Permethrin: Immobile in soil.

Other adverse effects

Potential Environmental Effects
- This pesticide is extremely toxic to aquatic organisms including fish and invertebrates. Care should be taken to avoid contamination of the aquatic environment. This product is highly toxic to bees.

Section 13 - Disposal Considerations

Waste treatment methods

Product waste
- Dispose of content and/or container in accordance with local, regional, national, and/or international regulations. Do not allow entry into storm drains, drainage ditches, gutters or surface waters.

Packaging waste
- Dispose of content and/or container in accordance with local, regional, national, and/or international regulations. See product label for disposal instructions.

Section 14 - Transport Information

	UN number	UN proper shipping name	Transport hazard class(es)	Packing group	Environmental hazards
DOT	UN3082	Bulk packaging only: Environmentally hazardous substance, liquid, n.o.s (Permethrin and Piperonyl butoxide)	9	III	Marine Pollutant
IMO/IMDG	UN3082	Packaging 5 L or greater: Environmentally hazardous substance, liquid, n.o.s (Permethrin and Piperonyl butoxide)	9	III	Marine Pollutant
IATA/ICAO	UN3082	Packaging 5 L or greater: Environmentally hazardous substance, liquid, n.o.s (Permethrin and Piperonyl butoxide)	9	III	Acute Aquatic Toxicity

Special precautions for user
- None specified.

Transport in bulk according to Annex II of MARPOL 73/78 and the IBC Code
- No data available

Other information

IMO/IMDG
- No data available

IATA/ICAO
- No data available

Section 15 - Regulatory Information

Safety, health and environmental regulations/legislation specific for the substance or mixture

SARA Hazard Classifications
- SARA Title III Section 313, Acute

FIFRA – Pesticide Labeling

This chemical is a pesticide product registered by the United States Environmental Protection Agency and is subject to certain labeling requirements under federal pesticide law. These requirements differ from the classification criteria and hazard information required for safety data sheets (SDS), and for workplace labels of non-pesticide chemicals. The hazard information required on the pesticide label is reproduced below. The pesticide label also includes other important information, including directions for use.

CAUTION

Hazard Statements • KEEP OUT OF REACH OF CHILDREN

Precautionary Statements •

Hazards to Humans and Domestic Animals • HAZARDS TO HUMANS AND DOMESTIC ANIMALS CAUTION Harmful if swallowed. Harmful if absorbed through skin. Avoid contact with skin eyes or clothing. Causes moderate eye irritation.

First Aid • If swallowed • Immediately call a poison control center or doctor • Do not induce vomiting unless told to by a poison control center or doctor • Do not give any liquid to the person • Do not give anything by mouth to an unconscious person If on skin or clothing • Take off contaminated clothing • Rinse skin immediately with plenty of water for 15-20 minutes • Call a poison control center or doctor for treatment advice If in eyes • Hold eye open and rinse slowly and gently with water for 15 20 minutes • Remove contact lenses if present after the first 5 minutes then continue rinsing eye • Call a poison control center or doctor for treatment advice If inhaled • Move person to fresh air • If person is not breathing call 911 or an ambulance then give artificial respiration preferably by mouth to mouth if possible • Call a poison control center or doctor for treatment advice
Note to Physician: Contains petroleum distillate - vomiting may cause aspiration pneumonia.

Environmental Hazards • This pesticide is extremely toxic to aquatic organisms, including fish and invertebrates. Runoff from treated areas or deposition of spray droplets into a body of water may be hazardous to fish and aquatic invertebrates. Before making the first application in a season, it is advisable to consult with the state or tribal agency with primary responsibility for pesticide regulation to determine if other regulatory requirements exist. This pesticide is highly toxic to bees exposed to direct treatment on blooming crops or weeds. Do not apply this product or allow it to drift to blooming crops or weeds while bees are actively visiting the treatment area. Do not apply over bodies of water (lakes, rivers, permanent streams, natural ponds, commercial fish ponds, swamps, marshes or estuaries), except when necessary to target areas where adult mosquitoes are present, and weather conditions will facilitate movement of applied material away from the water in order to minimize incidental deposition into the water body. Do not contaminate bodies of water when disposing of equipment rinsate or washwaters.

Physical or Chemical Hazards • Do not use, pour, spill or store near heat or open flame.

Inventory		
Component	**CAS**	**TSCA**
Petroleum distillates, hydrotreated (mild) heavy paraffinic	64742-54-7	Yes
Petroleum distillates, hydrotreated (mild) light paraffinic	64742-55-8	Yes
Permethrin	52645-53-1	No
Piperonyl butoxide	51-03-6	Yes

United States

Environment

U.S. - CERCLA/SARA - Section 313 - Emission Reporting

• Petroleum distillates, hydrotreated (mild) heavy paraffinic	64742-54-7	Not Listed
• Permethrin	52645-53-1	1.0 % de minimis concentration
• Piperonyl butoxide	51-03-6	1.0 % de minimis concentration
• Petroleum distillates, hydrotreated (mild) light paraffinic	64742-55-8	Not Listed

Section 16 - Other Information

Revision Date	• 15/February/2016
Last Revision Date	• 15/February/2016
Preparation Date	• 15/February/2016
Disclaimer/Statement of Liability	• The information and statements herein are believed to be reliable but are not to be construed as a warranty or representation for which we assume legal responsibility. Users should undertake sufficient verification and testing to determine the suitability for their own particular purpose of any information or products referred to herein. NO WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE IS MADE.

Perm-X™ UL 4-4

For use only by federal, state, tribal or local government officials responsible for public health or vector control, or by persons certified in the appropriate category or otherwise authorized by the state or tribal lead pesticide regulatory agency to perform adult mosquito control applications, or by persons under their direct supervision.

CONTROLS: Adult Mosquitoes, Biting and Non-biting Midges, Black Flies and other outdoor flying insects as listed on this label

FOR USE AS A: ULV thermal or non-thermal aerosol using ground or aerial equipment in areas including: residential, recreational areas, parks, campsites, woodlands, athletic fields, golf courses, municipalities, playgrounds, and non-crop waste areas and over listed growing crops and range grasses prior to harvest for the control of adult mosquitoes and biting flies within or adjacent to these areas. Refer to label for additional use sites.

SPECIMEN LABEL

ACTIVE INGREDIENTS:

Permethrin	4%
Piperonyl Butoxide	4%
OTHER INGREDIENTS*:	92%
TOTAL:	100%

*Contains Petroleum Distillates
Contains 0.2783 lb ai permethrin and 0.2783 lb ai piperonyl butoxide per gallon.

KEEP OUT OF REACH OF CHILDREN

CAUTION

PRECAUCION AL USUARIO: Si usted no lee ingles, no use este producto hasta que la etiqueta haya sido explicado ampliamente. (If you do not understand the label, find someone to explain it to you in detail).
See additional Precautionary Statements.

EPA Reg.No. 89459-47
EPA Est. No. 2724-TX-1

PRECAUTIONARY STATEMENTS
HAZARDS TO HUMANS AND DOMESTIC ANIMALS

CAUTION: Harmful if swallowed. Harmful if absorbed through skin. Avoid contact with skin, eyes, or clothing. Causes moderate eye irritation.

FIRST AID	
If swallowed	• Immediately call a Poison Control Center or physician for treatment advice. • Do not induce vomiting unless told to do so by the Poison Control Center or physician. • Do not give any liquid to the person. • Do not give anything by mouth to an unconscious or convulsing person.
If on skin or clothing	• Take off contaminated clothing. • Rinse skin immediately with plenty of water for 15-20 minutes. • Call a Poison Control Center or physician for treatment advice.
If in eyes	• Hold eye open and rinse slowly and gently with water for 15-20 minutes. • Remove contact lenses, if present, after the first 5 minutes, then continue rinsing eye. • Call a Poison Control Center or physician for treatment advice.
If inhaled	• Move person to fresh air. • If person is not breathing, call 911 or an ambulance, then give artificial respiration, preferably mouth-to mouth, if possible. • Call a Poison Control Center or physician for treatment advice.
HOT LINE NUMBER: Have the product container or label with you when calling a poison control center or doctor, or going for treatment. You may contact 1-800-248-7763 for emergency medical treatment information. You may also contact 1-800-248-7763 for information including health concerns, medical emergencies or pesticide incidents.	

(continued)

NOTE TO PHYSICIAN: Contains Petroleum Distillates - vomiting may cause aspiration pneumonia.

For Chemical Spill, Leak, Fire or Exposure, Call: CHEMTREC 1-800-424-9300
For Medical Emergencies Only, Call: 1-800-248-7763

PERSONAL PROTECTIVE EQUIPMENT (PPE)

Some materials that are chemical-resistant to this product are listed below. If you want more options, follow the instructions for category E on an EPA Chemical-resistance selection chart. Mixers, loaders, applicators and other handlers (including during mixing/loading, repair and cleaning of equipment and disposal of pesticide) must wear the following:

- Long-sleeved shirt and long pants
- Shoes plus socks
- Chemical-resistant gloves such as barrier laminate, viton, neoprene rubber or nitrile rubber except for applicators using motorized ground equipment, pilots, and flaggers
- Chemical-resistant apron for mixers/loaders, persons cleaning equipment and persons exposed to the concentrate.

In addition to the above PPE, mixers and loaders supporting aerial applications to forests must wear at least a NIOSH-approved respirator with:

- A dust/mist filter with MSHA/NIOSH approval number prefix TC-21C, or any R, P, or HE filter.

See Engineering Controls for additional requirements.

USER SAFETY REQUIREMENTS

Follow manufacturer's instructions for cleaning/maintaining PPE. If there are no such instructions for washables, use detergent and hot water. Keep and wash PPE separately from other laundry. Discard clothing and other absorbent materials that have been drenched or heavily contaminated with this product's concentrate. Do not reuse them.

ENGINEERING CONTROLS

Pilots must use an enclosed cockpit that meets the requirements listed in the Worker Protection Standard (WPS) for agricultural pesticides [40 CFR 170.240(d)(6)]. Human flagging is prohibited. Flagging to support aerial application is limited to use of the Global Positioning System (GPS) or mechanical flaggers.

USER SAFETY RECOMMENDATIONS

- Users should wash hands before eating, drinking, chewing gum, using tobacco or using the toilet.
- Users should remove clothing/PPE immediately if pesticide gets inside. Then wash thoroughly and put on clean clothing.
- Users should remove PPE immediately after handling this product. Wash the outside of gloves before removing. As soon as possible, wash thoroughly and change into clean clothing.

ENVIRONMENTAL HAZARDS

This pesticide is extremely toxic to aquatic organisms, including fish and invertebrates. Runoff from treated areas or deposition of spray droplets into a body of water may be hazardous to fish and aquatic invertebrates. Before making the first application in a season, it is advisable to consult with the state or tribal agency with primary responsibility for pesticide regulation to determine if permits or other regulatory requirements exist.

Do not apply over bodies of water (lakes, rivers, permanent streams, natural ponds, commercial fish ponds, swamps, marshes or estuaries), except when necessary to target areas where adult mosquitoes are present, and weather conditions will facilitate movement of applied material away from the water in order to minimize incidental deposition into the water body. Do not contaminate bodies of water when disposing of equipment rinsate or washwaters.

This pesticide is highly toxic to bees exposed to direct treatment on blooming crops or weeds. Do not apply this product or allow it to drift to blooming crops or weeds while bees are actively visiting the treatment area.

PHYSICAL OR CHEMICAL HAZARDS

Do not use, pour, spill or store near heat or open flame.

DIRECTIONS FOR USE

It is a violation of Federal law to use this product in a manner inconsistent with its labeling.

For use only by federal, state, tribal or local government officials responsible for public health or vector control or by persons certified in the appropriate category or otherwise authorized by the state or tribal lead pesticide regulatory agency to perform adult mosquito control applications or by persons under their direct supervision.

Precautions and Use Restrictions

- Apply this product only as specified on this label.
- Apply this product at temperatures greater than 50°F and when wind speed equals or exceeds 1 mph.
- Not for use in metered release systems or animal premise automatic misting systems.
- Not for use in outdoor residential misting systems.
- Do not spray this product on or allow it to drift onto cropland (other than those listed) or potable water supplies.
- In the treatment of corrals, feedlots, animal confinements/houses, swine lots, poultry ranges and zoos, cover any exposed drinking water, drinking fountains and animal feed before application.
- For hand carried and/or lawn mower foggers: Do not fog wet foliage. Do not fog when wind conditions exceed 10 miles per hour. Only use a clean, well maintained and properly calibrated fogger, known to give excellent performance. Fog down wind.
- Do not apply by fixed wing aircraft at a height less than 100 feet, or by helicopter at a height less than 75 feet unless specifically approved by the state or tribe based on public health needs.
- Apply when wind speed is greater than 1 mph.
- Do not make applications during rain.
- Except when applying to storm drains, drainage pipes and pipe chases as instructed on this label, do not apply directly to sewers and drains or to any area like a gutter where drainage to sewers, storm drains, water bodies or aquatic habitat can occur.
- Do not use in dairy barns or facilities.

Do not retreat site more than once in 3 days. Do not exceed 25 applications at 0.007 lbs permethrin per acre per application or 0.007 lbs piperonyl butoxide per acre per application, or 0.18 lbs of permethrin per acre per season or 0.18 lbs piperonyl butoxide per acre per year. More frequent treatments may be made to prevent or control a threat to public and/or animal health determined by a state, tribal or local health or vector control agency on the basis of documented evidence of disease causing agents in vector mosquitoes or the occurrence of mosquito-borne disease in animal or human populations, or if specifically approved by the state or tribe during a natural disaster recovery effort.

Perm-X™ UL 4-4 is recommended for application as an Ultra Low Volume (ULV) thermal or non-thermal aerosol (cold fog) for control of adult mosquitoes and flies in residential, recreational, industrial, urban and other areas where these insect pests are found. Perm-X™ UL 4-4 provides effective control of mosquitoes and flies in areas such as parks, campsites, woodlands, athletic fields, golf courses, residential areas, municipalities, roadsides, animal quarters, barns, playgrounds, and non- crop waste areas. Treat when mosquitoes or insects are most active and weather conditions are conducive to keeping the fog close to the ground, e.g., cool temperatures and ground wind speeds are not greater than 10 mph. Applications during the cool hours of night or early morning are usually preferable. Repeat treatment when recommended by Public Health officials or Mosquito Abatement Districts.

Perm-X™ UL 4-4 may be applied over specific growing crops and range grasses prior to harvest for the control of adult mosquitoes and biting flies with or adjacent to those areas. Application can only be made where the following crops are present:

Alfalfa	Celery	Horseradish	Soybean, seed
Almond	Cherry	Leaf petioles, subgroup 4B	Spinach
Apple	Corn, forage	Leafy greens, subgroup 4A	Tomato
Artichokes	Corn, grain	Lettuce, head	Vegetable, curcurbit, group 9*
Asparagus	Corn, stover	Mushroom	Watercress
Avocado	Corn, sweet, kernel + cob with husks removed	Onion, bulb	Walnut
Broccoli	Eggplant	Peach	
Brussels sprouts	Fruit, pome, group 11	Pepper, bell	
Cabbage	Garlic	Pistachio	
Cauliflower	Range grasses	Potato	

*40 CFR 180.41 Crop Group 9: Cucurbit Vegetables, includes Crop Subgroup 9A (melon) and Crop Subgroup 9B (squash/cucumber).

Do not allow spray treatment to drift on pastureland, cropland, (other than crops listed) or water supplies. In treatment of corrals, feedlots, animal confinements/houses, swine lots and zoos, cover any exposed drinking water, drinking fountains and animal feed before application.

Spray Droplet Size Determination

Ground-Based Application: Spray equipment must be adjusted so that the volume median diameter is less than 30 microns ($D_{v\,0.5}$ < 30 µm) and that 90% of the spray is contained in droplets smaller than 50 microns ($D_{v\,0.9}$ < 50 µm). Directions from the equipment manufacturer or vendor, pesticide registrant or a test facility using laser based equipment must be used to adjust equipment to produce acceptable droplet size spectra. Application equipment must be tested at least annually to confirm that pressure at the nozzle and nozzle flow rate(s) are properly calibrated.

Aerial Application made at < 200 feet above ground elevation: Spray equipment must be adjusted so that the volume median diameter produced is less than 60 microns ($D_{v\,0.5}$ < 60 µm) and that 90% of the spray is contained in droplets smaller than 100 microns ($D_{v\,0.9}$ < 100 µm). The effects of flight speed and, for non-rotary nozzles, nozzle angle on the droplet size spectrum must be considered. Directions from the equipment manufacturer or vendor, pesticide registrant or a test facility using a wind tunnel and laser-based measurement instrument must be used to adjust equipment to produce acceptable droplet size spectra. Application equipment must be tested at least annually to confirm that pressure at the nozzle and nozzle flow rate(s) are properly calibrated.

Aerial Application made at > 200 feet above ground elevation: Spray equipment must be adjusted so that the volume median diameter produced is less than 70 microns ($D_{v\,0.5}$ < 70 µm) and that 90% of the spray is contained in droplets smaller than 145 microns ($D_{v\,0.9}$ < 145 µm). The effects of flight speed and, for non-rotary nozzles, nozzle angle on the droplet size spectrum must be considered. Directions from the equipment manufacturer or vendor, pesticide registrant or a test facility using a wind tunnel and laser-based measurement instrument must be used to adjust equipment to produce acceptable droplet size spectra. Application equipment must be tested at least annually to confirm that pressure at the nozzle and nozzle flow rate(s) are properly calibrated.

GROUND APPLICATION

ULV NON-THERMAL AEROSOL (COLD FOG): To control adult mosquitoes, flies, and gnats (black flies), apply Perm-X™ UL 4-4 using truck-mounted ground ULV (cold fog) equipment with a swath width of 300 feet in areas such as residential, recreational, industrial areas. Apply when insects are most active and conditions are conducive to keeping the fog close to the ground. Apply the undiluted product at flow rates of 2.728 to 19.092 fluid ounce per minute at a truck speed of 10 mph. These rates are equivalent to 0.001 to 0.007 pounds of permethrin a.i. and 0.001 to 0.007 pounds of piperonyl butoxide a.i. per acre. If a different vehicle speed is used, adjust the flow rate accordingly. An accurate flow control system must be used to ensure proper flow rate. Use the maximum flow rates and application rates on this label to treat heavy vegetation or when target insect populations are high. Do not exceed the highest flow rates specified by the manufacturer. Perm-X™ UL 4-4 may also be applied by diluting with a light mineral oil or another suitable solvent, applied so as not to exceed 0.007 Ibs a.i. per acre using a swath width of 300 feet for calculation. Refer to Chart 2 for suggested rates for diluted use. Perm-X™ UL 4-4 may be used to treat outdoor aggregation and harborage sites including storm drains, underground drainage pipes, and pipe chases.

THERMAL AEROSOL APPLICATIONS: For use in thermal fogging equipment such as truck-mounted thermal fog generators or other equipment capable of making thermal fogging applications. Perm-X™ UL 4-4 may be applied either diluted or undiluted. If diluted, use a light mineral oil, or another suitable non-phytotoxic diluent. Do not exceed the maximum rate of 0.007 Ibs. a.i. per acre. May be applied with truck-mounted equipment at speeds of 5 mph to 20 mph. Use a swath width of 300 feet for calculation. For use with handheld, backpack or lawn mower thermal fogging equipment, do not exceed the maximum rate of 0.007 Ibs a.i. per acre. Use a walking speed of 2 mph (3.2 kph) and a swath width of 300 feet for calculations. May be used to treat aggregation and harborage sites such as abandoned buildings, warehouses, storm drains, underground drainage pipes, pipe chases and other areas where adult mosquitoes find harborage.

BARRIER APPLICATIONS: For use in non-thermal ULV, motorized, portable, backpack, handheld or truck-mounted fogging equipment or mist blower equipment, apply Perm-X™ UL 4-4 with equipment adjusted to deliver ULV particles of 50 to 100 volume median diameter. Perm-X™ UL 4-4 may be applied undiluted or diluted (see Application Rates Charts on this label). If diluted, use a light mineral oil, or another suitable, non-phytotoxic diluent. For truck-mounted applications, use not more than 0.007 Ibs permethrin per acre. Use a 300 ft (15.2 m) swath width (see Application Rates Charts on this label) for calculations. For backpack or handheld applications, use not more than 0.007 Ibs a.i. per acre. Use a 300 ft swath width and a walking speed of 2 mph (3.2 kph) for calculations. Direct spray onto foliage at the perimeter of areas from which mosquitoes or flies are to be excluded or direct spray into harborage areas where adult mosquitoes or flies may be found. May be used to treat aggregation and harborage sites such as abandoned buildings, residential buildings, warehouses, storm drains, underground drainage pipes and other areas where adult mosquitoes find harborage.

AERIAL APPLICATION

Use aircraft specially equipped and capable of applying Ultra-Low Volumes of

Perm-X™ UL 4-4. Applications can be made diluted or undiluted but cannot exceed the specified rates of 0.007 lbs permethrin per acre and 0.007 lbs piperonyl butoxide per acre, equivalent to 3.1819 fl oz of undiluted Perm-X™ UL 4-4 per acre. Applications should be made at an altitude of 100 to 300 feet. Apply at airspeed sufficient to deliver the appropriate amount of active ingredient per acre. The minimum height (from the ground) for aerial application of this product is 100 feet. Treat when insects are most active and meteorological conditions are conducive to keeping the spray cloud close to the ground. In order to compensate for windy conditions and ensure drift onto the target area, aerial application with aircraft equipped with Global Positioning Systems (GPS) is recommended.

PROHIBITION ON AERIAL USE IN FLORIDA: Not for aerial application in the State of Florida UNLESS specifically authorized by the Bureau of Entomology and Pest Control, Florida Department of Agriculture and Consumer Services.

CHART NO. 1 - FOR USE UNDILUTED

Conditions and Rates To Use Perm-X™ UL 4-4 Undiluted for Mosquito Control						
Pounds Per Acre		Application Rates – Fluid Ounces per Minute				Fluid Ounces and Milliliters Per Acre
Permethrin	PBO	5 mph	10 mph	15 mph	20 mph	
0.0070	0.0070	9.546	19.092	28.637	38.183	3.1819 (94.10 ml)
0.0035	0.0035	4.773	9.545	14.318	19.091	1.5909 (47.05 ml)
0.001	0.001	1.363	2.728	4.092	5.455	0.4546 (13.44 ml)

CHART NO. 2 - DILUTE 1 PART WITH 2 PARTS MINERAL OIL

Amounts to Use After Diluting 1 Part Perm-X™ UL 4-4 with 2 Parts Mineral Oil						
Pounds of A.I. Per Acre		Application Rates for Fluid Ounces of Diluted Product Per Minute Per MPH				Diluted Fl Oz (ml) to Apply per Acre
Permethrin	PBO	5 mph	10 mph	15 mph	20 mph	
0.0070	0.0070	26.250	52.50	78.75	105.00	8.75 (258.76 ml)
0.0035	0.0035	13.125	26.25	39.38	52.50	4.38 (129.53 ml)
0.0010	0.0010	3.750	7.50	11.25	15.00	1.25 (36.96 ml)

STORAGE & DISPOSAL

Do not contaminate water, food, or feed by storage or disposal.

PESTICIDE STORAGE: Store product in its original labeled container in a cool, dry, locked place designated for such insecticides and out of reach of children. In case of spillage, soak up with absorbent material such as sawdust, or fuller's earth, sweep up and place in a labeled container and dispose of as follows.

PESTICIDE DISPOSAL: Wastes resulting from the use of this product may be disposed of on site or at an approved waste disposal facility.

CONTAINER DISPOSAL: Nonrefillable container. Do not refill or reuse this container. Clean container promptly after emptying. **For Containers 5 gallons or less** – Triple rinse as follows: Empty the remaining contents into

(continued)

application equipment or a mix tank and drain for 10 seconds after the flow begins to drip. Fill the container 1/4 full with water and recap. Shake for 10 seconds. Pour rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Drain for 10 seconds after the flow begins to drip. Repeat this procedure two more times. Then offer for recycling if available or reconditioning if appropriate, or puncture and dispose of in a sanitary landfill, or by other procedures approved by state and local authorities. **For Containers greater than 5 gallons** – Triple rinse as follows: Empty the remaining contents into application equipment or a mix tank. Fill the container 1/4 full with water. Replace and tighten closures. Tip container on its side and roll it back and forth, ensuring at least one complete revolution, for 30 seconds. Stand the container on its end and tip it back and forth several times. Turn the container over onto its other end and tip it back and forth several times. Empty the rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Repeat this procedure two more times. Then, offer for recycling if available or reconditioning if appropriate, or puncture and dispose of in a sanitary landfill, or by other procedures approved by state and local authorities.

CONDITIONS OF SALE AND LIMITATION OF WARRANTY AND LIABILITY

CONDITIONS OF SALE AND LIMITATION OF WARRANTY AND LIABILITY NOTICE: Read the entire Directions for Use and Conditions of Sale and Limitation of Warranty and Liability before buying or using this product. If the terms are not acceptable, return the product at once, unopened, and the purchase price will be refunded. The Directions for Use of this Product must be followed carefully. It is impossible to eliminate all risks inherently associated with the use of this product. Ineffectiveness or other unintended consequences may result because of such factors as manner of use or application, weather, presence of other materials or other influencing factors in the use of the product, which are beyond the control of Central Garden & Pet Company or Seller. All such risks shall be assumed by Buyer and User, and Buyer and User agree to hold Central Garden & Pet Company and Seller harmless for any claims relating to such factors. Central Garden & Pet Company warrants that this product conforms to the chemical description on the label and is reasonably fit for the purposes stated in the Directions for Use, subject to the inherent risks referred to above, when used in accordance with directions under normal use conditions. This warranty does not extend to the use of this product contrary to label instructions, or under abnormal conditions or under conditions not reasonably foreseeable to or beyond the control of Seller or Central Garden & Pet Company, and Buyer and User assume the risk of any such use. To the extent consistent with applicable law, CENTRAL GARDEN & PET COMPANY MAKES NO WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE NOR ANY OTHER EXPRESS OR IMPLIED WARRANTY EXCEPT AS STATED ABOVE. To the extent consistent with applicable law, in no event shall Central Garden & Pet Company or Seller be liable for any incidental, consequential or special damages resulting from the use or handling of this product. To the extent consistent with applicable law, **THE EXCLUSIVE REMEDY OF THE USER OR BUYER, AND THE EXCLUSIVE LIABILITY OF CENTRAL GARDEN & PET COMPANY AND SELLER FOR ANY AND ALL CLAIMS, LOSSES, INJURIES OR DAMAGES (INCLUDING CLAIMS BASED ON BREACH OF WARRANTY, CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY OR OTHERWISE) RESULTING FROM THE USE OR HANDLING OF THIS PRODUCT, SHALL BE THE RETURN OF THE PURCHASE PRICE OF THE PRODUCT OR, AT THE ELECTION OF CENTRAL GARDEN & PET COMPANY OR SELLER, THE REPLACEMENT OF THE PRODUCT.**

Central Garden & Pet Company and Seller offer this product, and Buyer and User accept it, subject to the foregoing Conditions of Sale and Limitation of Warranty and Liability, which may not be modified except by written agreement signed by a duly authorized representative of Central Garden & Pet Company.

Central Garden & Pet Company, 1501 East Woodfield Road, 200W, Schaumburg, Illinois 60173

NOTE: This specimen label is for informational purposes only. All uses may not be approved in all states. See product labeling for use directions.

VEC 15-025