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City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

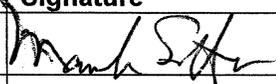
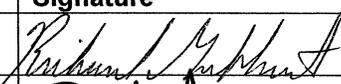
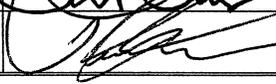
Item # 14 Ordinance/Resolution# 10-219 Council District:

For Meeting of March 1, 2010

(Adoption Date)

TITLE: A RESOLUTION TO APPROVE THE CONTINUED INVESTMENT OF A PORTION OF THE PROCEEDS OF THE PREPAID LEASE OF THE TELSHOR FACILITY IN THE EQUITY POOLS OF THE STATE INVESTMENT COUNCIL.

PURPOSE(S) OF ACTION: To fulfill the requirement of Sec. 2-1208, paragraph 10 of the City's Investment Policy that the equity investment managed by the State Investment Council be approved no less than once a year.

Name of Drafter: Robert Scaling, Treasurer 		Department: Financial Services		Phone: 541-2035	
Department	Signature	Phone	Department	Signature	Phone
Originating Department		541-2050	Budget		2300
			Assistant City Manager		2271
Legal		541-2128	City Manager		2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

In June, 2004 the City received a 40-year prepaid lease for the Memorial Medical Center, known as the Telshor Facility. In November, 2005 City Council approved Ordinance 2244 authorizing a portion of the lease proceeds to be invested with the State Investment Council (SIC). After a risk tolerance review conducted by RBC Dain Rauscher, the Council approved Resolution 07-738 allocating the SIC investment among three equity pools and one internally managed fixed income investment. The SIC investment was actually made in November, 2007.

Ordinance No. 2244 also amended the existing City investment policy to require an annual review and approval of any investment made with the State Investment Council. An update was provided at the February 8, 2010 City Council meeting. The history of performance of the funds was discussed and options for future disposition of the investments was presented.

SUPPORT INFORMATION:

Fund Name / Account Number	Amount of Expenditure	Budget Amount
N / A	N / A	N / A

1. Resolution.
2. City of Las Cruces Investment Policy, Division 2.

(Continue on additional sheets as required)

3. Ordinance No. 2244
4. Resolution No. 07-738

OPTIONS / ALTERNATIVES:

1. **VOTE "YES" – Will approve the Resolution and authorize City Finance Department staff to continue the investment with the State Investment Council in the current equity/fixed income allocation**
2. **VOTE "NO" – Will reject the Resolution and not approve the continued investment with the State Investment Council.**
3. **Modify the Resolution and provide staff with alternative direction.**

(Continue on additional sheets as required)

RESOLUTION NO. 10-219**A RESOLUTION TO APPROVE THE CONTINUED INVESTMENT OF A PORTION OF THE PROCEEDS OF THE PREPAID LEASE OF THE TELSHOR FACILITY IN THE EQUITY POOLS OF THE STATE INVESTMENT COUNCIL:**

THE CITY COUNCIL IS INFORMED THAT:

WHEREAS, the City and Dona Ana County received the proceeds of a prepaid lease of the Memorial Medical Center, known as the Telshor Facility, in June, 2004; and

WHEREAS, the City Council approved the investment of a portion of said proceeds in a yet-to-be-determined allocation at the State Investment Council (SIC) in November, 2005; and

WHEREAS, after a risk assessment presentation by the City's Financial Advisor, RBC Dain Rauscher, the City Council approved a specific allocation of the SIC-managed investment; and

WHEREAS, the City's Investment Policy, approved in Ordinance 2244 on November 21, 2005, requires an annual review of the SIC investment and approval of continuing the investment; and

WHEREAS, the City Council was presented with an update and review at its February 8, 2010 meeting.

NOW, THEREFORE, be it resolved by the governing board of the City of Las Cruces.

(I)

THAT, the City continue its investment in the designated equity pools managed by the State Investment Council.

(II)

THAT, the City Financial Services Director or his designee file a quarterly report with Council to report the quarterly performance of the investment.

(III)

THAT, City staff is authorized to take all action necessary to implement this Resolution.

DONE AND APPROVED this _____ day of _____, 2010.

By _____
Mayor

VOTE:

Mayor Miyagishima	_____
Councillor Silva	_____
Councillor Connor	_____
Councillor Pedroza	_____
Councillor Small	_____
Councillor Sorg	_____
Councillor Thomas	_____

ATTEST:

City Clerk

(SEAL)

Moved by: _____

Seconded by: _____

Approved as to Form:

City Attorney

209
DIVISION 2.

INVESTMENT POLICY*

* **Editors Note:** Ord. No. 2244, §§ I and II, adopted November 21, 2005, amended the Code by repealing former div. 2, §§ 2-1206--2-1214, and adding a new div. 2. Former div. 2 pertained to similar subject matter, and derived from the Code of 1988, §§ 2-101--2-109.

Charter References: Investment of public funds, § 5.11.

Sec. 2-1206. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Investment officer means the finance director or his designee.

SIPC means Security Investor Protection Corporation.
(Ord. No. 2244, § II, 11-21-05)

Sec. 2-1207. Policy declarations.

(a) It is the intent of this division to establish the authority and procedures for the investment of the city's funds in an effort to:

- (1) Maximize investment returns while minimizing risk;
- (2) Maintain a level of liquidity to ensure meeting unanticipated cash needs;
- (3) Allow for diversification of the city's portfolio in terms of maturity, instrument types and credit to help reduce the overall risk while attempting to safely attain a market average rate of return. The investment officer shall take into consideration economic and other pertinent factors in determining the portfolio's diversification and make changes as necessitated.

(b) The criteria for selecting investments and the order of priority shall be as follows:

- (1) **Safety.** Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio.
- (2) **Liquidity.** The investment portfolio shall remain sufficiently liquid to meet operating requirements.
- (3) **Yield.** The investment portfolio shall be designed with the objective of attaining a market average rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs.

(c) The standard of prudence to be applied by the investment officer shall be the prudent investor rule, which is: "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their

own affairs, not for speculation, but for investment considering the probable safety of their capital as well as the probable income to be derived." The prudent investor rule shall be applied in the context of managing the overall portfolio.

(d) Ethics and conflicts of interest. Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Officers and employees shall disclose any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio.

(Ord. No. 2244, § II, 11-21-05)

Sec. 2-1208. Allowed investment instruments.

Under this division, the following are allowed investment instruments:

- (1) United States treasury obligations.
- (2) United States government agency and instrumentality obligations.
- (3) Obligations of state and local governments, school districts and public authorities which are rated in the top three rating categories by a nationally recognized rating agency.
- (4) Accounts of deposit at federally insured financial institutions (includes, but is not limited to savings accounts and checking accounts).
- (5) Money market funds, mutual funds, and similar funds whose portfolios consist solely of allowed investments.
- (6) Commercial paper rated not less than A-1, P-1, F-1, or equivalent by a nationally recognized rating agency.
- (7) Repurchase agreements and forward delivery/purchase agreements whose underlying purchased securities and/or collateral consist of allowed investments described in subsections (1) or (2) of this section with a provider rated, or whose obligations under the agreement are guaranteed by a financial institution rated, in either of the two highest rating categories by a nationally recognized rating agency.
- (8) The "short-term investment fund" or other similar pooled funds maintained by the treasurer of the state.
- (9) Any other investment specifically authorized by ordinance allowing the issuance of bonds or other securities or by an indenture or escrow agreement relating to bonds or other securities.
- (10) Money identified as long-term (money available for investment for more than one year) may be invested in the pools of the New Mexico State Investment Council (SIC). The identified money, specific pools, diversification, and the proposed investment shall be reviewed and approved by the city council no less than once a year.

(Ord. No. 2244, § II, 11-21-05)

Sec. 2-1209. Security for deposits of public money.

Deposit of public money pursuant to subsection 2-1208(4) shall be secured in compliance with applicable state law.

(Ord. No. 2244, § II, 11-21-05)

Sec. 2-1210. Safekeeping of securities.

(a) No city funds to be invested in negotiable securities shall be paid out unless there is a simultaneous transfer of securities either by physical delivery or, for uncertificated securities, by appropriate book entry to the city or to a third-party safekeeping financial institution acting as agent or trustee for the city, which agent or trustee shall furnish timely confirmation to the city.

(b) Notwithstanding subsection (a) of this section, securities may be held in street name with an SIPC insured broker or dealer at a level not to exceed the amount of the SIPC insurance plus any insurance provided by an insurance company which has received an A+ rating by A.M. Best and Company.

(Ord. No. 2244, § II, 11-21-05)

Sec. 2-1211. Quarterly reports.

The investment officer shall prepare a quarterly report of the status of the city's investment fund. The report shall include the fund performance for the quarter and a breakdown by type of securities in the portfolio at the end of the quarter as well as current book and market values.

(Ord. No. 2244, § II, 11-21-05)

Secs. 2-1212--2-1240. Reserved.

ORDINANCE NO. 2244COUNCIL BILL NO. 06-034

AN ORDINANCE REPEALING SECTIONS 2-1206 THROUGH 2-1214 AND ENACTING NEW SECTIONS 2-1206 THROUGH 2-1211, LCMC 1997 AS AMENDED, ENTITLED INVESTMENT POLICY.

WHEREAS, under the authority and direction of Article X, Section 6 of the Constitution of the State of New Mexico in Article V, Section 5.11 of the City Charter of the City of Las Cruces, New Mexico, the Council is required to adopt an ordinance establishing the policies and procedure to be followed in the handling of the depositing and investment of City monies; and

WHEREAS, on July 15, 1985, the City Council enacted and approved Council Bill No.86-04 Ordinance No.613, an Ordinance establishing the policy and procedure regarding the deposit and investment of City monies; and

WHEREAS, from time to time it is necessary to review and update the investment ordinance in order to keep pace with changes in the financial environment; and

WHEREAS, the main purpose for the update in the investment policy is to add an Ethics and Conflicts of Interest statement, and to make changes to the permitted investments; and

WHEREAS, the City's Bond Counsel and Financial Advisors were conferred with in making these changes; and

WHEREAS, organizations such as GFOA (Government Finance Officers Association), the Association of Public Treasurers of the United States and Canada, the City of Albuquerque, and others were used for guidance on the investment policy changes.

NOW, THEREFORE, be it ordained by the governing body of the City of Las Cruces:

(I)

THAT the LCMC 1997, Sections 2-1206 through 2-1214 are hereby repealed.

(II)

THAT the LCMC 1997, Sections 2-1206 through 2-1211 are hereby enacted as shown in Exhibit A.

(III)

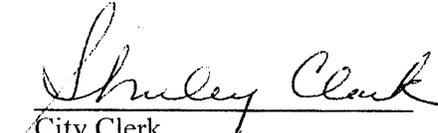
THAT City Staff is hereby instructed to take such steps as may be required in the accomplishment of the herein above.

DONE AND APPROVED this 21st day of November 2005.

APPROVED:


Mayor William Mattiace

ATTEST:


City Clerk

Moved by: Councillor Archuleta
Seconded by: Councillor Connor

VOTE:

Mayor Mattiace	<u>Aye</u>
Councillor Fietze	<u>Aye</u>
Councillor Connor	<u>Aye</u>
Councillor Archuleta	<u>Aye</u>
Councillor Trowbridge	<u>Aye</u>
Councillor Strain	<u>Aye</u>
Councillor Miyagishima	<u>Aye</u>

APPROVED AS TO FORM:


Deputy City Attorney

RESOLUTION NO. 07-378**A RESOLUTION AUTHORIZING THE CITY TREASURER TO INVEST TELSHOR FACILITY FUNDS WITH THE NEW MEXICO STATE INVESTMENT COUNCIL.**

The City Council of the City of Las Cruces is informed that:

WHEREAS, a prepaid lease dated June 1, 2004, for the lease of the Telshor Facility, provided money which has been identified as long-term money; and

WHEREAS, City Council has stated that they would like to preserve this money for future use at the end of the lease; and

WHEREAS, City Council also agreed on a moratorium of spending any of the earnings from this money for a few years; and

WHEREAS, On November 21, 2005, City Council approved Ordinance 2244 authorizing the enactment of a new investment policy that included a provision to invest money identified as long-term in the pools of the New Mexico State Investment Council (SIC); and

WHEREAS, a study to determine the risk tolerance of the Council, as a whole, for the investment of these funds was performed by John Pickett from the Dallas, Texas office of RBC Dain Rauscher; and

WHEREAS, the results of this study were presented to City Council at the September 11, 2006, Work Session; and

WHEREAS, there is consensus by Council to invest the money mentioned above with the SIC in the following ratio: Large Cap Equity 30%, Small/Mid Cap Equity 20%, International Equity 10%, Core Bond 0%, retain in City managed alternative investments 40%.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the City Treasurer is authorized to invest Telshor Facility Funds with the New Mexico State Investment Council.

(II)

THAT City staff is authorized to do all deeds necessary to accomplish the intent of this Resolution and the Agreement.

DONE AND APPROVED on this 18th day of June, 2007.

Dolores Connor
Mayor Pro-Tem

ATTEST:

Esther Martinez
Esther Martinez, City Clerk

{SEAL}

Moved by: Archuleta

Seconded by: Trowbridge

VOTE:

Mayor Mattiace:	<u>Absent</u>
Councillor Fietze:	<u>Absent</u>
Councillor Connor:	<u>Aye</u>
Councillor Archuleta:	<u>Aye</u>
Councillor Trowbridge:	<u>Aye</u>
Councillor Jones:	<u>Aye</u>
Councillor Miyagishima:	<u>Aye</u>

APPROVED AS TO FORM:

Justin Rame
City Attorney