



City of Las Cruces®

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Council Action and Executive Summary

Item # 3 Ordinance/Resolution# 13-157

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of May 20, 2013
(Adoption Date)

Please check box that applies to this item:

QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

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:

Approve investment.

COUNCIL DISTRICT: N/A		
<u>Drafter/Staff Contact:</u> Robert Scaling	<u>Department/Section:</u> Finance/Treasury	<u>Phone:</u> 541-2035
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

In June, 2004 the City and County received a 40-year prepaid lease for the Memorial Medical Center, also known as the Telshor Facility. In November, 2005 City Council approved Ordinance 2244 which authorized 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 purchased in November, 2007 and this Resolution will direct staff to continue the investment relationship with SIC or pursue another course of action.

SUPPORT INFORMATION:

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

SOURCE OF FUNDING:

Is this action already budgeted? N/A	Yes	<input type="checkbox"/>	See fund summary below	
	No	<input type="checkbox"/>	If No, then check one below:	
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from: _____	
	<input type="checkbox"/>	<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)	
			<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue?	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: _____ in the amount of \$ _____ for FY _____.	
	No	<input checked="" type="checkbox"/>	There is no new revenue generated by this action.	

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution and authorize City staff to continue the investment with the State Investment Council in the current equity allocation.
2. Vote "No"; this will reject the Resolution and not approve the continued investment with the State Investment Council.

REFERENCE INFORMATION:

The Ordinance(s) and/or Resolution(s) listed below are only for reference and are not included as attachments or exhibits.

1. Ordinance No. 2244
2. Resolution 07-738

(Continue on additional sheets as required)

RESOLUTION NO. 13-157**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 is provided with a quarterly report of the performance of the investment.

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

(I)

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

(II)

THAT the City Treasurer will file a quarterly report with Council to report the performance of the investment.

(III)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this _____ day of _____, 2013.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



City Attorney

VOTE:
Mayor Miyagishima: _____
Councillor Silva: _____
Councillor Smith: _____
Councillor Pedroza: _____
Councillor Small: _____
Councillor Sorg: _____
Councillor Thomas: _____

DIVISION 2.
INVESTMENT POLICY*

* **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:

Financial institution means a federally insured bank or savings and loan association.

Investment officer means the finance director or his designee.

Local financial institution means a financial institution whose main office or manned branch office is located within the municipal corporate limits.

Net worth means the same as defined by the financial institutions division of the state department of commerce and industry.

SIPC means Security Investment Protection Corporation.

Time deposit means a certificate of deposit or savings certificate deposited in a federally insured bank or savings and loan association.

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 issuer to help reduce the overall risk while attempting to 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 all operating requirements that may be reasonably anticipated.
- (3) Yield – The investment portfolio shall be designed with the objective of attaining a market 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) The investment officer, acting in accordance with written procedures and this investment policy, and exercising due diligence, shall be relieved of personal responsibility for a specific security's credit risk or market price changes, provided however these deviations are to be reported in a timely fashion to the City Council and appropriate action is to be taken to control adverse developments.

(e) Ethics and Conflicts of Interest - 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.

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) Investment-grade obligations of state and local governments, school districts and public authorities.
- (4) Certificates of deposit and other evidences of deposit at financial institutions (includes, but is not limited to savings accounts and checking accounts).
- (5) Bankers acceptances.
- (6) Money market and mutual funds whose portfolios consist of allowed investments.
- (7) Commercial paper, rated in the highest tier (e.g., A-1, P-1, F-1, or D-1 or higher) by a nationally recognized rating agency.
- (8) Repurchase agreements whose underlying purchased securities consist of allowed investments.
- (9) The "short-term investment fund" or other similar pooled funds maintained by the Treasurer of the State of New Mexico.
- (10) Any other investment permitted at the time of the investment by laws of the State of New Mexico for municipalities.
- (11) Any other investment specifically permitted by ordinance authorizing the issuance of the bonds or other securities or by an indenture or escrow agreement relating to the bonds or other securities; so long as such investment is permitted by laws of the State of New Mexico.
- (12) 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 investment performance shall be presented to council no less than once a year at a council work session.)

Sec. 2-1209. Time deposits.

(a) For the purpose of this division, financial institutions must meet all of the following requirements to qualify as a depository for the city:

- (1) The financial institution must be federally insured.
- (2) The financial institution's equity-to-asset ratio must be at or above levels recommended by federal regulatory agencies.

- (3) The financial institution must submit a current audited annual financial statement to the city.
- (4) A financial institution whose annual report indicates successive losses for the two preceding years will not qualify as a city depositor.
- (5) A financial institution not located within the corporate limits of the city must have assets in excess of \$1,000,000,000.00.

(b) The investment officer may deposit funds in any federally insured bank, savings and loan association, or credit union, up to the amount of such insurance, without requiring such bank, savings and loan association, or credit union to qualify as a city depository.

(c) The minimum acceptable rate will be the bond equivalent yield of United States treasury notes or bills of similar maturity, as quoted in the current day's *Wall Street Journal*, plus 13 basis points.

(d) The total of time deposits with any financial institution shall not at any time exceed the net worth of the financial institution.

Sec. 2-1210. Security for time deposits.

Any financial institution designated as a city depository shall deliver securities of the type specified in NMSA 1978, § 6-10-16, or a joint safekeeping receipt therefore, to the investment officer in an aggregate value equal to one-half the amount of the city money to be received, in accordance with NMSA 1978, § 6-10-16(b).

Sec. 2-1211. 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 on the books of the issuer, 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.

Sec. 2-1212. 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.