

City of Las Cruces®

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Council Action and Executive Summary

Item # 3 Ordinance/Resolution# 10-155 Council District:

For Meeting of December 21, 2009

(Adoption Date)

TITLE: A RESOLUTION TO REQUIRE 100% COLLATERALIZATION OF UNINSURED NON-INTEREST BEARING BANK DEPOSITS.

PURPOSE(S) OF ACTION: To replace the 100% FDIC deposit insurance which has allowed the City to realize a significantly better yield on its liquidity cash and offset bank service charges.

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		2128	City Manager		2070

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

For the majority of calendar year 2009, the City's banking services provider, Wells Fargo Bank, has offered 100% FDIC deposit insurance coverage on all non-interest bearing City deposits. This insurance coverage has allowed the City to leave larger balances in the account and receive a 50 basis point (1/2 of 1%) earnings credit to be applied against monthly service charges as opposed to investing the funds in an acceptable liquidity fund that would pay the City less than 20 basis points. The difference in "yield" results in annual savings to the City of approximately \$45,000 under the current interest rate environment.

In January, 2010, the FDIC deposit insurance will revert back to \$250,000, which would require that the City redirect its funds to the lesser-yielding liquidity fund. Wells Fargo Bank has indicated its willingness to provide 100% collateralization upon receiving an "official" requirement from the City's governing board, which is consistent with the City's Investment Policy (Section 2-1209) as well as State Statute 6-17-20.

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.
3. State of New Mexico Statutes 6-10-17 and 6-10-20.

(Continue on additional sheets as required)

OPTIONS / ALTERNATIVES:

1. **VOTE "YES" – Will approve the Resolution and authorize City Finance Department staff to request and require the City's banking services provider(s) to provide 100% collateralization of all uninsured non-interest bearing bank deposits.**
2. **VOTE "NO" – Will reject the Resolution and not require 100% collateralization from the City's banking services provider on the City's uninsured non-interest bearing bank deposits. This action will adversely affect the City's goal of fiscal responsibility.**

(Continue on additional sheets as required)

RESOLUTION NO. 10-155**A RESOLUTION TO REQUIRE 100% COLLATERALIZATION OF UNINSURED NON-INTEREST BEARING BANK DEPOSITS.**

THE CITY COUNCIL IS INFORMED THAT:

WHEREAS, for most of calendar year 2009, the City's banking services provider, Wells Fargo Bank, has offered 100% FDIC deposit insurance on all City non-interest bearing bank deposits; and

WHEREAS, the City has been able to utilize this 100% deposit insurance coverage to offset monthly bank service charges in an annual amount of approximately \$75,000 as opposed to investing a like amount to earn approximately \$30,000; and

WHEREAS, the 100% FDIC deposit insurance coverage will end on December 31, 2009 and the coverage will revert back to \$250,000, thus encouraging the City to redirect its deposits into a lower-yielding money market fund, thereby "losing" approximately \$45,000 in annual value in the current interest rate environment; and

WHEREAS, the City's banking services provider has agreed to provide 100% collateralization for the City's non-interest bearing bank balances if required by the City's governing board; and

WHEREAS, the City's adopted Investment Policy states that the City's deposits will be secured in compliance with applicable State law and State Statute 6-10-20 allows the City's governing board to require additional collateral security at any time.

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

(I)

THAT, the City's banking services provider be requested and required to provide collateral security for all non-interest bearing City bank balances, effective January 1, 2010.

(II)

THAT, the City's banking services provider submit monthly reports to verify that all City bank balances are collaterally secured in an amount not less than 100% of said balance.

(III)

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

DONE AND APPROVED this _____ day of _____, 2009.

By _____
Mayor

VOTE:

Mayor Miyagishima _____
Councillor Silva _____
Councillor Connor _____
Councillor Pedroza _____

Councillor Small _____
Councillor Sorg _____
Councillor Thomas _____

ATTEST:

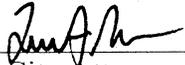
City Clerk

(SEAL)

Moved by: _____

Seconded by: _____

Approved as to Form:



City Attorney

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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.

6-10-17. Amount of security to be deposited.

Any bank or savings and loan association designated as a depository of public money shall deliver securities of the kind specified in Section 6-10-16 NMSA 1978 to a custodial bank described in Section 6-10-21 NMSA 1978 and shall then deliver a joint safekeeping receipt issued by the custodial bank to the public official from whom or the public board from which the public money is received for deposit. The securities delivered shall have an aggregate value equal to one-half the amount of public money to be received in accordance with Subsection B of Section 6-10-16 NMSA 1978. However, any such bank or savings and loan association may deliver a depository bond executed by a surety company as provided in Section 6-10-15 NMSA 1978 as security for any portion of a deposit of public money.

6-10-20. Additional security.

Any board of finance or board of control may at any time within its discretion require any bank or savings and loan association that has qualified as a depository of public money subject to the control of the board to furnish additional security for the deposit of the kind specified in Section 6-10-16 NMSA 1978.