

Ordinance No. 2566 Summary

On March 2, 2023, the City of De Soto, Kansas adopted Ordinance No. 2566, to include a revised Article 7 related to policies and guidelines for the City’s investment of public funds.

A complete copy of this ordinance is available at www.desotoks.us or at City Hall, 32905 West 84th Street, De Soto, Kansas. This summary is certified by Patrick G. Reavey, City Attorney.

ORDINANCE NO. 2566

AN ORDINANCE AMENDING CHAPTER I OF THE CITY CODE TO INCLUDE A NEWLY REVISED ARTICLE 7 RELATED TO THE CITY’S INVESTMENT POLICIES

WHEREAS, the Governing Body believes it is advisable to update its policies governing how the City invests public funds.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DE SOTO, KANSAS:

SECTION 1: Chapter I of the City Code is amended to include revised Article 7 which shall read as follows:

ARTICLE 7. INVESTMENT POLICY.

1-701. Purpose and goals.

It is the policy of the City of De Soto (“City”) to invest public funds in a manner which will provide the highest investment return, with the maximum security, while meeting the daily cash flow demands of the City and conforming to all state, county, and local requirements governing the investment of public funds. The policy will be reviewed periodically to incorporate updates to best practices, changes in actual investment procedures, or to reflect modifications to Kansas statutes relating to the City’s investments.

1-702. Scope and responsibility.

(a) The City Administrator will establish and maintain written procedures for the operation of the cash management and investment program consistent with this policy. Such procedures shall include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the City Administrator.

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(b) Responsibility for the management of the City’s investment portfolio is delegated to the Finance Director by the City Administrator. The City may engage outside professionals to assist in the implementation of its investment program, together with City staff involved in investments (hereafter “Investment Team”).

1-703. Objectives.

The City recognizes that effective cash management is an integral component of good financial management. Therefore, it is the policy of the City that funds deemed idle, based on projected cash flow, be invested in a manner that seeks to maximize their productivity until such time as they are needed for the operations of the City. Investments shall be at the highest rates obtainable at the time of investment, within the limitations of the law and the City’s prudent investment policy. The City’s investment portfolio is designed and managed in accordance with the responsibility of ensuring the public’s trust and consistent with state, county, and local laws and, where applicable, bond resolutions/trust indentures.

(a) *Safety.* The primary tenet of the City investment strategy is ensuring the safety of principal. Cash investments of the City are undertaken in a manner that seeks to maximize investment income while ensuring the preservation of capital in the portfolio.

(b) *Return on Investment.* The investment portfolio is designed to attain a market rate of return given the objectives of a portfolio throughout budgetary and economic cycles, taking into account the City’s investment risk constraints, Kansas state law, and the cash flow needs of the City’s operations. Investments are made at the highest rates obtainable at the time of investment, within the limitations of the law, and the City’s prudent investment policy.

(c) *Liquidity.* The City’s investment portfolio remains sufficiently liquid to enable the City to meet all operating requirements and expenses without early redemption of securities. In a situation where an unforeseen event arises that creates the need for securities in the portfolio to be sold, the City reviews its portfolio and generally identifies those investments that have gained in value to be sold first.

1-704. Internal control.

(a) *Investment Process.* The Finance Director works to ensure the Investment Team has controls in place to prevent loss of public funds due to fraud, error, misrepresentation, or imprudent actions.

(b) *Delivery versus Payment.* All securities purchased under this policy are settled on a delivery-versus-payment basis, consistent with state law.

(c) *Investment Team Experience.* Investments are made by the Finance Director, or employees, or third parties with experience and knowledge of investments by Kansas

local governments. The quality and capability of the investment staff is demonstrated by having prior experience in investing funds in accordance with KSA 12-1675, or work as a registered investment adviser overseeing public funds' investing.

1-705. Prudence.

(a) Investment Team members act responsibly as custodians of the public trust. Investment Team members avoid any transaction that might impair public confidence in the effectiveness of the governance of the City.

(b) The standard of prudence to be used by the Investment Team shall be the “prudent investor” rule: “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.”

(c) Investment Team members acting in accordance with written procedures and exercising due diligence shall be relieved of personal responsibility for a specific security's credit risk or market price changes.

1-706. Legal authority; Limitations of investment instruments.

(a) All investments purchased for operating portfolios (i.e., not including bond proceeds or moneys held for expenditure pursuant to a multi-year capital improvement program) under this policy are governed by KSA 12-1675 *et seq.*, as amended, unless the City's investment policy is approved by the State of Kansas Pooled Money Investment Board (the “PMIB”), in which case the City may also invest pursuant to KSA 12-1775(b).

(b) *Presumption of bank deposits for idle operating funds.* With respect to operating portfolios (that is, not including bond proceeds or moneys to be used with respect to a multi-year capital improvement program), Kansas law makes a presumption that idle funds will be deposited with commercial banks. As a result, the deposits below are permitted at any time:

i. Commercial Bank Deposits. All bank deposits that qualify for protection from Federal deposit insurance also qualify as permitted investments.

ii. Certificates of Deposit (CDs). Instruments issued by banks or savings and loans that state specified sums have been deposited for specified periods of time and at specified rates of interest.

1-707. Alternate investments.

To the extent commercial banks with main offices or branches located within the City's corporate boundaries are unable or unwilling to provide deposits at rates meeting or exceeding those set forth by Kansas law, the City may, at its discretion, invest idle operating funds in the alternate investments provided by state law. The City may purchase the instruments in this section from any financial institution permitted by Kansas law.

- (a) *Repurchase Agreements.* Repurchase agreements are contractual agreements between the City and commercial banks, trust companies, state or federally chartered savings and loan associations, or federally chartered savings banks. The repurchase agreement issuer receives cash and, in turn, sells securities to the City. The City agrees to resell the securities to the issuer on a specific future date at the original purchase price plus a negotiated interest payment.
- (b) *United States Treasury Obligations.* These are direct obligations that are insured as to principal and interest by the United States Government.
- (c) *United States Government Agency Securities.* United States Government Agency securities include indirect obligations of the federal government, issued by the Government National Mortgage Association and the Small Business Administration. These securities are backed by the full faith and credit of the United States Government.
- (d) *Government Sponsored Corporations Instruments.* Obligations of enterprises sponsored by the United States Government, such as Federal Farm Credit System, Federal Home Loan Mortgage Association, Federal National Mortgage Association, and the Student Loan Marketing Association.
- (e) *Kansas General Obligation Bonds.* General obligation municipal bonds or other general obligations issued by any municipality of the state of Kansas as defined in K.S.A. 10-1101.
- (f) *Kansas Municipal Investment Pool.* The pool is administered by the Pooled Money Investment Board.
- (g) *Temporary Notes of the City.* Although the City is permitted to hold its own temporary notes as investments, in most cases, the City's purchase of its own notes will typically result in the cancellation of such notes.

(h) *Modifications to Permitted Investments.* The Finance Director may add other types of investments or modify this list in his/her reasonable discretion as changes to the statutes governing such investments occur.

1-708. Bond and temporary note proceeds.

(a) The City may invest any bond or temporary note proceeds, as well as the balances in a multi-year capital improvement fund designated by ordinance pursuant to KSA 12-1,118, which are not immediately needed, in accordance with KSA 10-131 and the specific bond or note resolution/trust indenture.

(b) The interest received on the investment of bond and note proceeds is used for the purpose of paying interest on the bonds or notes issued, or for paying the cost of the project for which the bonds or notes were issued, unless otherwise directed by the applicable bond or note resolution/trust indenture or as directed by bond counsel.

1-709. Custodians.

Consistent with Kansas law, the City from time to time appoints one or more custodians to hold investment securities in its name and to settle trades on a deliver-versus-payment basis on its behalf. The City requires each custodian to provide monthly reporting of holdings and activities and favors custodians providing on-demand electronic access to the same information.

1-710. Deposits of City funds.

(a) The City uses depositories having their main offices or branch locations located in the City as provided by KSA 9-1401. Each depository is required to collateralize City funds held at such depository and to provide for the related safekeeping requirements of the pledged securities.

(b) Depositories are required to ensure that securities used as collateral are perfected in the name of the City and held by the City or a third party custodian. The City is authorized to permit the use by depositories of the Federal Reserve Bank of Kansas City as a custodian, but may permit or require the use of other custodians for collateral security as permitted by state law.

(c) The City generally expects depositories to email safekeeping records of pledged securities to the City not less than monthly in order to accommodate timely and legal investment transactions and ongoing compliance with State law.

(d) The City requires full collateralization of all deposits held by commercial banks that exceed the FDIC coverage limit, as required by Kansas law. The Investment

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Team monitors the adequacy of collateralization weekly and works with depositories to quickly resolve issues of collateral inadequacy.

- i. All deposits carry FDIC insurance (current protection extends to deposits up to a maximum of \$250,000 per institution); or
- ii. If deposits on-hand at any eligible depository of the City exceed the then applicable FDIC insurance limit, such depository is required to pledge securities with a market value equal to not less than 100% of City deposits on hand (less \$250,000 per institution).
- iii. As detailed in KSA 9-1402, a bank, trust company, savings and loan association, or savings bank must collateralize City deposits (the amount of money on deposit with an institution at any given time) to qualify as a depository. Allowable collateral includes:
 - A. Securities: The financial institution may pledge or assign for the City's benefit sufficient securities, the market value of which is at least 105% of the total deposits. Peak period collateral agreements permitted under KSA 9-1403 and securities that cannot be priced using the Bloomberg Professional Service will not be accepted by the City. The allowable securities acceptable to the City are limited to: direct obligations of, or obligations insured by, the U.S. Government or any agency thereof, and obligations and securities of U. S. government-sponsored corporations, which, under federal law, may be accepted as security for public funds.
 - B. Corporate Surety Bond: The financial institution may provide a corporate surety bond of a surety corporation authorized to do business in Kansas in an amount equal to the amount on deposit including interest accrued.
 - C. Federal Home Loan Bank Letters of Credit: The financial institution may provide a letter of credit from any Federal Home Loan Bank in an amount equal to the funds on deposit including interest accrued.
 - D. Personal Bond: The financial institution may provide a personal bond in double the amount of the funds on deposit including interest accrued.

(e) Collateral underlying repurchase agreements is limited to obligations of the United States government and its agencies.

1-711. Investment procedures.

As required by KSA 12-1675, the City gives preference to local financial institutions when investing idle operating funds. Before investing idle funds, the Investment Team conducts a competitive request for offer (“RFO”) process to all banks with a physical presence in the City (according to FDIC records). Such RFOs are made in writing (typically, via email). If all local banks responding to an RFO are unable to meet or exceed the statutorily-designated benchmark investment rate for a given maturity, the City may invest in the alternate permitted investments listed in Section 1-707 above.

1-712. Investment diversification.

Investment maturities are scheduled to coincide with projected cash flow needs. The Investment Team uses a variety of tools to determine the City’s cash flow needs from time to time, often depending upon the nature of the portfolio being invested.

(a) *Investment Limitations per Institution.* Pursuant to current policy of the Pooled Money Investment Board, the City does not limit the amount of bank deposits (including certificates of deposit) that can be held in its investment portfolio.

(b) *Investment Type.* The City imposes no restrictions on the amount of Bank Deposits and/or U.S. Treasury or Agency obligations (including receipts evidencing ownership in such securities) it can hold in its investment portfolio.

(c) *Repurchase Agreements.* The City limits the amount of repurchase agreements it can hold to no more than 50% of its portfolio.

(d) *Municipal Investment Pool.* The City limits the amount of investments in the Municipal Investment Pool to no more than 30% of its portfolio, except in January, February, July, and August each year (during which months the City may use the MIP to hold funds pending deposit with the State Treasurer for payment of principal and interest on its bonds).

(e) *Refunding Bonds.* The City imposes no restrictions on the amount of municipal refunding bonds with principal and interest fully secured by an irrevocable deposit of U.S. Treasury and Agency securities it can hold in its portfolio.

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(f) *General Obligation Bonds.* The City limits the amount of Kansas general obligation bonds with a credit rating below A3/A- from a Nationally Recognized Statistical Rating Organization (“NRSRO”) to no more than 5% of its portfolio; provided, however, that if the Investment Team reasonably determines that an unrated Kansas general obligation bond would be rated at A3/A- or higher if it carried a rating, such bond will not count against this limit. The City limits the amount of Kansas general obligation bonds with a credit rating of A3/A- or higher to no more than 30% of its portfolio.

(g) *Maturity.* The maximum maturity for an investment for an operating fund is two years. If the City obtains expanded investment powers, the maximum maturity of an investment for an operating fund is four years. The maximum maturity for an investment of bond proceeds or moneys to be used for a multi-year capital improvement program coincides with the expected timing of expenditure of such moneys. The City establishes investment maturities to be distributed to coincide with projected cash flow needs to meet the objectives of Section 1-703(c) herein.

1-713. Reporting requirements.

The Investment Team generates investment reports for management purposes monthly. The City Administrator makes reports available to the City Council at least quarterly. Generally, such reports include at least: portfolio size, anticipated maturity distribution, and expected yield to maturity.

1-714. Ethics and conflicts of interest.

Investment Team members will, as applicable, comply with the City’s Code of Ethics (Article 10 of Chapter I of the City Code) and refrain from personal business activity that could conflict with proper execution of the investment program, or that could impair their ability to make impartial investment decisions. Investment Team members disclose to the City Administrator any material financial interests in financial institutions that conduct business within the city, and further disclose any large personal financial/investment positions that could be related to the performance of the City.

SECTION 2: Effective Date. This Ordinance shall be effective after its passage, approval and publication once in the City’s official paper.

ADOPTED BY THE GOVERNING BODY AND APPROVED BY THE MAYOR OF DE SOTO, KANSAS ON THE 2nd DAY OF MARCH 2023.

RICK WALKER, Mayor

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ATTEST:

BRANDON MILLS, City Clerk

APPROVED AS TO FORM:

PATRICK G. REAVEY, City Attorney