

# HEWITT TEXAS

## CITY COUNCIL REGULAR MEETING

December 05, 2022 at 6:30 PM

Hewitt City Hall, 200 Patriot Court, Hewitt, TX 76643

### AGENDA

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**Steve Fortenberry**, Mayor, Ward 3

**Michael S. Bancale**, Mayor Pro Tem, At-Large – **Vacancy**, Council Member, Ward 1

**Johnny Stephens**, Council Member, Ward 1 – **Johnny Price**, Council Member, Ward 2

**Bob Potter**, Council Member, Ward 2 – **Erica Bruce**, Council Member, Ward 3

The meeting will be streamed live on the city's website at [www.cityofhewitt.com/790/Hewitt-TX-TV](http://www.cityofhewitt.com/790/Hewitt-TX-TV).

**Pursuant to Texas Government Code Sec. 551.127, on a regular, non-emergency basis, members may attend and participate in the meeting remotely by video conference. Should that occur, a quorum of the members will be physically present at the location noted above on this agenda.**

#### REGULAR MEETING - 6:30 PM

#### DECLARATION OF A QUORUM AND CALL TO ORDER

#### PLEDGE OF ALLEGIANCE

**EXECUTIVE SESSION:** Notice is given that a closed meeting will be held pursuant to Section 551.074 of the Texas Government Code (V.T.C.A.) so that the Council may discuss personnel matters regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee (**Council Vacancy - Ward 1**).

#### PUBLIC COMMENTS

The City Council invites citizens to speak on any topic not already scheduled for a public hearing. The Texas Open Meetings Act prohibits the Council from discussing, responding to, or acting on any comments or items not properly posted on the agenda. [Note: Members of the public who wish to speak must complete a "Public Comment Form" and present it to the City Secretary before the meeting.]

#### REGULAR AGENDA ITEMS

1. Approve minutes of the City Council Workshop/Regular Meeting of November 21, 2022.
2. Discussion and possible action on an appointment to the Parks and Beautification Committee.
3. Discussion and possible action on reappointments to the Parks & Beautification Committee and the Library Board of Directors.

4. Discussion and possible action on **Resolution No. 2022-16** adopting the City of Hewitt's ARPA "American Rescue Plan Act"/Federal Procurement Policies and Procedures.
5. Discussion and possible action on **Resolution No. 2022-17** amending and adopting the City of Hewitt's Investment Policy.
6. Discussion and possible action on **Ordinance No. 2022-13** amending Ord. No. 2021-16, establishing two additional police officer positions, and authorizing the number of employees in each classification.
7. Discussion and possible action on canceling the City Council Regular Meeting for December 21, 2022.
8. Discussion and possible action on rescheduling the City Council Meetings of January 2, 2023, and January 16, 2023, to January 9, 2023, and January 23, 2023.
9. Discussion and possible action on Ward 1 City Council vacancy, including but not limited to: action, if any, to be taken to fill vacancy; appointment; appointment processes; and other matters relating to any of the above.

## **ADJOURNMENT**

I certify that the above notice of meeting was posted on the Public Notice Board located in front of City Hall on November 30, 2022, by 5:00 PM.

## **CITY OF HEWITT**

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Lydia Lopez, TRMC/CMC  
City Secretary

In compliance with the American with Disabilities Act, the City of Hewitt will provide reasonable accommodations for persons attending and/or participating in City Council meetings. The facility is wheelchair accessible, with handicap parking available at the front of the building. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting by calling the City Secretary at 254.296.5602 or by fax at 254.666.6014.

# HEWITT TEXAS

## COUNCIL AGENDA ITEM FORM

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**MEETING DATE:** December 5, 2022

**AGENDA ITEM #:** 1

**SUBMITTED BY:** Lydia Lopez, City Secretary

**ITEM DESCRIPTION:**

Approve minutes of the City Council Regular Meeting of November 21, 2022.

**STAFF RECOMMENDATION/ITEM SUMMARY:**

Attached is a draft copy of the meeting minutes. Please review and advise if any corrections are needed.

**FISCAL IMPACT:**

Amount Budgeted – N/A  
Line Item in Budget – N/A

**SUGGESTED MOTION:**

I move approval of the minutes as presented but to allow for corrections.

**ATTACHMENTS:**

Draft minutes

# HEWITT TEXAS

## CITY COUNCIL REGULAR MEETING

November 21, 2022 at 7:00 PM

Hewitt City Hall, 200 Patriot Court, Hewitt, TX 76643

## MINUTES

**Steve Fortenberry**, Mayor, Ward 3

**Michael S. Bancale**, Mayor Pro Tem, At-Large – **Charlie Turner**, Council Member, Ward 1

**Johnny Stephens**, Council Member, Ward 1 – **Johnny Price**, Council Member, Ward 2

**Bob Potter**, Council Member, Ward 2 – **Erica Bruce**, Council Member, Ward 3

### REGULAR MEETING - 7:00 PM

#### DECLARATION OF A QUORUM AND CALL TO ORDER

Mayor Steve Fortenberry called the Regular Meeting to order at 7:00 PM, and announced a quorum was present. Mayor Fortenberry mentioned the passing of Council Member Charlie Turner.

#### PLEDGE OF ALLEGIANCE

Mayor Fortenberry led the Pledge of Allegiance.

RECOGNITION OF COUNCIL MEMBER CHARLES D. "CHARLIE" TURNER † -- (This item was not listed on the printed agenda)

Mayor Steve Fortenberry acknowledged the 40 years of service Council Member Charlie Turner devoted to the City of Hewitt. A moment of silence was called in honor of Council Member Turner.

#### SPECIAL PRESENTATION(S) AND RECOGNITION(S)

**1. SPECIAL PRESENTATION BY LIBRARY DIRECTOR WAYNETTE DITTO REGARDING THE NOTIFICATION OF A GRANT AWARD FROM THE UNIVERSAL SERVICE ADMINISTRATIVE COMPANY TO FUND MOBILE HOTSPOTS AND CHROMEBOOKS.**

Library Director Waynette Ditto proudly announced the award granted in the amount of \$113,472 to fund mobile hotspots and Chromebooks to citizens who cannot afford the service.

**2. SPECIAL PRESENTATION BY LIBRARY DIRECTOR WAYNETTE DITTO REGARDING THE GRANT AWARD FUNDING FROM THE TEXAS STATE LIBRARY AND ARCHIVES COMMISSION FOR THE LIBRARY TRAILER AND NOTIFICATION OF THE HEWITT PUBLIC LIBRARY'S ACCREDITATION.**

Library Director Waynette Ditto announced the grant award of \$51,228 to fund the library trailer project. Ms. Ditto also stated that the Hewitt Public Library was accredited again. Mayor Pro Tem

Michael Bancale recognized the library staff for the hard work and dedication to seek other sources of funding and for providing excellent programs.

**PUBLIC COMMENTS**

The City Council invites citizens to speak on any topic not already scheduled for a public hearing. The Texas Open Meetings Act prohibits the Council from discussing, responding to, or acting on any comments or items not properly posted on the agenda. [Note: Members of the public who wish to speak must complete a “Public Comment Form” and present it to the City Secretary before the meeting.]

Mayor Fortenberry read the statement above and inquired if the City Secretary received any public comment forms. The City Secretary received one public comment form. Ann Schiltz, 1220 Dendron, appeared to commend city employees for making Hewitt a great place to live and to pay tribute to Council Member Charlie Turner for his service and legacy.

**REGULAR AGENDA ITEMS**

**3. APPROVE MINUTES OF THE CITY COUNCIL WORKSHOP/REGULAR MEETING OF NOVEMBER 07, 2022.**

**MOTION:** Council Member Erica Bruce moved approval of the minutes but to allow for corrections.

**SECOND:** Council Member Johnny Price

**AYES:** Bruce, Potter, Price, Stephens, Bancale, and Fortenberry

**NAYES:** None

**ABSENT:** Turner

**MOTION PASSED.**

**4. BRIEFING AND DISCUSSION CONCERNING FINANCIAL STATEMENTS ENDING OCTOBER 31, 2022.**

City Manager Bo Thomas advised that Finance Director Lee Garcia previously sent the October Financial Statements electronically for the Council to review and inquired if Council had any questions. Council raised no questions or concerns. **No action was required.**

**5. PRESENTATION OF THE REPORT FROM CITY ENGINEER MILES WHITNEY, P.E.  
UPDATE ON PENDING UTILITY PROJECTS.  
UPDATE ON PENDING STREET PROJECTS.  
UPDATE ON PENDING DRAINAGE PROJECTS.**

City Engineer Miles Whitney presented a review of the list of projects. Council took no action.

**6. AUTHORIZE THE PURCHASE OF A PIERCE FIRE ENGINE IN THE AMOUNT OF \$841,133.22 AS PER THE HOUSTON-GALVESTON AREA COUNCIL (HGAC) QUOTE.**

City Manager Bo Thomas presented.

**MOTION:** Council Member Johnny Stephens moved to approve the purchase of the Pierce Fire Engine in the amount of \$841,133.22 as per the Houston-Galveston Area Council (HGAC) quote.

**SECOND:** Mayor Pro Tem Michael Bancale

**AYES:** Bruce, Potter, Price, Stephens, Bancale, and Fortenberry

**NAYES:** None

**ABSENT:** Turner

**MOTION PASSED.**

**ADJOURNMENT**

**MOTION:** Council Member Erica Bruce moved to adjourn the meeting at 7:31 PM.

**SECOND:** Council Member Bob Potter

**AYES:** Bruce, Potter, Price, Stephens, Bancala, and Fortenberry

**NAYES:** None

**ABSENT:** Turner

**MOTION PASSED.**

Approved: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Lydia Lopez, City Secretary

\_\_\_\_\_  
Steve Fortenberry, Mayor

# HEWITT TEXAS

## COUNCIL AGENDA ITEM FORM

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**MEETING DATE:** December 5, 2022

**AGENDA ITEM #:** 2

**SUBMITTED BY:** Lydia Lopez, City Secretary

**ITEM DESCRIPTION:**

Discussion and possible action on an appointment to the Parks and Beautification Committee.

**STAFF RECOMMENDATION/ITEM SUMMARY:**

The Parks and Beatification Board has an existing vacancy. Attached is an application for board and commission service from Ryan A. NeGron. Mr. NeGron has expressed an interest in serving. He will be present for an interview.

This two-year term will expire in December 2024. Staff recommends approval.

**FISCAL IMPACT:**

Amount Budgeted – NA  
Line Item in Budget- NA

**SUGGESTED MOTION:**

I move to approve the appointment of Ryan A. Negron to the Parks and Beautification Committee, with terms expiring in December 2024.

**ATTACHMENTS:**

Application

## CITY OF HEWITT: COUNCIL, BOARDS, COMMITTEES, AND COMMISSIONS

City Hall 666-6171 (Fax 666-6014); Community Services 666-2447; Utility Billing 666-3151 (after hrs emergency 666-6272); Police Adm. 666-1661; Drug Tips 666-3333; Animal Control 666-6272; Library 666-2442; Park Reservations 666-6173; Municipal Court 666-1208; Chamber of Commerce 666-1200. City of Hewitt web site: [www.cityofhewitt.com](http://www.cityofhewitt.com); Email: [citysecretary@cityofhewitt.com](mailto:citysecretary@cityofhewitt.com)

<u>City Council</u> 2 Yr Term - May	<u>Board of Adjustment</u> 2 Yr Term - April	<u>Planning &amp; Zoning Commission</u> 2 Yr Term - June	<u>Parks &amp; Beautification Committee</u> 2 Yr Term - December	<u>Library Board of Directors</u> 2 Yr Term - December
1 <sup>st</sup> & 3 <sup>rd</sup> Mon. @ 7 pm	3 <sup>rd</sup> Thurs. @ 6 pm	1 <sup>st</sup> Tues. @ 6 pm	3 <sup>rd</sup> Wed. @ 6 pm	Quarterly as needed
<b>VACANCY</b> Ward 1 (05-2023)	Chairman (04-2024) Jim Winton 1136 Heatherwood (254) 857-9436	(06-2024) Paul D. Lasater 1112 Heatherwood (254) 716-0025	(12-2022) Jerry Snider 108 Brenda Drive (254) 307-0613	(12-2022) Jerry Snider 108 Brenda Drive (254) 307-0613
Johnny Stephens Ward 1 (05-2024) 305 Travis Lane (254) 709-3989	(04-2024) Bradley T. Turner 425 W. Chapman (254) 723-4912	(06-2024) Brian Dalrymple 821 Sunny's Halo Dr. (254) 744-9711	(12-2023) Shayla Wicks 1054 Hesselridge (254) 366-5839	(12-2023) Betty J. Smith 709 Seminole Trail (254) 666-7931
Johnny Price Ward 2 (05-2024) 115 Westchester Way (254) 709-3998	(04-2023) Douglas Bergen 264 Earle Road (254) 666-0855	(06-2024) Walter H. Peterson 500 Moss Hill Road (254) 757-5128	(12-2023) Casey Lowrey 700 Wind Hill Drive (254) 424-1266	(12-2022) Julie Holcomb 112 Travis Ln. (972) 935-4528
Bob Potter Ward 2 (05-2023) 409 W Wall Street (254) 709-3666	(04-2023) Charles Howard 155 Ellis Farm Road (254) 732-4746	(06-2023) Dustin Crawford 1001 December Dr. (903) 754-1204	(12-2023) Ann E. Schiltz 1220 Dendron Drive (254) 666-4291	(12-2022) Lydia Dashner 520 Angel Fire Drive (254) 666-9623
Erica Bruce Ward 3 (05-2023) 717 Fieldstone (254) 709-4050	(04-2023) R. Don Vardeman 432 S First Street (254) 227-4495	(06-2023) Bobby Drake 107 Westchester Way (254) 772-7440	(12-2022) Vernon Bailey 301 Tampico Drive (512) 797-6377	(12-2022) Jennifer Hunt 228 Cross Country Drive (254) 498-0102
Mayor Steve Fortenberry Ward 3 (05-2024) 701 Oakmont Drive (254) 709-0030	Alternate (04-2024) <b>VACANCY</b>	(06-2023) Michael Lee Hix 336 Bowie Lane (254) 723-5071	(12-2022) Hunter Edmundson 444 W Lindenwood Ln. (404) 518-6290	(12-2023) Ryan Erck 816 Pawnee Trl. (254) 485-6563
Mayor Pro Tem Michael S. Bancale At-Large (05-2023) 909 Stoneridge Drive (254) 709-3522	Alternate (04-2023) Royce W. Smith 1128 Regina (254) 652-3099	(06-2023) Travis Bailey 412 Oklahoma Ave. (254) 666-1492	(12-2022) <b>VACANCY</b>	(12-2023) Sally Goldman 132 Texas (254) 666-2436

Updated: 11/29/2022



# APPLICATION FOR BOARDS & COMMISSIONS TO THE CITY OF HEWITT

The City of Hewitt appreciates your interest in serving the community. A listing of the boards and commissions is found behind your application. Appointments are made during the year as vacancies occur. This is great opportunity for you to play a vital role in shaping your community.

NAME OF APPLICANT: Ryan A. NeGron

HOME ADDRESS: 137 Bonham Drive Hewitt, TX 76643

DAYTIME TELEPHONE NUMBER: 346.818.7831 E-MAIL ADDRESS: ryan.negron@invitedclubs.com

PLEASE CHECK APPROPRIATE STATEMENTS:  I reside within the city limits of Hewitt, Texas.\*  
 I do  I do not . . . own property located in Hewitt, Texas.

\* **IMPORTANT** - - By checking this box and signing this form, you are indicating that your legal residence or domicile - your home and fixed place of habitation to which you intend to return after any temporary absence - is located within the city limits of Hewitt, Texas.

LENGTH OF TIME APPLICANT HAS RESIDED IN THE HEWITT CITY LIMITS: 0 yrs 2 months

PLEASE INDICATE BELOW HOW YOU WOULD LIKE TO SERVE THE CITY OF HEWITT. (**IMPORTANT**: IF MORE THAN ONE AREA IS INDICATED, **NUMBER YOUR PREFERENCES** WITH "1" BEING YOUR FIRST CHOICE, "2" BEING YOUR SECOND CHOICE, ETC.). PLEASE SEE REVERSE SIDE FOR DESCRIPTIVE INFORMATION.

- 1 Board of Adjustment (must be resident and owner of property in Hewitt)
- Civil Service Commission (must be resident of Hewitt)
- Library Board (must be resident of Hewitt)
- 2 Parks and Beautification Committee (must be resident of Hewitt)
- Planning and Zoning Commission (must be resident and owner of property in Hewitt)

OTHER WAYS YOU SERVE YOUR COMMUNITY: Hewitt Chamber Ambassador - Waco Chamber - Religious Organization Volunteer

SPECIAL INTERESTS/SKILLS/EXPERIENCE/EDUCATION YOU FEEL MAY BE HELPFUL: Previously served in similar positions within organizations - Sr Role in Student Body Government Organizations at West Texas A&M University. Various Leadership positions within Waco.

OCCUPATION/EMPLOYER: Baylor Club (ClubCorp) - Director of Membership

REFERENCES (MUST BE HEWITT RESIDENTS): Mercy NeGron TELEPHONE #: 832.349.1164

TELEPHONE #: \_\_\_\_\_

SIGNATURE OF APPLICANT:  DATE: 11/16/2022

**Return Application to:**  
**Lydia Lopez, City Secretary**  
**200 Patriot Court**  
**Hewitt, Texas 76643**  
**Phone: 254-296-5602 - Fax: 254-666-6014**  
**Email: [citysecretary@cityofhewitt.com](mailto:citysecretary@cityofhewitt.com)**

**OFFICE USE ONLY**

Date interviewed by Council: \_\_\_\_\_  
Date appointed by Council: \_\_\_\_\_  
Date sworn in by Council: \_\_\_\_\_  
Reappointed: \_\_\_\_\_

Term to expire: \_\_\_\_\_  
Term to expire: \_\_\_\_\_

Revised: April 9, 2021

## VOLUNTEER SERVICE TO THE HEWITT COMMUNITY

Our community today is a product of the efforts of many dedicated residents who have worked hard to provide a quality environment. This is a result of caring, dedicated citizens who shared their time, expertise and vision. Your city government is governed at the most basic, responsive grass roots level where citizens directly participate in shaping their own future. The City Council members (all of whom are volunteers) solicit the participation of residents who want to serve and play an important role in Hewitt's future.

Prior to appointment to the various boards and commissions, it is recommended that the candidate become familiar with the duties and responsibilities of the appointment being sought by attending at least one meeting of the group to which appointment is being requested.

There are currently five established boards and commissions:

The **Board of Adjustment** addresses appeals filed with the City regarding application, interpretation, or reasonableness of certain ordinances or administrative decisions pertaining to zoning, variances for non-conforming uses of real property, appeals and variances regarding administration and provisions of flood damage control ordinances, etc. The Board of Adjustment has five regular members and two alternates who are normally appointed for two year terms. There is no regular meeting schedule as this board meets only when necessary. Members and alternates must be residents of and own real property in Hewitt.\*

The **Civil Service Commission** is responsible for adopting, maintaining and enforcing the City of Hewitt Police Officers' Rules and Regulations which govern the hiring and promotional process and serves as a disciplinary appeal board for civil service police officers in the Hewitt Police Department. The Commission is comprised of three commissioners appointed by the City Manager and confirmed by the Hewitt City Council. The commissioners serve staggered, three-year terms. The Commission meets on a called basis as needed. Members must be residents of Hewitt.\*

The **Library Board** is an advisory body to the Council on all matters related to the development, expansion and operation of the Library System. Members serve a two-year term. This board meets quarterly as needed. Members must be residents of Hewitt.\*

The **Parks & Beautification Committee** is an advisory body to the City Council on all matters relating to parks and recreational facilities in Hewitt. The Parks & Beautification Committee members serve a two-year term. Meetings are usually held on the bi-monthly on the second Wednesday of the month at 6:00 p.m., with occasional special meetings and projects held throughout the year. Members must be residents of Hewitt.\*

The **Planning & Zoning Commission** acts on a wide variety of issues including zoning, platting of subdivisions, special use permits, long range planning and development, etc. The Commission also conducts public hearings which might be required for citizen input, and develops and recommends planning and zoning ordinances to the City Council when appropriate. Appointments are for three-year terms. Meetings are held on the first Tuesday of each month at 6:00 p.m. Members must be residents of Hewitt and must own real property within the city.\*

*\* Please review description of "legal residence" on other side.*

# HEWITT TEXAS

## COUNCIL AGENDA ITEM FORM

---

**MEETING DATE:** December 5, 2022

**AGENDA ITEM #:** 3

**SUBMITTED BY:** Lydia Lopez, City Secretary

**ITEM DESCRIPTION:**

Discussion and possible action on reappointments to the Parks & Beautification Committee and the Library Board of Directors.

**STAFF RECOMMENDATION/ITEM SUMMARY:**

The terms of Jerry Snider and Vernon Bailey who serve on the Parks and Beautification Committee, expire in December 2022. They have committed to serving another two-year term. All members are in good standing, and the staff recommends the approval of these individuals.

The terms of Jerry Snider, Julie Holcomb, Jennifer Hunt, and Lydia Dashner, who serve on the Library Board expire in December 2022. All have committed to serving another two-year term.

Staff recommends approval.

**FISCAL IMPACT:**

Amount Budgeted – NA  
Line Item in Budget- NA

**SUGGESTED MOTION:**

I move to approve the reappointments of Jerry Snider, and Vernon Bailey to the Parks and Beautification Committee with terms expiring in December 2024, and I also move to approve the reappointments of Jerry Snider, Julie Holcomb, Jennifer Hunt, and Lydia Dashner to the Library Board for a two-year term ending in December 2024.

**ATTACHMENTS:**

Current list of Council, Boards, Committees, and Commissions Board

## CITY OF HEWITT: COUNCIL, BOARDS, COMMITTEES, AND COMMISSIONS

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<u>City Council</u> <u>2 Yr Term - May</u>	<u>Board of Adjustment</u> <u>2 Yr Term - April</u>	<u>Planning &amp; Zoning</u> <u>Commission</u> <u>2 Yr Term - June</u>	<u>Parks &amp; Beautification</u> <u>Committee</u> <u>2 Yr Term - December</u>	<u>Library Board of</u> <u>Directors</u> <u>2 Yr Term - December</u>
<b>1<sup>st</sup> &amp; 3<sup>rd</sup> Mon. @ 7 pm</b>	<b>3<sup>rd</sup> Thurs. @ 6 pm</b>	<b>1<sup>st</sup> Tues. @ 6 pm</b>	<b>3<sup>rd</sup> Wed. @ 6 pm</b>	<b>Quarterly as needed</b>
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Updated: 11/29/2022

# HEWITT TEXAS

## COUNCIL AGENDA ITEM FORM

---

**MEETING DATE:** December 5, 2022

**AGENDA ITEM #:** 4

**SUBMITTED BY:** Lee Garcia, Finance Director

**ITEM DESCRIPTION:**

Discussion and possible action on **Resolution No. 2022-16** adopting the City of Hewitt's ARPA "American Rescue Plan Act"/Federal Procurement Policies and Procedures.

**STAFF RECOMMENDATION/ITEM SUMMARY:**

GrantWorks, the City's administrator for the ARPA funds, has requested the city add a policy for federal funds, specifically the ARPA funds. This policy includes the federal laws that come into play when federal funds are involved. We have been assured that the City has been in ARPA compliance, primarily since GrantWorks assisted in procuring the engineer for the project and followed all federal procurement requirements. Staff recommends adoption of the proposed policy.

**FISCAL IMPACT:**

Amount Budgeted – n/a  
Line Item in Budget – n/a

**SUGGESTED MOTION:**

I move to approve Resolution No. 2022-16 adopting the City of Hewitt's ARPA "American Rescue Plan Act"/Federal Procurement Policies and Procedures.

**ATTACHMENTS:**

Resolution No. 2022-16 dated 12-6-2022  
ARPA /Federal Procurement Policies and Procedures

**RESOLUTION NO. 2022-16**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF HEWITT, TEXAS APPROVING THE CITY OF HEWITT ARPA/FEDERAL PROCUREMENT POLICIES AND PROCEDURES; AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND HAS BEEN OPEN TO THE PUBLIC AS REQUIRED BY LAW**

**WHEREAS**, GrantWorks, the City’s ARPA Administration Advisors, have requested and assisted with the City’s ARPA/Federal Procurement Policies and Procedures.

**WHEREAS**, the City Manager, and the Finance Director, have reviewed the ARPA/Federal Procurement Policies and Procedures and are in agreement that it is of benefit to the City of Hewitt.

**WHEREAS**, the attached ARPA/Federal Procurement Policies and Procedures complies with the numerous federal laws relating to the administration of the federal funds distributed thru the American Rescue Plan Act, or “ARPA”.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HEWITT, TEXAS:**

**SECTION 1.** The facts and recitations contained in the above preamble of this Resolution are hereby incorporated for all purposes.

**SECTION 2.** The City Council of the City of Hewitt approves the policy (as shown in the attached Exhibit A) and is hereby adopted by the City of Hewitt to be effective immediately.

**SECTION 3.** It is hereby officially found and determined that the meeting at which this resolution is passed was noticed and has been open to the public as required by law.

**PASSED AND APPROVED** this the 5th day of December 2022.

**CITY OF HEWITT, TEXAS**

\_\_\_\_\_  
Steve Fortenberry, Mayor

ATTEST:

\_\_\_\_\_  
Lydia Lopez, City Secretary

**APPROVED AS TO FORM & LEGALITY:**

\_\_\_\_\_  
Michael W. Dixon, City Attorney



**ARPA / FEDERAL PROCUREMENT POLICIES and PROCEDURES**

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The City of Hewitt follows the procurement standards in 2 CFR 200-318 – 2 CFR 200.327 and Appendix II to Part 200 for procurement actions to be funded with Federal Funds. The funds received thru the American Rescue Plan Act "ARPA" are federal funds. All attempts are made to adhere to these policies and procedures and updates are made as needed. The entirety of the language may not be applicable in all instances, programs, and/or situations. To be consistent with section 2 CFR 200.318 (a) below; should the State of Texas applicable codes for local governments include more stringent requirements, the more stringent requirements will apply.

## A. PROCUREMENT STANDARDS

### 1. GENERAL

(Uniform Guidance 2.A.II.200.D§200.318)

- The City must use its own documented procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.
- The City must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. The City will determine that contractual reporting and performance requirements specific to Federal funds recipients are included in procurement documents; tracked and passed-through, as applicable, to awarded vendors, contractors, subrecipients, beneficiaries and subcontractors.
- No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the City may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontract.

- The City's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives and any other appropriate analysis to determine the most economical approach.
- To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the City will enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.
- The City will use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
- The City will use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.
- The City will award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
- The City will maintain records sufficient to detail the history of procurement. These records will include but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- The City may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract mean a contract whose cost to a City is the sum of the actual cost of materials and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

- Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the City must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.
- In accordance with good administrative practice and sound business judgment, the City is responsible for the settlement of all contractual and administrative issues arising out of procurements. These issues include but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the City of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the City unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

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## 2. COMPETITION

(Uniform Guidance 2.A.II.200.D§200.319)

- All procurement transactions must be conducted in a manner providing full and open competition. In order to ensure objective contractor performance and eliminate unfair competitive advantage, some of the situations considered to be restrictive of competition include but are not limited to:
  - Placing unreasonable requirements on firms in order for them to qualify to do business;
  - Requiring unnecessary experience and excessive bonding;
  - Noncompetitive pricing practices between firms or between affiliated companies;
  - Noncompetitive contracts to consultants that are on retainer contracts;
  - Organizational conflicts of interest;

- Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
  - Any arbitrary action in the procurement process.
- The City will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
- Procurement of Goods and Services Policies and Procedures. These procedures ensure that all solicitations:
  - Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and
  - Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

- The City must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the City must not preclude potential bidders from qualifying during the solicitation period.

### 3. METHODS OF PROCUREMENT

(Uniform Guidance 2.A.II.200.D§200.320)

The City must use one of the following methods of procurement:

#### A) MICRO-PURCHASES

Procurement by micro-purchase is the acquisition of supplies or services in which the aggregate dollar amount of which does not exceed the micro-purchase threshold as set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1. To the extent practicable, the City must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the City considers the price to be reasonable.

#### B) SMALL PURCHASE PROCEDURES

Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold as set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

#### C) SEALED BIDS (FORMAL ADVERTISING)

Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction.

In order for sealed bidding to be feasible, the following conditions should be present:

- A complete, adequate, and realistic specification or purchase description is available;
- Two or more responsible bidders are willing and able to compete effectively for the business; and
- The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

If sealed bids are used, the following requirements apply:

- Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, and the invitation for bids must be publicly advertised;
- The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services for the bidder to properly respond;
- All bids will be opened at the time and place prescribed in the invitation for bids and the bids must be opened publicly;
- A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- Any or all bids may be rejected if there is a sound documented reason.

#### D) COMPETITIVE PROPOSALS

The technique of competitive proposals is normally conducted with more than one source submitting an offer and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when

conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- Proposals must be solicited from an adequate number of qualified sources;
- The City must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
- Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
- The City may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

#### E) NONCOMPETITIVE PROPOSALS

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- The item is available only from a single source;
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

- The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the City; or
- After solicitation of several sources, competition is determined inadequate.

#### 4. CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

(Uniform Guidance 2.A.II.200.D§200.321)

The City must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

Affirmative steps must include:

- Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above.



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## 5. DOMESTIC PREFERENCES FOR PROCUREMENTS

As appropriate and to the extent consistent with law, the City should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. The requirements of this section must be included in all sub-awards including all contracts and purchase orders for work or products under this award.

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## 6. RECOVERED MATERIALS

(Uniform Guidance 2.A.II.200.D§200.322)

The City and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

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## 7. CONTRACT COST AND PRICE

(Uniform Guidance 2.A.II.200.D§200.323)

The City must perform a cost or price analysis in connection with every procurement action in excess of the simplified acquisition threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the City must make independent estimates before receiving bids or proposals.

The City must negotiate profit as a separate element of the price for each contract in which there is no price competition and, in all cases, where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne

by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred, or cost estimates included in negotiated prices would be allowable for the City under Uniform Guidance Title 2, Subtitle A, Chapter II, Part 200, Subpart E. The City may reference its own cost principles that comply with the Federal cost principles.

The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

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#### 8. FEDERAL AWARDING AGENCY OR PASS-THROUGH ENTITY REVIEW

(Uniform Guidance 2.A.II.200.D§200.324)

The City must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the City desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

The City must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

- The City's procurement procedures or operation fails to comply with the procurement standards in this part;
- The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
- The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;

- The proposed contract is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
- A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.
- The City is exempt from the pre-procurement review if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this section.
  - The City may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third-party contracts are awarded on a regular basis;

The City may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the City that it is complying with these standards. The City must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

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## 9. BONDING REQUIREMENTS

(Uniform Guidance 2.A.II.200.D§200.325)

For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the City provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

- A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

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## 10. CONTRACT PROVISIONS

(Uniform Guidance 2.A.II.200.D§200.326)

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the City under the Federal award must contain provisions covering the following, as applicable.

A) CONTRACTS FOR MORE THAN THE SIMPLIFIED ACQUISITION THRESHOLD

Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

B) CONTRACTS IN EXCESS OF \$10,000

All contracts in excess of \$10,000 must address termination for cause and for convenience by the City including the manner by which it will be effected and the basis for settlement.

C) EQUAL EMPLOYMENT OPPORTUNITY

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b) in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246, Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

D) DAVIS-BACON ACT

When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by Cities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage

determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The City must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The City must report all suspected or reported violations to the Federal awarding agency.

E) COPELAND “ANTI-KICKBACK” ACT

The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145; 29 CFR Part 3). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The City must report all suspected or reported violations to the Federal awarding agency.

F) CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Where applicable, all contracts awarded by the City in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

G) RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

H) CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

I) DEBARMENT AND SUSPENSION

A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

All prime vendors, contractors, and subcontractors must be verified that they are registered and active through the SAM.com website prior to any formal action authorizing the award of the contract which is being paid with ARPA funds. The City must follow the requirements of the RFP and/or if the City determines it is in their best interest, a “conditional award” requiring registration and active status on SAM.gov could be utilized prior to formal action of executing a contract.

All prime vendors, contractors and subcontractors that enter into a subcontractor agreement after the date of the initial award, will also be responsible to ensure lower-tier contractors are not excluded or disqualified.

J) BYRD ANTI-LOBBYING AMENDMENT

Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

K) PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

Recipients and sub recipients are prohibited from obligating or expending grant funds to purchase or enter a contract to procure or lease for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure and video surveillance, any telecommunications equipment produced by an entity that the Secretary of Defense has determined to be an entity owned or controlled by the government of a covered foreign country. Public Law 115-232; 200.471.



### III. GLOSSARY

**Agreement** – A contractual agreement between a property owner and/or lessee and the City.

**Architect** – An individual registered as an architect under Chapter 1051, Occupations Code.

**Award** – The acceptance of a bid or proposal; the presentation of a purchase agreement or contract to a bidder.

**Bid** – The executed document submitted by a bidder in response to an Invitation for Bids, a Request for Quotations or a multi-step bidding procedure.

**Bid Bond** – An insurance agreement in which a third party agrees to be liable to pay a certain amount of money in the event a specific bidder fails to accept the contract as bid.

**Bidder** – Any person submitting a competitive bid in response to a solicitation.

**Change Order/Modification** – A change in plans or specifications that is necessary after the performance of a contract has begun, or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished. This may also include changes in the terms and conditions as defined by contract documents. The original contract price may not be increased by more than 25%. The original contract price may not be decreased by more than 25% without the consent of the contractor (Local Government Code § 252.048(D)).

**Check** – Draft or order on a bank, to be drawn upon a deposit of funds for the payment of a certain sum of money to a person named or to a bearer, and payable on demand.

**City Manager** – All references to the City Manager are understood to be the City Manager or designee.

**Conflict of Interest** – A situation where the personal interests of a contractor, public official, or employee are, or appear to be, at odds with the best interest of the city.

**Consideration** – Acts, promises, or things of value exchanged by two parties that validates a contract between them.

**Construction (Work)** – The process of building, altering, or repairing a public structure or building, or other improvements to any public real property. It does not include routine operation, routine repair or routine maintenance of existing structures, buildings or real property. A project usually requiring the services of an architect or engineer.

**Contract** – A deliberate verbal or written agreement between two or more competent persons to perform or not to perform a specific act or acts.

**Contractor** – A bidder, offeror, or respondent who has entered into a contract with the City.

**Deposit** – To leave money with a bank for credit to a bank account.

**Emergency** – Emergency purchases are made to meet critical, unforeseen City need. Because the City’s ability to serve the public would be impaired if purchases are not made immediately, emergency purchases are exempt from standard Finance procedures.

**Equipment** – Includes unsecured property of significant value having a useful life of five years or more. For purposes of these procedures, equipment items with a value of \$7,500 or more are to be capitalized.

**Evaluation of Bid** – The process of examining a bid after opening to determine the bidder’s responsibility, responsiveness to requirements, and to ascertain other characteristics of the bid that relate to determination of the successful bidder.

**Facility** – An improvement to real property.

**Firm Bid** – A bid that binds the bidder until a stipulated time of expiration.

**Fiscal Year** – A period of 12 consecutive months selected as a basis for annual financial reporting, planning, or budgeting.

**Formal Advertising** – The placement of a notice in a newspaper or other publication according to legal requirements to inform the public that the government is requesting bids on a specific purchase it intends to make.

**Guarantee** – To warrant, stand behind, or insure performance or quality, as a supplier in relation to his product; a warranty.

**Improvement** – A permanent building, structure, fixture, or fence that is erected on or affixed to land but does not include a transportable building or structure whether or not it is affixed to land.

**Invitation for Bids** – The solicitation document used for competitive sealed bidding, the customary method used by state and local governments for the purchase of equipment, materials, supplies, and construction.

**Lease** – A contract conveying from one person (lessor) to another (lessee) use of real estate or personal property from a designated period of time in return for rental payment or other compensation.

**Lowest (Responsive and) Responsible Bidder** – Originally, the bidder submitting the lowest initial price and capable of performing the proposed contract. Under modern Finance concepts, often construed as generally the same as “lowest responsive and responsible bidder,” or the bidder who submits the “Lowest and best bid” or the “most advantageous bid, price, and other factors considered.” For clarity and accuracy, the recommended provision for determining award is the “responsible bidder whose bid is most economical for the purpose intended, according to criteria

set forth in the solicitation.”

**Lump Sum** – A single price as requested or offered on a solicitation for a group of items, without or in addition to individual item prices; a lot price.

**Materials** – Items required to perform a function or used in a manufacturing process, particularly those incorporated into an end product or consumed in its manufacture.

**Negotiable Instrument** – Written promise to pay (such as a check, promissory note, draft, or bill of exchange) made payable to order or to bearer and transferred by endorsement.

**Performance Bond** – A contract of guaranty executed subsequent to award by a successful bidder to protect the government from loss due to contractor inability to complete the contract as agreed.

**Procurement Process** – The process used to define, establish, and finalize a purchase that will satisfy the department’s needs. This includes defining the need, selecting the procurement method, the solicitation issuance, receipt of proposals/bids, evaluation and award, inspection and acceptance, payment, contract administration, and end of contract cycle.

**Professional Services** – Professional services means services: (A) within the scope of the practice, as defined by state law of finance; architecture; landscape architect; land surveying; medicine, optometry; professional engineering; real estate appraisal; or professional nursing; or (B) provided in connection with the professional employment or practice of a person who is licensed or registered as a certified public accountant; an architect; landscape architect; a land surveyor; a physician, including surgeon; an optometrist; a professional engineer; a state certified or state licensed real estate appraiser; or a registered nurse.

**Proposal** – The executed document submitted by an offerer in response to a Request for Proposal (and the basis for subsequent negotiation).

**Purchase Description** – The words used in a solicitation to describe the supplies, services, or construction to be purchased and includes specification attached to, or made part of, the solicitation.

**Purchase Order (PO)** – A purchaser’s document to formalize a purchase transaction with a vendor. The purchase order should contain statements as to the quantity, description, and price of the goods or services ordered; applicable terms as to payment, discounts, date of performance and transportation; and other factors or suitable references pertinent to the purchase and its execution by the vendor. Acceptance of a purchase order constitutes a contract.

**Quotation** – A statement of price, terms of sale, and description of goods or services offered by a prospective seller to a prospective purchaser, usually for purchases below the amount requiring formal bidding.

**Responsible** – The respondent has the capability to fully perform and deliver in accordance with

the contract requirements. The City may include past performance, financial capabilities, and business management as criteria for determining if a respondent is capable of satisfying the contract requirements. For purchases requiring City Council approval, non-responsibility determination is a legislative action and final determination is made by City Council.

**Responsive** – The respondent has complied with all material aspects of the solicitation document, including submission of all required documents.

**Sealed Bid** – A bid which has been submitted in a sealed envelope to prevent its contents being revealed or known before the deadline for the submission of all bids; usually required by law or rule on major procurements, to enhance fair competition.

**Services** – The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance.

**Simplified Acquisition Threshold** – The dollar amount below which a City may purchase property or services using small purchase methods. The simplified acquisition threshold is set by the Federal Acquisition Regulation at CFR Subpart 2.1 and in accordance with 41 U.S.C. 1908.

**Solicitation** – The process of notifying prospective bidders that the city wishes to receive bids for furnishing goods or services. The process consists of public advertising, mailing Invitations for Bids, and some contact of bidders by telephone.

**Specification** – A description of what the purchaser seeks to buy, and consequently, what a bidder must be responsive to in order to be considered for award of a contract. A specification may be a description of the physical or functional characteristics, or the nature of, a supply or service. It may include a description of any requirements for inspecting, testing, or preparing a supply or service item for delivery.

**Standard** – A characteristic or set of characteristics for an item that, for reasons of performance level, compatibility or interchange ability with other products is generally accepted by producers and users as a required characteristic.

**Supplier** – An actual or potential contractor; a vendor.

**Surplus Property** – Inventory not needed at the present time or in the foreseeable future.

**Value** – The original cost of the purchased capital asset or market value at the time of acquisition for assets acquired through other means. If the original cost cannot be readily determined, an estimated original cost should be used. Value includes not only purchase price or construction cost, but also ancillary charges to put the asset in its intended location and condition for use, such as freight, transportation, site preparation, installation, professional fees, and legal claims directly attributed to asset acquisition.

**Vendor** – A business entity or individual that has a desire to provide goods or services to the City. A vendor may be referred to as a bidder, offeror, or respondent.

# HEWITT TEXAS

## COUNCIL AGENDA ITEM FORM

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**MEETING DATE:** December 5, 2022

**AGENDA ITEM #:** 5

**SUBMITTED BY:** Lee Garcia, Finance Director

**ITEM DESCRIPTION:**

Discussion and possible action on **Resolution No. 2022-17** amending and adopting the City of Hewitt's Investment Policy.

**STAFF RECOMMENDATION/ITEM SUMMARY:**

The City's Investment Policy shall be reviewed and adopted at least annually by resolution of the City Council. The City Council shall review and approve the Policy and investment strategies annually, approving any changes or modifications, at a legally scheduled meeting.

The changes for the proposed policy are all the same action. Beginning on page 3, Investment Strategies by Fund Type, item 1, item 2, item 3 and item 4 have had the Liquidity paragraph moved to appear before the Marketability paragraph. No other changes to the policy were made.

Staff recommends adoption of the proposed Investment Policy.

**FISCAL IMPACT:**

Amount Budgeted – n/a  
Line Item in Budget – n/a

**SUGGESTED MOTION:**

I move to approve Resolution No. 2022-17 amending and adopting the City of Hewitt's Investment Policy.

**ATTACHMENTS:**

Resolution No. 2022-17 dated 12-5-2022  
Proposed Investment Policy  
Current Investment Policy

**RESOLUTION NO. 2022-17****A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF HEWITT, TEXAS, AMENDING AND APPROVING THE CITY OF HEWITT INVESTMENT POLICY; AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND HAS BEEN OPEN TO THE PUBLIC AS REQUIRED BY LAW**

**WHEREAS**, the Hewitt City Council adopted an Investment Policy governing investment of City funds in compliance with the Public Funds Investment Act; and

**WHEREAS**, the Public Funds Investment Act requires that an annual review of public fund investment policies and strategies be conducted; and

**WHEREAS**, amendments to the Investment Policy are required by the Public Funds Investment Act to be approved by the Hewitt City Council; and

**WHEREAS**, the City's Investment Advisors, the City Manager, and the Finance Director, have reviewed the Investment Policy and are in agreement that it is of benefit to the City of Hewitt to amend the Investment Policy; and

**WHEREAS**, the attached Investment Policy amends the City's former Investment Policy and complies with the Public Funds Investment Act, and authorizes the investment of City funds in safe and prudent investments.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HEWITT, TEXAS:**

**SECTION 1.** The facts and recitations contained in the above preamble of this Resolution are hereby incorporated for all purposes.

**SECTION 2.** The City Council of the City of Hewitt approves the revised investment policy (as shown in the attached Exhibit A) and is hereby adopted by the City of Hewitt to be effective immediately.

**SECTION 3.** It is hereby officially found and determined that the meeting at which this resolution is passed was noticed and has been open to the public as required by law.

**PASSED AND APPROVED** this 5th day of December, 2022.

**CITY OF HEWITT, TEXAS**

\_\_\_\_\_  
Steve Fortenberry, Mayor

ATTEST:

\_\_\_\_\_  
Lydia Lopez, City Secretary

**APPROVED AS TO FORM & LEGALITY:**

\_\_\_\_\_  
Michael W. Dixon, City Attorney

**INVESTMENT POLICY  
CITY OF HEWITT  
Approved by City Council  
December 5, 2022**

**I. POLICY**

It is the policy of the City of Hewitt (the “City”) that after allowing for the anticipated cash flow requirements of the City and giving due consideration to the safety and risk of investment, all available funds shall be invested in conformance with these legal and administrative guidelines, seeking to achieve reasonable interest earnings based on market conditions.

Effective cash management is recognized as essential to good fiscal management. Investment interest is a source of revenue to City funds. The City’s investment portfolio shall be designed and managed in a manner intended to maximize this revenue source, to be responsive to public trust, and to be in compliance with legal requirements and limitations.

Investments shall be made with the primary objectives of:

- \* **Safety** and preservation of principal
- \* Maintenance of sufficient **liquidity** to meet operating needs
- \* **Diversification** to minimize market risks
- \* **Public trust** from prudent investment activities
- \* Achievement of **reasonable interest earnings**

**II. PURPOSE**

The purpose of this Investment Policy is to establish guidelines and policies controlling the investment of the City’s funds. The Policy is designed to comply with Chapter 2256 of the Texas Government Code, the Public Funds Investment Act, (the “Act”), which requires the City to adopt a written Investment Policy regarding the investment of its funds and funds under its control. This Investment Policy addresses the methods, procedures and practices that must be exercised to ensure effective and judicious fiscal management of the City’s funds. All investments shall be designed and managed in a manner responsive to the public trust and consistent with state and local law.

All participants in the City’s investment process shall seek to act responsibly as custodians of the public trust. Investment Officers shall avoid any transaction that might impair public confidence in the City’s ability to govern effectively.



### III. SCOPE

This Policy shall govern the investment of all financial assets of the City. All funds accounted for in the City's Annual Comprehensive Financial Report (ACFR) are to be governed by this Policy and include:

- General Fund
- Capital Projects Funds
- Enterprise Funds
- Debt Service Funds, including reserves and sinking funds
- Any new fund created by the City, unless specifically exempted from this Policy by law

This Policy shall apply to all transactions involving the financial assets and related activity for all the foregoing funds.

### IV. INVESTMENT OBJECTIVES AND STRATEGIES

The City shall manage and invest its cash with five primary objectives, listed in order of priority: **safety, liquidity, diversification, public trust, and yield.** The safety of the principal invested will represent the primary objective.

The City shall maintain a comprehensive cash management program, which includes timely collection of account receivables, timely payments to vendors in accordance with invoice and available discount terms, and prudent investment of all assets.

Attention to cash management principles will assure that cash is available when needed and all funds will be invested to obtain the best use of City assets to obtain a reasonable market rate of earnings.

The City shall maintain a "buy and hold" portfolio strategy. Maturity dates are to be matched with cash flow requirements and investments purchased with the intent to be held until maturity. Investments shall not be sold or redeemed prior to maturity with the following exceptions:

- An investment with declining credit may be sold or redeemed early to minimize loss of principal, or
- Liquidity needs of the portfolio require that the investment be sold or redeemed.

#### **Safety [PFIA 2256.005(b)(2)]**

Safety of principal is the foremost objective of the City's investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital throughout the portfolio. Safety will be attained through mitigating credit and interest rate risk.

- Credit Risk – The City will minimize credit risk, the risk of loss due to the failure of the issuer or backer of the investment, by purchasing high credit quality securities and diversifying the investment portfolio by market sector and maturity so that potential losses on individual issuers will be minimized.
- Interest Rate Risk – The City will minimize the realized risk that the market value of investments in the portfolio will fall due to changes in general interest rates by analyzing cash flow and investing within the parameters of that cash flow and diversifying by market sector and maturity.

### **Liquidity [PFLA 2256.005(b)(2)]**

The investment portfolio shall remain sufficiently liquid to meet all anticipated operating requirements by structuring the portfolio maturities with cash needs to meet anticipated demands. Because all possible cash demands cannot be anticipated, a portion of the portfolio will be invested in cash equivalent alternatives such as financial institution deposits, money market mutual funds, and local government investment pools that offer same-day liquidity.

### **Diversification**

The portfolio will be diversified by investment types and maturity to avoid market risks and issuer default, as appropriate.

### **Public Trust**

All participants in the City's investment process shall act responsibly as custodians of the public trust. Investment Officers shall avoid any transaction which might impair public confidence in the City's ability to govern effectively.

### **Yield (Optimization of Interest Earnings) [PFLA 2256.005(b)(3)]**

The investment portfolio shall be designed with the objective of attaining a reasonable market yield at all times, taking into account the investment risk constraints and liquidity needs of the City. Return on investment is of lesser importance compared to the safety and liquidity objectives described above.

### **Investment Strategies by Fund Type:**

#### **1. General, Enterprise, or Operating-type Funds**

**Suitability** – Any investment eligible in the Investment Policy is suitable for General, Enterprise, or Operating-type funds.

**Safety of Principal** – All investments shall be of high quality with no perceived default risk. Market price fluctuations will occur. However, managing the weighted average days to maturity of each fund’s portfolio to less than 270 days and restricting the maximum allowable maturity to two years will minimize the price volatility of the portfolio.

**Liquidity** – General, Enterprise, or Operating-type Funds require the greatest short-term liquidity of any of the fund-types. Financial institution deposit accounts, short-term investment pools and money market mutual funds will provide daily liquidity and may be utilized as a competitive yield alternative to fixed maturity investments.

**Marketability** – Securities with active and efficient secondary markets are necessary in the event of an unanticipated cash flow requirement. Historical market “spreads” between the bid and offer prices of a particular security-type of less than ten basis points will define an efficient secondary market.

**Diversification** – Investment maturities should be staggered throughout the budget cycle to provide cash flow based on the anticipated operating needs of the City. Diversifying the appropriate maturity structure up to the two-year maximum will reduce interest rate risk.

**Yield** - Attaining a competitive market yield for comparable security-types and portfolio restrictions is the desired objective. The yield of an equally weighted, rolling three-month Treasury-Bill portfolio will be the minimum yield objective.

## 2. Capital Projects Funds

**Suitability** – Any investment eligible in the Investment Policy is suitable for Capital Projects Funds.

**Safety of Principal** – All investments will be of high quality with no perceived default risk. Market price fluctuations will occur. However, by managing Capital Projects Funds to not exceed the anticipated expenditure schedule, the market risk of the overall portfolio will be minimized. No stated final investment maturity shall exceed the shorter of the anticipated expenditure schedule or three years.

**Liquidity** – Most capital projects programs have reasonably predictable draw down schedules. Therefore, investment maturities should generally follow the anticipated cash flow requirements. Financial institution deposit accounts, short term investment pools and money market mutual funds will provide readily available funds generally equal to one month’s anticipated cash flow needs, or a competitive yield alternative for short-term fixed maturity investments. A

singular repurchase agreement may be utilized if disbursements are allowed in the amount necessary to satisfy any expenditure request. This investment structure is commonly referred to as a flexible repurchase agreement.

**Marketability** – Securities with active and efficient secondary markets are necessary in the event of an unanticipated cash flow requirement. Historical market “spreads” between the bid and offer prices of a particular security-type of less than ten basis points will define an efficient secondary market.

**Diversification** – Market conditions and arbitrage regulations influence the attractiveness of staggering the maturity of fixed rate investments for bond proceeds. Generally, if investment rates exceed the applicable cost of borrowing, the City is best served by locking in most investments. If the cost of borrowing cannot be exceeded, then current market conditions will determine the attractiveness of diversifying maturities or investing in shorter and larger amounts. At no time shall the anticipated expenditure schedule be exceeded in an attempt to bolster yield.

**Yield** – Achieving a positive spread to the cost of borrowing is the desired objective, within the limits of the Investment Policy’s risk constraints. The yield of an equally weighted, rolling six-month Treasury-Bill portfolio will be the minimum yield objective for non-borrowed funds.

### 3. Debt Service Funds

**Suitability** – Any investment eligible in the Investment Policy is suitable for Debt Service Funds.

**Safety of Principal** – All investments shall be of high quality with no perceived default risk. Market price fluctuations will occur. However, by managing Debt Service Funds to not exceed the debt service payment schedule the market risk of the overall portfolio will be minimized.

**Liquidity** – Debt Service Funds have predictable payment schedules. Therefore, investment maturities should not exceed the anticipated cash flow requirements. Financial institution deposit accounts, short term investments pools and money market mutual funds may provide a competitive yield alternative for short-term fixed maturity investments. A singular repurchase agreement may be utilized if disbursements are allowed in the amount necessary to satisfy any debt service payment. This investment structure is commonly referred to as a flexible repurchase agreement.

**Marketability** – Securities with active and efficient secondary markets are not necessary as the event of an unanticipated cash flow requirement is not probable.

**Diversification** – Market conditions influence the attractiveness of fully extending maturity to the next “unfunded” payment date. Generally, if investment rates are anticipated to decrease over time, the City is best served by locking in most investments. If the interest rates are potentially rising, then investing in shorter and larger amounts may provide advantage. At no time shall the debt service schedule be exceeded in an attempt to bolster yield.

**Yield** – Attaining a competitive market yield for comparable security-types and portfolio restrictions is the desired objective. The yield of an equally weighted, rolling three-month Treasury-Bill portfolio shall be the minimum yield objective.

#### 4. Debt Service Reserve Funds

**Suitability** – Any investment eligible in the Investment Policy is suitable for Debt Service Reserve Funds. Bond resolution and loan documentation constraints and insurance company restrictions may create specific considerations in addition to the Investment Policy.

**Safety of Principal** – All investments shall be of high quality with no perceived default risk. Market price fluctuations will occur. However, by managing Debt Service Reserve Fund maturities to not exceed the call provisions of the borrowing will reduce the investment’s market risk if the City’s debt is redeemed and the Reserve Fund liquidated. No stated final investment maturity shall exceed the shorter of the final maturity of the borrowing or five years. Annual mark-to-market requirements or specific maturity and average life limitations within the borrowing’s documentation will influence the attractiveness of market risk and influence maturity extension.

**Liquidity** – Debt Service Reserve Funds have no anticipated expenditures. The Funds are deposited to provide annual debt service payment protection to the City’s debt holders. The funds are “returned” to the City at the final debt service payment. Market conditions and arbitrage regulation compliance determine the advantage of investment diversification and liquidity. Generally, if investment rates exceed the cost of borrowing, the City is best served by locking in investment maturities and reducing liquidity. If the borrowing cost cannot be exceeded, then current market conditions will determine the attractiveness of locking in maturities or investing shorter and anticipating future increased yields.

**Marketability** – Securities with less active and efficient secondary markets are acceptable for Debt Service Reserve Funds.

**Diversification** – Market conditions and the arbitrage regulations influence the attractiveness of staggering the maturity of fixed rate investments for Debt Service Reserve Funds. At no time shall the final debt service payment date of the bond issue be exceeded in an attempt to bolster yield.

**Yield** – Achieving a positive spread to the applicable borrowing cost is the desired objective. Debt Service Reserve Fund portfolio management shall operate within the limits of the Investment Policy’s risk constraints.

## V. RESPONSIBILITY AND CONTROL

### **Delegation of Authority [PFA 2256.005(f)]**

#### **Investment Officer(s)**

In accordance with the Act, the City Council designates the City Manager and the Finance Director as the City’s Investment Officers. An Investment Officer is authorized to execute investment transactions and transfer funds between City accounts on behalf of the City. No person may engage in an investment transaction or the management of City funds except as provided under the terms of this Policy. The investment authority granted to an Investment Officer is effective until rescinded by the City Council.

The City Council shall provide periodic training in investments for the Investment Officer(s) through courses and seminars offered by professional organizations, associations, and other independent sources approved by Council. Training will be in accordance with the provisions of the Act and is to ensure the quality and capability of investment management in compliance with the Act. The training must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with the Act.

Investment Officer(s) shall attend ten (10) hours of investment training within twelve (12) months of attaining the position and shall receive eight (8) hours of investment training not less than once in a two-year period that begins on the first day of the City’s fiscal year and consists of the two consecutive fiscal years after that date. The Government Finance Officers Association of Texas (GFOAT), Government Treasurers’ Organization of Texas (GTOT), Texas Municipal League (TML), University of North Texas (UNT), Texas Association of Regional Councils, American Institute of Certified Public Accountants (AICPA), and the Government Finance Officers Association (GFOA) are approved independent training sources.

#### **Internal Controls**

The Investment Officer is responsible for establishing and maintaining internal controls to protect the assets of the City from loss, theft, or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires estimates and judgments by management.

Accordingly, within the scope of the annual audit, the City shall establish a process for annual independent review by an external auditor to assure compliance with this Policy and supporting procedures. At a minimum, the internal controls shall address the following points:

- Control of collusion.
- Separation of transactions authority from accounting and record keeping.
- Custodial safekeeping.
- Delegation of authority to subordinate staff members.
- Written reporting and confirmation for all investments and wire transfers.

### **Prudence (PFIA 2256.006)**

The standard of care as defined by the Act and to be applied by the Investment Officer at all times shall be the “prudent person” rule. This rule states that:

*“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.”*

In determining whether an Investment Officer has exercised prudence in the performance of their duty, the determination shall be made taking into consideration:

- The investment of all funds, or funds under the City’s control, over which the Officer had responsibility rather than a consideration as to the prudence of a single investment.
- Whether the investment decision was consistent with the written approved Investment Policy of the City.

The Investment Officer, if acting in accordance with written procedures and exercising due diligence, shall not be held personally liable for any specific investment’s credit risk or market price changes, provided that these deviations are reported immediately and the appropriate action is taken to control adverse developments.

### **Ethics and Conflicts of Interest [PFIA 2256.005(i)]**

The Investment Officer(s), and employees involved in the investment process, shall refrain from any personal business activity that would conflict with the proper execution and management of the investment program, or that would impair their ability to make impartial decisions.

Investment Officer(s) shall disclose any personal or business relationship involving material interests in financial institutions with which the City conducts business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Investment Officer(s) shall refrain from undertaking personal investment transactions with the same individual or firm with which business is conducted on behalf of the City.

Any Investment Officer(s) of the City who has a personal business relationship with an organization or is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the City shall file a statement disclosing that relationship, in accordance with the Act, with the Texas Ethics Commission and the City Council.

## **VI. SUITABLE AND AUTHORIZED INVESTMENTS**

City funds may be invested only in the instruments described below, all of which are authorized and further defined by the Act. Investment of City funds in any instrument or security not authorized for investment under the Act is prohibited. The City will not be required to liquidate an investment that becomes unauthorized subsequent to its purchase. The City will create a competitive environment for all individual security purchases and sales, financial institution deposits, money market mutual funds, and local government investment pools, as appropriate.

1. Obligations, including letters of credit, of the United States of America, its agencies and instrumentalities, including the Federal Home Loan Banks, but excluding those prohibited by the PFIA.
2. Certificates of Deposit and other evidences of deposit at a financial institution that, i) has its main office or a branch office in Texas and is guaranteed or insured by the Federal Deposit Insurance Corporation or its successor, ii) is secured by obligations in a manner and amount provided by law for deposits of the City, or iii) is placed in compliance with the requirements of the PFIA.
3. Fully collateralized repurchase agreements executed in compliance with the Act, under the terms of an executed Master Repurchase Agreement, and secured in accordance with this Policy.
4. AAA-rated, SEC registered money market mutual funds which strive to maintain a net asset value of \$1.0000 per share.
5. AAA-rated, Texas local government investment pools, which meet all the requirements of the Act. Participation in any pool must be authorized by resolution of the City Council.

### **Un-Authorized Investments [PFIA 2256.009(b)(1-4)]**

Mortgage-backed securities including interest-only or principal-only collateralized mortgage obligations (CMO), inverse floating interest rate CMO or CMO with a maturity date of over 10 years are strictly prohibited for investment by the City.

### **Credit Rating and Effect of Loss of Required Rating [PFIA 2256.021]**



No less than quarterly, the Investment Officer will obtain the current credit rating for each held investment from a reliable source to ensure that the investment has maintained the required minimum rating. All prudent measures will be taken to liquidate an investment that is downgraded to less than the required minimum rating.

## VII. INVESTMENT PARAMETERS

### **Maximum Maturities and Maximum WAM [PFIA 2256.005(b)(4)(B)]**

The longer the maturity of securities, the greater the price volatility and market risk. Therefore, it is the City's policy to concentrate its investment portfolio in shorter-term securities which match cash flow needs to limit risks caused by changes in interest rates.

The City shall attempt to match its investments with anticipated cash flow requirements. The City's fund-type investment strategies will determine appropriate maximum maturity and weighted average maturity. Certificates of deposit and repurchase agreements may be collateralized using longer dated investments in accordance with this Policy.

Dollar-weighted average maturity will be calculated using the stated final maturity dates of each security. [PFIA 2256.005(b)(4)(C)]

## VIII. AUTHORIZED BANKS AND DEALERS

The process of obtaining and contracting with a primary depository to serve the banking service needs of the City will be governed by Chapter 105 of the Local Government Code: Depositories for Government Funds and Chapter 2257, the Public Funds Collateral Act, Texas Government Code.

At least every five (5) years a primary depository shall be selected for banking services through the City's procurement process, which shall include a formal request for application (RFA). The selection of a depository will be determined through a competitive process and evaluation of applications will include the following selection criteria:

- The ability to qualify as a depository for public funds in accordance with State law.
- The ability to provide required banking services.
- Creditworthiness and financial stability of the depository.
- The ability to provide cost effective services as defined by the City based on the lowest net banking service cost, consistent with the ability to provide the required levels of service.

The City may utilize other financial institutions as depositories for deposits and the purchase of certificates of deposit under the terms of a written depository/collateral agreement as defined by this Policy.

### **Collateral Policy (PFCA 2257.023)**

#### Collateral Pledged to the City by Depositories

Consistent with the requirements of the Public Funds Collateral Act, it is the policy of the City to require full collateralization of all financial institution deposits in a depository above the FDIC

insurance coverage. To anticipate and provide for market price fluctuations and provide a required level of security for all funds, with the exception of deposits secured with irrevocable letters of credit from a U.S. Government Agency at 100% of principal and accrued interest, the depository will provide and maintain collateral whose market value equals or exceeds 102% of the total value of principal and accrued interest on City deposits less an amount insured by the FDIC.

Any financial institution designated as a depository by the City will provide collateral in accordance with this Policy and applicable State law. The City reserves the right, in its sole discretion, to accept or reject any form of insurance or collateralization pledged towards depository deposits. Financial institutions serving as a depository will be required to sign a Depository/Collateral Agreement with the City. The collateralized deposit portion of the Agreement shall define the City's rights to the collateral in case of default, bankruptcy, or closing and shall establish a perfected security interest in compliance with Federal and State regulations, including:

- The agreement must be in writing;
- The agreement has to be executed by the Depository and the City contemporaneously with the acquisition of the asset;
- The agreement must be approved by the Board of Directors or designated committee of the Depository and a copy of the meeting minutes must be delivered to the City; and
- The agreement must be part of the Depository's "official record" continuously since its execution.

The written agreement will specify the acceptable collateral, require independent safekeeping of the collateral, require City approval before substitution or release of investment securities, provide for original safekeeping receipts, and complete monthly reporting of collateral including the valuation of securities.

A clearly marked evidence of pledge must be supplied to the City and retained by the Investment Officer(s). A monthly collateral report provided by the custodian shall be reviewed by the Investment Officer(s) to assure that the market value of the pledged securities is adequate.

Collateral may be held only by an independent institution including a Federal Reserve Bank, a Federal Home Loan Bank, or a third-party bank approved by the City.

A Repurchase Agreement, as authorized by the Act, has a defined termination date, is secured by a combination of cash and obligations as described by Section 2256.009(a)(1) and requires the securities being purchased by the City or cash held by the City to be pledged to the City, held in the City's account, and deposited at the time the investment is made with the City or with a third-party selected and approved by the City. Securities (termed as collateral) are bought (i.e. owned) under a Repurchase Agreement and will be maintained at a margin of 102% and settled delivery versus payment. The collateral terms and conditions will be controlled by a written repurchase agreement.

### **Authorized Collateral for Depositories and Repurchase Agreements**

The City shall accept only the following types of collateral:

- Obligations of the United States or its agencies and instrumentalities, including mortgage-backed securities which pass the high-risk mortgage obligation test, and irrevocable letters of credit issued by the Federal Home Loan Bank.
- Direct obligations of any U.S. state or its subdivisions rated at least A by at least one nationally recognized rating agency.

All collateral shall be subject to inspection and audit by the Investment Officer(s) and the City's independent auditors.

### **Authorized Brokers/Dealers (PFIA 2256.025)**

The City Council shall, at least annually, review, revise, and adopt a list of qualified broker/dealers (see Attachment A) authorized to engage in securities transactions with the City. To purchase securities, the City must have a list of no less than two broker/dealers.

Authorized brokerage firms may include primary dealers or regional broker/dealers that qualify under Securities & Exchange Commission Rule 15C3-1 (Uniform Net Capital Rule).

### **Delivery vs. Payment [PFIA 2256.005(b)(4)(E)]**

Securities purchased by the City shall be settled into the City's account with the safekeeping agent on a **delivery versus payment** (DVP) basis. DVP assures that City funds will not be released until the purchased security has been received. Securities will be held by an independent third-party safekeeping agent as evidenced by safekeeping receipts.

### **PFIA Policy Certificates**

All local government investment pools and discretionary investment management firms (business organizations) will be required to provide information regarding the business organization and the individual representative as required by the City. Each business organization will be required to sign a certification acknowledging that the business organization has received and reviewed the City's current Investment Policy and that reasonable procedures and controls have been implemented to preclude investment transactions that are not authorized by the City's Policy, except to the extent that this authorization is dependent on an analysis of the makeup of the City's entire portfolio or requires an interpretation of subjective investment standards, as required by the Act. When material changes are made to the Policy, re-certification is required.

## **IX. PERFORMANCE BENCHMARK**

The City's investment portfolio will be managed in accordance with the parameters specified within this Policy including the objective of a reasonable market yield commensurate with the investment risk constraints and the cash flow requirements of the City.

The weighted average yield to maturity (the standard for calculating portfolio rate of return) on the total portfolio will be the City's performance measurement and will be calculated and reviewed on at least a quarterly basis. In accordance with the City's cash flow needs and based on the maximum weighted average maturity of the adopted Investment Strategy, the City's portfolio shall be designed with the objective of regularly meeting or exceeding the respective Strategy's average yield on the appropriate US Treasury-Bill for the same period. This benchmark is not just a measure of market performance but equally a measure of the risk in the portfolio.

## **X. REPORTING (*PFLA 2256.023*)**

The Investment Officers shall prepare for the City Council an investment report on a quarterly basis that summarizes investment strategies employed in the most recent quarter and describes the portfolio in detail and summary information. This reporting shall be made in accordance with the Act.

The quarterly investment report shall include a summary statement of investment activity during the period. This summary will be prepared in a manner that will allow the City Council to ascertain whether investment activities during the reporting period have conformed to the Investment Policy. The report will include the following at a minimum:

- A listing of individual investments held at the end of the reporting period.
- Unrealized gains or losses at the end of the period (the difference between current and prior market value).
- Average weighted yield to maturity of portfolio.
- Fully accrued interest for the reporting period and total earnings for the period.
- The percentage of the total portfolio by type of investment.
- Statement of compliance of the City's investment portfolio with State law and the investment strategy and Policy approved by the City Council.

Market values will be obtained from reputable and independent sources.

In conjunction with the annual audit, an independent auditor will perform a formal annual review of the quarterly reports with the results reported to the City Council by that auditor [*PFLA 2256.023(d)*].

**XI. INVESTMENT POLICY ADOPTION [*PFLA 2256.005(e)*]**

The City's Investment Policy shall be reviewed and adopted at least annually by resolution of the City Council. It is the City's intent to comply with State laws and regulations. The City's Investment Policy may be revised by Council consistent with changing laws, regulations, or the needs of the City. The City Council shall review and approve the Policy and investment strategies annually, approving any changes or modifications, at a legally scheduled meeting.

**Adopted by Hewitt City Council: December 5, 2022**

**Attachment A**

**City of Hewitt, Texas  
Authorized Broker/Dealer List**

**FHN Financial Capital Markets**  
Buddy Saragusa  
920 Memorial City Way, 13<sup>th</sup> Floor  
Houston, TX 77024  
713-435-4375

**Duncan Williams, Inc.**  
Patrick Boyer  
6750 Poplar Avenue  
Suite 100  
Memphis, TN 38138  
901-604-6811

**SAMCO Capital Markets, Inc.**  
Robert Phillips  
1700 Pacific Avenue  
Suite 2000  
Dallas, TX 75201  
214-765-1408

**Wells Fargo Brokerage Services, L.L.C.**  
Chuck Landry  
1445 Ross Avenue  
Suite 210  
Dallas, TX 75202  
800-937-0998  
214-777-4018

**Note: The firm name is authorized. Contact data informational only.**

**INVESTMENT POLICY  
CITY OF HEWITT  
Approved by City Council  
December 6, 2021**

**I. POLICY**

It is the policy of the City of Hewitt (the “City”) that after allowing for the anticipated cash flow requirements of the City and giving due consideration to the safety and risk of investment, all available funds shall be invested in conformance with these legal and administrative guidelines, seeking to achieve reasonable interest earnings based on market conditions.

Effective cash management is recognized as essential to good fiscal management. Investment interest is a source of revenue to City funds. The City’s investment portfolio shall be designed and managed in a manner intended to maximize this revenue source, to be responsive to public trust, and to be in compliance with legal requirements and limitations.

Investments shall be made with the primary objectives of:

- \* **Safety** and preservation of principal
- \* Maintenance of sufficient **liquidity** to meet operating needs
- \* **Diversification** to minimize market risks
- \* **Public trust** from prudent investment activities
- \* Achievement of **reasonable interest earnings**

**II. PURPOSE**

The purpose of this Investment Policy is to establish guidelines and policies controlling the investment of the City’s funds. The Policy is designed to comply with Chapter 2256 of the Texas Government Code, the Public Funds Investment Act, (the “Act”), which requires the City to adopt a written Investment Policy regarding the investment of its funds and funds under its control. This Investment Policy addresses the methods, procedures and practices that must be exercised to ensure effective and judicious fiscal management of the City’s funds. All investments shall be designed and managed in a manner responsive to the public trust and consistent with state and local law.

All participants in the City’s investment process shall seek to act responsibly as custodians of the public trust. Investment Officers shall avoid any transaction that might impair public confidence in the City’s ability to govern effectively.



### III. SCOPE

This Policy shall govern the investment of all financial assets of the City. All funds accounted for in the City's Annual **Comprehensive** Financial Report (ACFR) are to be governed by this Policy and include:

- General Fund
- Capital Projects Funds
- Enterprise Funds
- Debt Service Funds, including reserves and sinking funds
- Any new fund created by the City, unless specifically exempted from this Policy by law

This Policy shall apply to all transactions involving the financial assets and related activity for all the foregoing funds.

### IV. INVESTMENT OBJECTIVES AND STRATEGIES

The City shall manage and invest its cash with five primary objectives, listed in order of priority: **safety, liquidity, diversification, public trust, and yield**. The safety of the principal invested will represent the primary objective.

The City shall maintain a comprehensive cash management program, which includes timely collection of account receivables, timely payments to vendors in accordance with invoice and available discount terms, and prudent investment of all assets.

Attention to cash management principles will assure that cash is available when needed and all funds will be invested to obtain the best use of City assets to obtain a reasonable market rate of earnings.

The City shall maintain a "buy and hold" portfolio strategy. Maturity dates are to be matched with cash flow requirements and investments purchased with the intent to be held until maturity. Investments shall not be sold or redeemed prior to maturity with the following exceptions:

- An investment with declining credit may be sold or redeemed early to minimize loss of principal, or
- Liquidity needs of the portfolio require that the investment be sold or redeemed.

#### **Safety [PFIA 2256.005(b)(2)]**

Safety of principal is the foremost objective of the City's investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital throughout the portfolio. Safety will be attained through mitigating credit and interest rate risk.

- Credit Risk – The City will minimize credit risk, the risk of loss due to the failure of the issuer or backer of the investment, by purchasing high credit quality securities and diversifying the investment portfolio by market sector and maturity so that potential losses on individual issuers will be minimized.
- Interest Rate Risk – The City will minimize the realized risk that the market value of investments in the portfolio will fall due to changes in general interest rates by analyzing cash flow and investing within the parameters of that cash flow and diversifying by market sector and maturity.

### **Liquidity [PFIA 2256.005(b)(2)]**

The investment portfolio shall remain sufficiently liquid to meet all anticipated operating requirements by structuring the portfolio maturities with cash needs to meet anticipated demands. Because all possible cash demands cannot be anticipated, a portion of the portfolio will be invested in cash equivalent alternatives such as financial institution deposits, money market mutual funds, and local government investment pools that offer same-day liquidity.

### **Diversification**

The portfolio will be diversified by investment types and maturity to avoid market risks and issuer default, as appropriate.

### **Public Trust**

All participants in the City's investment process shall act responsibly as custodians of the public trust. Investment Officers shall avoid any transaction which might impair public confidence in the City's ability to govern effectively.

### **Yield (Optimization of Interest Earnings) [PFIA 2256.005(b)(3)]**

The investment portfolio shall be designed with the objective of attaining a reasonable market yield at all times, taking into account the investment risk constraints and liquidity needs of the City. Return on investment is of lesser importance compared to the safety and liquidity objectives described above.

### **Investment Strategies by Fund Type:**

#### **1. General, Enterprise, or Operating-type Funds**

**Suitability** – Any investment eligible in the Investment Policy is suitable for General, Enterprise, or Operating-type funds.

**Safety of Principal** – All investments shall be of high quality with no perceived default risk. Market price fluctuations will occur. However, managing the weighted average days to maturity of each fund’s portfolio to less than 270 days and restricting the maximum allowable maturity to two years will minimize the price volatility of the portfolio.

**Marketability** – Securities with active and efficient secondary markets are necessary in the event of an unanticipated cash flow requirement. Historical market “spreads” between the bid and offer prices of a particular security-type of less than ten basis points will define an efficient secondary market.

**Liquidity** – General, Enterprise, or Operating-type Funds require the greatest short-term liquidity of any of the fund-types. Financial institution deposit accounts, short-term investment pools and money market mutual funds will provide daily liquidity and may be utilized as a competitive yield alternative to fixed maturity investments.

**Diversification** – Investment maturities should be staggered throughout the budget cycle to provide cash flow based on the anticipated operating needs of the City. Diversifying the appropriate maturity structure up to the two-year maximum will reduce interest rate risk.

**Yield** - Attaining a competitive market yield for comparable security-types and portfolio restrictions is the desired objective. The yield of an equally weighted, rolling three-month Treasury-Bill portfolio will be the minimum yield objective.

## 2. Capital Projects Funds

**Suitability** – Any investment eligible in the Investment Policy is suitable for Capital Projects Funds.

**Safety of Principal** – All investments will be of high quality with no perceived default risk. Market price fluctuations will occur. However, by managing Capital Projects Funds to not exceed the anticipated expenditure schedule, the market risk of the overall portfolio will be minimized. No stated final investment maturity shall exceed the shorter of the anticipated expenditure schedule or three years.

**Marketability** – Securities with active and efficient secondary markets are necessary in the event of an unanticipated cash flow requirement. Historical market “spreads” between the bid and offer prices of a particular security-type of less than ten basis points will define an efficient secondary market.

**Liquidity** – Most capital projects programs have reasonably predictable draw down schedules. Therefore, investment maturities should generally follow the

anticipated cash flow requirements. Financial institution deposit accounts, short term investment pools and money market mutual funds will provide readily available funds generally equal to one month's anticipated cash flow needs, or a competitive yield alternative for short-term fixed maturity investments. A singular repurchase agreement may be utilized if disbursements are allowed in the amount necessary to satisfy any expenditure request. This investment structure is commonly referred to as a flexible repurchase agreement.

**Diversification** – Market conditions and arbitrage regulations influence the attractiveness of staggering the maturity of fixed rate investments for bond proceeds. Generally, if investment rates exceed the applicable cost of borrowing, the City is best served by locking in most investments. If the cost of borrowing cannot be exceeded, then current market conditions will determine the attractiveness of diversifying maturities or investing in shorter and larger amounts. At no time shall the anticipated expenditure schedule be exceeded in an attempt to bolster yield.

**Yield** – Achieving a positive spread to the cost of borrowing is the desired objective, within the limits of the Investment Policy's risk constraints. The yield of an equally weighted, rolling six-month Treasury-Bill portfolio will be the minimum yield objective for non-borrowed funds.

### 3. Debt Service Funds

**Suitability** – Any investment eligible in the Investment Policy is suitable for Debt Service Funds.

**Safety of Principal** – All investments shall be of high quality with no perceived default risk. Market price fluctuations will occur. However, by managing Debt Service Funds to not exceed the debt service payment schedule the market risk of the overall portfolio will be minimized.

**Marketability** – Securities with active and efficient secondary markets are not necessary as the event of an unanticipated cash flow requirement is not probable.

**Liquidity** – Debt Service Funds have predictable payment schedules. Therefore, investment maturities should not exceed the anticipated cash flow requirements. Financial institution deposit accounts, short term investments pools and money market mutual funds may provide a competitive yield alternative for short-term fixed maturity investments. A singular repurchase agreement may be utilized if disbursements are allowed in the amount necessary to satisfy any debt service payment. This investment structure is commonly referred to as a flexible repurchase agreement.

**Diversification** – Market conditions influence the attractiveness of fully extending maturity to the next “unfunded” payment date. Generally, if investment rates are

anticipated to decrease over time, the City is best served by locking in most investments. If the interest rates are potentially rising, then investing in shorter and larger amounts may provide advantage. At no time shall the debt service schedule be exceeded in an attempt to bolster yield.

**Yield** – Attaining a competitive market yield for comparable security-types and portfolio restrictions is the desired objective. The yield of an equally weighted, rolling three-month Treasury-Bill portfolio shall be the minimum yield objective.

#### 4. Debt Service Reserve Funds

**Suitability** – Any investment eligible in the Investment Policy is suitable for Debt Service Reserve Funds. Bond resolution and loan documentation constraints and insurance company restrictions may create specific considerations in addition to the Investment Policy.

**Safety of Principal** – All investments shall be of high quality with no perceived default risk. Market price fluctuations will occur. However, by managing Debt Service Reserve Fund maturities to not exceed the call provisions of the borrowing will reduce the investment’s market risk if the City’s debt is redeemed and the Reserve Fund liquidated. No stated final investment maturity shall exceed the shorter of the final maturity of the borrowing or five years. Annual mark-to-market requirements or specific maturity and average life limitations within the borrowing’s documentation will influence the attractiveness of market risk and influence maturity extension.

**Marketability** – Securities with less active and efficient secondary markets are acceptable for Debt Service Reserve Funds.

**Liquidity** – Debt Service Reserve Funds have no anticipated expenditures. The Funds are deposited to provide annual debt service payment protection to the City’s debt holders. The funds are “returned” to the City at the final debt service payment. Market conditions and arbitrage regulation compliance determine the advantage of investment diversification and liquidity. Generally, if investment rates exceed the cost of borrowing, the City is best served by locking in investment maturities and reducing liquidity. If the borrowing cost cannot be exceeded, then current market conditions will determine the attractiveness of locking in maturities or investing shorter and anticipating future increased yields.

**Diversification** – Market conditions and the arbitrage regulations influence the attractiveness of staggering the maturity of fixed rate investments for Debt Service Reserve Funds. At no time shall the final debt service payment date of the bond issue be exceeded in an attempt to bolster yield.

**Yield** – Achieving a positive spread to the applicable borrowing cost is the desired objective. Debt Service Reserve Fund portfolio management shall operate within the limits of the Investment Policy’s risk constraints.

## V. RESPONSIBILITY AND CONTROL

### **Delegation of Authority [PFIA 2256.005(f)]**

#### **Investment Officer(s)**

In accordance with the Act, the City Council designates the City Manager and the Finance Director as the City’s Investment Officers. An Investment Officer is authorized to execute investment transactions and transfer funds between City accounts on behalf of the City. No person may engage in an investment transaction or the management of City funds except as provided under the terms of this Policy. The investment authority granted to an Investment Officer is effective until rescinded by the City Council.

The City Council shall provide periodic training in investments for the Investment Officer(s) through courses and seminars offered by professional organizations, associations, and other independent sources approved by Council. Training will be in accordance with the provisions of the Act and is to ensure the quality and capability of investment management in compliance with the Act. The training must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with the Act.

Investment Officer(s) shall attend ten (10) hours of investment training within twelve (12) months of attaining the position and shall receive eight (8) hours of investment training not less than once in a two-year period that begins on the first day of the City’s fiscal year and consists of the two consecutive fiscal years after that date. The Government Finance Officers Association of Texas (GFOAT), Government Treasurers’ Organization of Texas (GTOT), Texas Municipal League (TML), University of North Texas (UNT), Texas Association of Regional Councils, American Institute of Certified Public Accountants (AICPA), and the Government Finance Officers Association (GFOA) are approved independent training sources.

#### **Internal Controls**

The Investment Officer is responsible for establishing and maintaining internal controls to protect the assets of the City from loss, theft, or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires estimates and judgments by management.

Accordingly, within the scope of the annual audit, the City shall establish a process for annual independent review by an external auditor to assure compliance with this Policy and supporting procedures. At a minimum, the internal controls shall address the following points:

- Control of collusion.
- Separation of transactions authority from accounting and record keeping.
- Custodial safekeeping.
- Delegation of authority to subordinate staff members.
- Written reporting and confirmation for all investments and wire transfers.

### **Prudence (PFIA 2256.006)**

The standard of care as defined by the Act and to be applied by the Investment Officer at all times shall be the “prudent person” rule. This rule states that:

*“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.”*

In determining whether an Investment Officer has exercised prudence in the performance of their duty, the determination shall be made taking into consideration:

- The investment of all funds, or funds under the City’s control, over which the Officer had responsibility rather than a consideration as to the prudence of a single investment.
- Whether the investment decision was consistent with the written approved Investment Policy of the City.

The Investment Officer, if acting in accordance with written procedures and exercising due diligence, shall not be held personally liable for any specific investment’s credit risk or market price changes, provided that these deviations are reported immediately and the appropriate action is taken to control adverse developments.

### **Ethics and Conflicts of Interest [PFIA 2256.005(i)]**

The Investment Officer(s), and employees involved in the investment process, shall refrain from any personal business activity that would conflict with the proper execution and management of the investment program, or that would impair their ability to make impartial decisions.

Investment Officer(s) shall disclose any personal or business relationship involving material interests in financial institutions with which the City conducts business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Investment Officer(s) shall refrain from undertaking personal investment transactions with the same individual or firm with which business is conducted on behalf of the City.

Any Investment Officer(s) of the City who has a personal business relationship with an organization or is related within the second degree by affinity or consanguinity to an individual

seeking to sell an investment to the City shall file a statement disclosing that relationship, in accordance with the Act, with the Texas Ethics Commission and the City Council.

## **VI. SUITABLE AND AUTHORIZED INVESTMENTS**

City funds may be invested only in the instruments described below, all of which are authorized and further defined by the Act. Investment of City funds in any instrument or security not authorized for investment under the Act is prohibited. The City will not be required to liquidate an investment that becomes unauthorized subsequent to its purchase. The City will create a competitive environment for all individual security purchases and sales, financial institution deposits, money market mutual funds, and local government investment pools, as appropriate.

1. Obligations, including letters of credit, of the United States of America, its agencies and instrumentalities, including the Federal Home Loan Banks, but excluding those prohibited by the PFIA.
2. Certificates of Deposit and other evidences of deposit at a financial institution that, i) has its main office or a branch office in Texas and is guaranteed or insured by the Federal Deposit Insurance Corporation or its successor, ii) is secured by obligations in a manner and amount provided by law for deposits of the City, or iii) is placed in compliance with the requirements of the PFIA.
3. Fully collateralized repurchase agreements executed in compliance with the Act, under the terms of an executed Master Repurchase Agreement, and secured in accordance with this Policy.
4. AAA-rated, SEC registered money market mutual funds which strive to maintain a net asset value of \$1.0000 per share.
5. AAA-rated, Texas local government investment pools, which meet all the requirements of the Act. Participation in any pool must be authorized by resolution of the City Council.

### **Un-Authorized Investments [PFIA 2256.009(b)(1-4)]**

Mortgage-backed securities including interest-only or principal-only collateralized mortgage obligations (CMO), inverse floating interest rate CMO or CMO with a maturity date of over 10 years are strictly prohibited for investment by the City.

### **Credit Rating and Effect of Loss of Required Rating [PFIA 2256.021]**



No less than quarterly, the Investment Officer will obtain the current credit rating for each held investment from a reliable source to ensure that the investment has maintained the required minimum rating. All prudent measures will be taken to liquidate an investment that is downgraded to less than the required minimum rating.

## **VII. INVESTMENT PARAMETERS**

### **Maximum Maturities and Maximum WAM [PFIA 2256.005(b)(4)(B)]**

The longer the maturity of securities, the greater the price volatility and market risk. Therefore, it is the City's policy to concentrate its investment portfolio in shorter-term securities which match cash flow needs to limit risks caused by changes in interest rates.

The City shall attempt to match its investments with anticipated cash flow requirements. The City's fund-type investment strategies will determine appropriate maximum maturity and weighted average maturity. Certificates of deposit and repurchase agreements may be collateralized using longer dated investments in accordance with this Policy.

Dollar-weighted average maturity will be calculated using the stated final maturity dates of each security. [PFIA 2256.005(b)(4)(C)]

## **VIII. AUTHORIZED BANKS AND DEALERS**

The process of obtaining and contracting with a primary depository to serve the banking service needs of the City will be governed by Chapter 105 of the Local Government Code: Depositories for Government Funds and Chapter 2257, the Public Funds Collateral Act, Texas Government Code.

At least every five (5) years a primary depository shall be selected for banking services through the City's procurement process, which shall include a formal request for application (RFA). The selection of a depository will be determined through a competitive process and evaluation of applications will include the following selection criteria:

- The ability to qualify as a depository for public funds in accordance with State law.
- The ability to provide required banking services.
- Creditworthiness and financial stability of the depository.
- The ability to provide cost effective services as defined by the City based on the lowest net banking service cost, consistent with the ability to provide the required levels of service.

The City may utilize other financial institutions as depositories for deposits and the purchase of certificates of deposit under the terms of a written depository/collateral agreement as defined by this Policy.

### **Collateral Policy (PFCA 2257.023)**

#### Collateral Pledged to the City by Depositories

Consistent with the requirements of the Public Funds Collateral Act, it is the policy of the City to require full collateralization of all financial institution deposits in a depository above the FDIC insurance coverage. To anticipate and provide for market price fluctuations and provide a required level of security for all funds, with the exception of deposits secured with irrevocable letters of credit from a U.S. Government Agency at 100% of principal and accrued interest, the depository will provide and maintain collateral whose market value equals or exceeds 102% of the total value of principal and accrued interest on City deposits less an amount insured by the FDIC.

Any financial institution designated as a depository by the City will provide collateral in accordance with this Policy and applicable State law. The City reserves the right, in its sole discretion, to accept or reject any form of insurance or collateralization pledged towards depository deposits. Financial institutions serving as a depository will be required to sign a Depository/Collateral Agreement with the City. The collateralized deposit portion of the Agreement shall define the City's rights to the collateral in case of default, bankruptcy, or closing and shall establish a perfected security interest in compliance with Federal and State regulations, including:

- The agreement must be in writing;
- The agreement has to be executed by the Depository and the City contemporaneously with the acquisition of the asset;
- The agreement must be approved by the Board of Directors or designated committee of the Depository and a copy of the meeting minutes must be delivered to the City; and
- The agreement must be part of the Depository's "official record" continuously since its execution.

The written agreement will specify the acceptable collateral, require independent safekeeping of the collateral, require City approval before substitution or release of investment securities, provide for original safekeeping receipts, and complete monthly reporting of collateral including the valuation of securities.

A clearly marked evidence of pledge must be supplied to the City and retained by the Investment Officer(s). A monthly collateral report provided by the custodian shall be reviewed by the Investment Officer(s) to assure that the market value of the pledged securities is adequate.

Collateral may be held only by an independent institution including a Federal Reserve Bank, a Federal Home Loan Bank, or a third-party bank approved by the City.

A Repurchase Agreement, as authorized by the Act, has a defined termination date, is secured by a combination of cash and obligations as described by Section 2256.009(a)(1) and requires the securities being purchased by the City or cash held by the City to be pledged to the City, held in the City's account, and deposited at the time the investment is made with the City or with a third-party selected and approved by the City. Securities (termed as collateral) are bought (i.e. owned)

under a Repurchase Agreement and will be maintained at a margin of 102% and settled delivery versus payment. The collateral terms and conditions will be controlled by a written repurchase agreement.

### **Authorized Collateral for Depositories and Repurchase Agreements**

The City shall accept only the following types of collateral:

- Obligations of the United States or its agencies and instrumentalities, including mortgage-backed securities which pass the high-risk mortgage obligation test, and irrevocable letters of credit issued by the Federal Home Loan Bank.
- Direct obligations of any U.S. state or its subdivisions rated at least A by at least one nationally recognized rating agency.

All collateral shall be subject to inspection and audit by the Investment Officer(s) and the City's independent auditors.

### **Authorized Brokers/Dealers (PFIA 2256.025)**

The City Council shall, at least annually, review, revise, and adopt a list of qualified broker/dealers (see Attachment A) authorized to engage in securities transactions with the City. To purchase securities, the City must have a list of no less than two broker/dealers.

Authorized brokerage firms may include primary dealers or regional broker/dealers that qualify under Securities & Exchange Commission Rule 15C3-1 (Uniform Net Capital Rule).

### **Delivery vs. Payment [PFIA 2256.005(b)(4)(E)]**

Securities purchased by the City shall be settled into the City's account with the safekeeping agent on a **delivery versus payment** (DVP) basis. DVP assures that City funds will not be released until the purchased security has been received. Securities will be held by an independent third-party safekeeping agent as evidenced by safekeeping receipts.

### **PFIA Policy Certificates**

All local government investment pools and discretionary investment management firms (business organizations) will be required to provide information regarding the business organization and the individual representative as required by the City. Each business organization will be required to sign a certification acknowledging that the business organization has received and reviewed the

City's current Investment Policy and that reasonable procedures and controls have been implemented to preclude investment transactions that are not authorized by the City's Policy, except to the extent that this authorization is dependent on an analysis of the makeup of the City's entire portfolio or requires an interpretation of subjective investment standards, as required by the Act. When material changes are made to the Policy, re-certification is required.

### **IX. PERFORMANCE BENCHMARK**

The City's investment portfolio will be managed in accordance with the parameters specified within this Policy including the objective of a reasonable market yield commensurate with the investment risk constraints and the cash flow requirements of the City.

The weighted average yield to maturity (the standard for calculating portfolio rate of return) on the total portfolio will be the City's performance measurement and will be calculated and reviewed on at least a quarterly basis. In accordance with the City's cash flow needs and based on the maximum weighted average maturity of the adopted Investment Strategy, the City's portfolio shall be designed with the objective of regularly meeting or exceeding the respective Strategy's average yield on the appropriate US Treasury-Bill for the same period. This benchmark is not just a measure of market performance but equally a measure of the risk in the portfolio.

### **X. REPORTING (PFIA 2256.023)**

The Investment Officers shall prepare for the City Council an investment report on a quarterly basis that summarizes investment strategies employed in the most recent quarter and describes the portfolio in detail and summary information. This reporting shall be made in accordance with the Act.

The quarterly investment report shall include a summary statement of investment activity during the period. This summary will be prepared in a manner that will allow the City Council to ascertain whether investment activities during the reporting period have conformed to the Investment Policy. The report will include the following at a minimum:

- A listing of individual investments held at the end of the reporting period.
- Unrealized gains or losses at the end of the period (the difference between current and prior market value).
- Average weighted yield to maturity of portfolio.
- Fully accrued interest for the reporting period and total earnings for the period.
- The percentage of the total portfolio by type of investment.
- Statement of compliance of the City's investment portfolio with State law and the investment strategy and Policy approved by the City Council.

Market values will be obtained from reputable and independent sources.

In conjunction with the annual audit, an independent auditor will perform a formal annual review of the quarterly reports with the results reported to the City Council by that auditor [*PFIA 2256.023(d)*].

#### **XI. INVESTMENT POLICY ADOPTION [*PFIA 2256.005(e)*]**

The City's Investment Policy shall be reviewed and adopted at least annually by resolution of the City Council. It is the City's intent to comply with State laws and regulations. The City's Investment Policy may be revised by Council consistent with changing laws, regulations, or the needs of the City. The City Council shall review and approve the Policy and investment strategies annually, approving any changes or modifications, at a legally scheduled meeting.

**Adopted by Hewitt City Council: December 6, 2021**

**Attachment A**

**City of Hewitt, Texas  
Authorized Broker/Dealer List**

**FHN Financial Capital Markets**  
Buddy Saragusa  
920 Memorial City Way, 13<sup>th</sup> Floor  
Houston, TX 77024  
713-435-4375

**Duncan Williams, Inc.**  
Patrick Boyer  
6750 Poplar Avenue  
Suite 100  
Memphis, TN 38138  
901-604-6811

**SAMCO Capital Markets, Inc.**  
Robert Phillips  
1700 Pacific Avenue  
Suite 2000  
Dallas, TX 75201  
214-765-1408

**Wells Fargo Brokerage Services, L.L.C.**  
Chuck Landry  
1445 Ross Avenue  
Suite 210  
Dallas, TX 75202  
800-937-0998  
214-777-4018

**Note: The firm name is authorized. Contact data informational only.**

# HEWITT TEXAS

## COUNCIL AGENDA ITEM FORM

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**MEETING DATE:** December 5, 2022

**AGENDA ITEM #:** 6

**SUBMITTED BY:** Jessica Higgins, HR Director/Civil Service Director

**ITEM DESCRIPTION:**

Discussion and possible action on **Ordinance No. 2022-13** amending Ord. No. 2021-16, establishing two additional police officer positions, and authorizing the number of employees in each classification.

**STAFF RECOMMENDATION/ITEM SUMMARY:**

Chapter 143 of the Local Government states that the governing body by ordinance shall prescribe the number of positions in each classification. The attached Strength of Force Ordinance has been updated to match the Staffing Plan in the FY 22/23 approved budget.

**FISCAL IMPACT:**

Amount Budgeted – N/A  
Line Item in Budget – N/A

**SUGGESTED MOTION:**

I move to approve Ordinance No. 2022-13 amending Ordinance No. 2021-16, establishing two additional police officer positions, and authorizing the number of employees in each classification.

**ATTACHMENTS:**

Ordinance

**ORDINANCE NO. 2022-13**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HEWITT, TEXAS, AMENDING ORD. 2021-16, ESTABLISHING TWO ADDITIONAL POLICE OFFICER POSITIONS, AUTHORIZING THE NUMBER OF EMPLOYEES IN EACH CLASSIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Hewitt has adopted Civil Service, Chapter 143 of the Texas Local Government Code for its Police Department employees; and

**WHEREAS**, pursuant to Chapter 143, the City Council shall establish the classifications of employees and prescribe the number of positions in each classification pursuant to Section 143.021(a) of the Texas Local Government Code; and

**WHEREAS**, the City Council is amending and superseding Ordinance No. 2021-16; and

**WHEREAS**, the City Council has determined that to further its lawful purposes of providing efficient and effective law enforcement staffing, it should establish two additional Police Officer positions; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HEWITT, TEXAS, THAT**

**ARTICLE I.**

The classifications and number of positions in each classification in the Police Department were previously as follows:

- Police Chief—1
- Assistant Police Chief-1<sup>1</sup>
- Lieutenant-4
- Sergeant--6
- Police Officer—17

**Total Authorized Force: 29**

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<sup>1</sup> The occupant of this rank/classification is appointed by the Department Head, and will continue to serve in an “at will” capacity according to §143.014 of the Texas Local Government Code. The occupant possesses no civil service protection in that rank.



The classifications and number of positions in each classification in the Police Department shall now be, as of the effective date of this Ordinance, as follows:

Police Chief—1  
 Assistant Police Chief-1<sup>2</sup>  
 Lieutenant-4  
 Sergeant--6  
 Police Officer—19

**Total Authorized Force: 31**

## **ARTICLE II.**

Severability: If any provision, section, clause, sentence, or phrase of this ordinance is for any reason held to be unconstitutional, void, invalid, or un-enforced, the validity of the remainder of this ordinance or its application shall not be affected, it being the intent of the City Council in adopting and of the Mayor in approving this ordinance that no portion, provision, or regulation contained herein shall become inoperative or fail by way of reasons of any unconstitutionality or invalidity of any other portion, provision, or regulation.

## **ARTICLE III.**

Repealer: All other ordinances, section, or parts of ordinances heretofore adopted by the City of Hewitt in conflict with the provisions set out above in this ordinance are hereby repealed or amended as indicated.

## **ARTICLE IV.**

This ordinance shall become effective immediately upon passage.

## **ARTICLE V.**

It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

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<sup>2</sup>See footnote 1.

**PASSED AND APPROVED** on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**CITY OF HEWITT, TEXAS**

\_\_\_\_\_  
Steve Fortenberry, Mayor

ATTEST:

\_\_\_\_\_  
Lydia Lopez, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael W. Dixon, City Attorney

# HEWITT TEXAS

## COUNCIL AGENDA ITEM FORM

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**MEETING DATE:** December 5, 2022

**AGENDA ITEM #:** 9

**SUBMITTED BY:** Bo Thomas, City Manager

**ITEM DESCRIPTION:**

Discussion and possible action on Ward 1 City Council vacancy, including but not limited to: action, if any, to be taken to fill vacancy; appointment; appointment processes; and other matters relating to any of the above.

**STAFF RECOMMENDATION/ITEM SUMMARY:**

This item allows the Council to discuss a process or appoint to fill the vacancy if desired.

The following is an excerpt of the Hewitt City Charter which provides direction to the Council for filling vacancies.

**Sec. 2.6. - Vacancies.**

Vacancies occurring on the council may be filled as follows:

- (a) The council may fill a vacancy by appointment only once in any twelve (12) month period. Any additional vacancies occurring within said twelve (12) month period must be filled by special election unless said vacancy occurs less than one hundred twenty (120) days before a regular city election, in which event such vacancy or vacancies may be filled by appointment to serve until the next regular city election.

**SUGGESTED MOTION:**

“I move to .....”

**ATTACHMENTS:**

None