

A G E N D A
CITY COUNCIL MEETING
MONDAY, AUGUST 5, 2024
5:30 P.M.
COUNCIL CHAMBERS

Call to Order.

Pledge of Allegiance.

Roll Call.

- (mot) 1. Adoption of Agenda
- (mot) 2. Approving Minutes from July 15, 2024
- (mot) 3. Awards and Recognitions:
 - Tony Martin Retirement from the Streets Department
 - Officer Daniel Osborne and Pastor Dan Mielke for Collaboration on a Police Call
- (mot) 4. *Consent Agenda
 - Licenses:
 - Mobile Business: Neveria Azteca LLC, Austin MN
 - Tree Service: Travis's Tree Service, Albert Lea, MN
 - Sign Installer: Vision Sign Company LLC, Blaine, MN
 - Exempt Gambling (raffle): Austin Morning Lions on October 25, 2024

Claims:

- a. Pre-list of Bills
- b. Financial Report
- c. Credit Card Report

Appointments:

Justin Heskett to the Parks & Rec Board – Term Expiring December 31, 2026

PETITIONS AND REQUESTS:

- (mot) 5. Requesting Approval of an Ordinance Repeal Related to MetroNet
 - (ord) a. For Preparation of the Ordinance
 - b. For Adoption of the Ordinance
- (res) 6. Approving a Settlement Agreement with MetroNet
- (res) 7. Approving an Update to the Investment Policy
- (res) 8. Accepting Donations to the City of Austin

CITIZENS ADDRESSING THE COUNCIL

HONORARY COUNCIL MEMBER COMMENTS

REPORTS AND RECOMMENDATIONS:

City Administrator
City Council

(mot) Adjourn to **Monday, August 19, 2024** at 5:30 pm in the Council Chambers

All items listed with an asterisk () are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a council member or citizen so requests in which event the item will be removed from the general order of business and considered in its normal sequence on the agenda.

M I N U T E S
CITY COUNCIL MEETING
July 15, 2024
5:30 PM
Council Chambers

MEMBERS PRESENT: Mayor Steve King. Council Members Paul Fischer, Laura Helle, Michael Postma, Geoff Baker, Joyce Poshusta, Jason Baskin and Council Member-at-Large Jeff Austin

MEMBERS ABSENT:

STAFF PRESENT: City Administrator Craig Clark, Director of Administrative Services Tom Dankert, Police Chief David McKichan, Public Works Director Steven Lang, Planning and Zoning Administrator Holly Wallace, Park and Rec Director Jason Sehon, City Attorney Craig Byram, Assistant City Engineer Mitch Wenum, and City Clerk Brianne Wolf

APPEARING IN PERSON:

Mayor King called the meeting to order at 5:30 p.m.

Moved by Council Member Baker, seconded by Council Member Fischer, approving the agenda. Carried.

Moved by Council Member Baker, seconded by Council Member Postma, approving Council minutes from July 1, 2024. Carried.

CONSENT AGENDA

Moved by Council Member Fischer, seconded by Council Member Baker, approving the consent agenda as follows:

Licenses:

Mobile Business: The Wandering Scoop, Rochester, MN
Mobile Business: Pleasant Grove Pizza Farm, Waseca, MN
Taxicab Driver: Ashley Sanden, Austin MN
Massage Therapist: Eh Kmler Soe, Austin, MN

Claims:

- a. Pre-list of Bills
- b. Investment Report

Event Applications:

Hormel Finance, IT & Strategy Corporate Office Employee Appreciation Summer Event on July 16, 2024
Oaxaca Basketball Tournament on July 20, 2024

Dammen Family Fun Day on July 20, 2024

Carried.

PUBLIC HEARINGS

A public hearing was held for a tax abatement requested by Bigelow and Lennon Construction. They are proposing to build a single-family home at 1800 13th Place NE valued at approximately \$330,000.00. City Administrator Craig Clark stated the application is in conformance with the City's policy for tax abatement.

There were no public comments.

Moved by Council Member Baker, seconded by Council Postma, approving the tax abatement application from Bigelow and Lennon Construction. Carried 7-0

City Administrator Craig Clark stated the Stencil Group is proposing a phase two for the Mill on Main Apartment project. In phase one they completed 93 units and in phase two they are proposing to complete 103 units. The phase two units would be the same style building as phase one. There would be \$20.6 million in construction value.

Mr. Clark stated this is an amendment to TIF District #16 which was payable in 2024. The Stencil Group is looking to make an amendment to their agreement with the City of Austin.

Director of Administrative Services Tom Dankert stated this amendment does not expand the location as the parcels are still located together. This allows us to amend the budget for the additional revenue that will be coming in to the developer and will also allow for the same 4% interest rate for the expenses the developer would incur in the amount of \$3.3 million.

Nate Stencil, developer on the project spoke to the council. Mr. Stencil stated this project has been very successful and there is a waitlist for people looking for this type of property in downtown Austin.

Council Member Postma asked what the timeline was for completion.

Mr. Stencil stated the estimated construction start time would be late September to early October and that the completion date would be the first part of 2026. They made adjustments in phase two to have less studios and more two-bedroom and three-bedroom apartments.

Moved by Council Member Baker, seconded by Council Baskin, approving the amendment to the TIF District #16 – Mill on Main. Carried 7-0.

PETITIONS AND REQUESTS

City Administrator Craig Clark reviewed the cable television franchise ordinance with MetroNet. He stated MetroNet would like to discontinue with their cable television provision and repeal the cable television franchise ordinance. Mr. Clark clarified MetroNet will still be providing their fiber streaming services but not their cable television services. MetroNet also requested approval

of a settlement agreement related to the discontinuation of the cable franchise agreement with the City of Austin.

Mr. Clark requested Council approval for the repeal of the ordinance and approval of the settlement agreement.

Council Member Baskin asked if we repeal this, will it take away leverage that we have over MetroNet. He stated community members have reached out to him about how upset they are with their MetroNet services. Council Member Baskin asked if we should keep this in place until MetroNet has carried through with their agreement or does this have nothing to do with that.

Mr. Clark stated the right of way issues that we are concerned with, we are still cognizant of and are inclusive in the settlement agreement. Our leverage over this area is increasingly diminished. Telecommunication law allows them access into our right of way so long as they abide by our right of way provisions. He stated to force them to maintain a cable subscription is an option without leverage. He stated he shares the same concerns but this is the best that we can hope for moving forward.

Council Member Poshusta stated they have a right to access the right of way but they have left a lot of disrepair. Is this going to be part of this settlement to correct these issues.

Mr. Clark stated yes, this is still in the agreement. There are references to the Memorandum of Understanding that we have with them and they are still agreeing to comply to those terms.

Council Member Postma asked if there a time frame on that.

Mr. Lang stated MetroNet indicated they would start in the upcoming months with televising storm lines and tile lines and if needed, repair any damage. He stated Austin Utilities also has concerns about their gas systems, if there have been any damages to those systems. The representative from MetroNet stated they will stand behind their work and will be here in the future to make necessary repairs.

Mr. Lang stated if anyone has any questions or concerns about MetroNet, they should let the Engineering Department know so they can communicate with MetroNet and address the problem.

Council Member Baskin asked if we voted this down or table this for a couple months, does this give Mr. Clark any more opportunity to work with MetroNet to correct their issues with their fiber services and the issues they have created in the right of ways throughout the community or does this not make much of a difference.

Mayor King stated there have been negotiations with their attorney and this may be the best deal that the City will get.

Mr. Clark stated the City uses Brian Grogen as our legal representative and he has expertise in this field. If Council wishes, we can postpone this to the next meeting. If they would like, Mr. Clark can reach out to Mr. Grogen and see if he can join us. Mr. Clark stated Council can vote no and we can carry forward as such, that is their decision.

Mayor King requested a motion for repeal of the ordinance for MetroNet.

Council Member Helle stated holding up this process isn't going to give us any leverage and is going to create more work for staff. She does agree with Jason's concerns that this particular business has not done right by Austin residents.

Moved by Council Member Helle, seconded by Council Member-At-Large Austin, for repeal of the ordinance. Council Member Helle, Council Member-at-Large Austin-Aye Council Member Postma, Baker, Baskin, Fischer, Poshusta-Nay. Failed

Moved by Council Member Postma, Seconded by Council Member Baker for continuation of the ordinance and settlement agreement to the next council meeting on August 5, 2024. Carried.

Director of Administrative Services Tom Dankert requested approval of an ordinance in conjunction with Austin Utilities to extend the existing power sales contract through April 1st, 2050 with Southern Minnesota Municipal Power Agency (SMMPA).

Mayor King requested a motion for preparation of the ordinance for SMMPA.

Moved by Council Member Baker, seconded by Council Member-at-Large Austin, for preparation of the ordinance. Carried.

Moved by Council Member Baker, seconded by Council Member Fischer, for adoption of the ordinance. Carried 7-0.

Moved by Council Member Baker, seconded by Council Member Fischer, for summary publication of the ordinance. Carried 7-0.

Planning and Zoning Administrator Holly Wallace stated Michael & Holly Flanders are requesting a fence appeal due to their request not being in compliance with the City's ordinances. The Planning and Zoning Commission approved the request and Ms. Wallace is requesting approval from Council.

Moved by Council Member Baker, seconded by Council Member Fischer. Carried.

Planning and Zoning Administrator Holly Wallace stated Moose 701 Properties, also known as Games People Play, is requesting a sign appeal due to their new signage not being in compliance with the City's ordinances. The Planning and Zoning Commission approved the request and Ms. Wallace is requesting approval from Council.

Moved by Council Member Baker, seconded by Council Member Poshusta. Carried. Baskin Abstained.

Assistant City Engineer Mitch Wenum discussed the next steps for the Whitewater project is to complete a preliminary design. He stated they have received a bid for the preliminary design work from Recreation Engineering and Planning (REP) and it will cost \$83,575. They have raised \$85,000. The work that will be done will get them to the point where they can have more

in-depth discuss with permitting agencies and design agencies. The process will take 3-6 months and once completed we can decide whether or not to move forward with the final design and construction of the project.

Moved by Council Member Baskin, seconded by Council Postma, approving a preliminary design proposal for the Whitewater project. Carried 6-1(Council Member Baker-Nay)

Moved by Council Member Baker, seconded by Council Member Fischer, accepting donations to the City of Austin. Carried 6-0. Baskin Abstained.

REPORTS AND RECOMMENDATIONS

Park and Rec Director Jason Sehon stated there are two Park and Rec events coming up this weekend. These are free events. On Thursday, July 18, there is a Kiwanis Track and Field event for ages 3 and up at Wescott Field at 5:30 p.m. On Friday, July 19, the pool is hosting a free family fun night from 7 p.m. to 9 p.m.

COUNCIL REPORTS

Council Member Helle thanked the community for their patience while we get the contaminated parks cleaned. She stated National Night Out is August 6th. She has had various contacts about violations throughout the City regarding junk or high grass. She stated that citizens are able to visit the City of Austin's website to report the violation.

Council Member Postma stated it was great to hear about more multi-family units coming to Austin. He stated Discover Austin had a great weekend with the swim meet and the youth baseball tournament. He gave Kudos to all that make these events happen. He gave a sincere thank you to the Chamber of Commerce for their work on the parade and the Austin Enhancement Group for their work on the 4th of July events.

Council Member Baker asked when the City would be spraying for mosquitoes. Mr. Lang stated the previous dates for spraying we were rained out. They are currently not able to get in contact with the spraying company but will continue to try.

Council Member-at-Large Austin gave an updated from the Library Board meeting. He stated there will be a change of leadership on the SELCO Board. He stated they made changes to several policies, including the way the public announcement board is used for postings. The summer reading program is doing very well and has had higher sign ups than last year. He stated they are doing good work on the upcoming budget.

Council Member Baskin echoed Council Member Postma on his comments on the July 4th events. He stated this is one of the best events that we do all year. He also denounced the political violence that occurred over the weekend.

Council Member Fischer thanked Chief McKichan for the Friday night ride along with Officer Osborne. It was very informative and a learning experience.

Mayor King stated the amount of work that the City employees do to keep their eye on the ball and the amount of talent we have in the city is remarkable. He appreciates all the work that the employees are doing. Kudos to the City staff.

CITIZENS ADDRESSING THE COUNCIL

Leonard Germer 1508 6th Ave NW – Mr. Germer wanted to know when the red lights are going to be turned on throughout town. Currently there are blinking red lights on and he believes they are a bad idea.

Mayor King stated there was an assessment done and these are going to be replaced with four way stop signs in the future. They are no longer going to be stop lights.

Mr. Lang stated they will be updated once they have the budgets confirmed for 2025 and if they are able to get funding allocated for those projects.

Moved by Council Member-at-Large Austin, seconded by Council Member Baskin, adjourning the meeting to August 5, 2024. Carried.

Adjourned: 6:11 p.m.

Approved: August 5, 2024

Mayor: _____

City Recorder: _____

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF AUSTIN, MINNESOTA
REPEALING CITY SPECIAL ORDINANCES 611 & 692 REGARDING THE GRANT
OF CABLE TELEVISION FRANCHISES**

The Council of the City of Austin ordains:

Section 1. Austin City Special Ordinance Table 10 Franchise Agreements, Ordinance 611 relating to the grant of a cable television franchise to Jaguar Communications is hereby repealed in its entirety.

Section 2. Austin City Special Ordinances Table 10 Franchise Agreements, Ordinance 692 relating to the grant of a cable television franchise to CMN-RUS, LLC (formerly CMS-RUS, Inc, dba MetroNet) is hereby repealed in its entirety.

Passed by the City Council of the City of Austin, Minnesota by a vote of yeas and nays this 5th day of August, 2024.

YEAS

NAYS

APPROVED:

Mayor

ATTEST:

City Recorder

This ordinance was introduced on August ____, 2024; approved on August ____, 2024; was published in the Austin Daily Herald on August ____, 2024; and becomes effective August ____, 2024.

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made this ____ day of _____ 2024, by the City of Austin, Minnesota ("City"), Jaguar Communications, LLC (formerly Jaguar Communications, Inc., hereinafter "Jaguar") and CMN-RUS, LLC (formerly CMN-RUS, Inc., hereinafter "MetroNet"). The City and MetroNet shall sometimes be referred to herein individually as a "Party" or collectively as the "Parties."

RECITALS

1. On June 16, 2014, the City adopted Ordinance No. 611 granting a limited area franchise to Jaguar ("Jaguar Franchise").
2. On May 18, 2020, the City adopted Resolution No. 16066 approving the change of control of Jaguar to MetroNet Holdings, LLC.
3. The City granted Cable Television Franchise Ordinance No. 692 ("MetroNet Franchise") to MetroNet on June 21, 2021.
4. On June 14, 2021, the City and MetroNet entered into an Indefeasible Right of Use Agreement ("IRU Agreement") which provides for dedicated dark fiber connections to be constructed by MetroNet to specified City locations in exchange for the City's waiver of certain construction permit fees.
5. The MetroNet Franchise is set to expire on or about August 4, 2031 ("Expiration Date").
6. The MetroNet Franchise anticipated construction of a cable system to provide cable service that would serve approximately ninety percent (90%) of the City within twenty-eight (28) months from the commencement of construction.
7. The City and MetroNet entered into a Memorandum of Understanding dated November 2, 2023 regarding construction work in the City ("Memorandum"). The Memorandum outlined ten (10) specific steps MetroNet will undertake with respect to further construction in the City.
8. MetroNet has notified the City that due to market conditions it no longer plans to provide cable service within the City, however, MetroNet still desires to install facilities within the City to provide broadband services and MetroNet desires to maintain the IRU Agreement.
9. MetroNet has requested that the City agree to terminate the MetroNet Franchise and the Jaguar Franchise, and the City is not opposed subject to certain conditions.
10. The City and MetroNet desire to maintain the IRU Agreement subject to clarification regarding the term of the IRU Agreement as set forth herein.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, considerations, and mutual promises contained herein and other good and valuable mutual consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, and intending to be legally bound, the Parties agree as follows:

AGREEMENT

1. **FRANCHISE TERMINATION DATE.** The Parties hereby agree to terminate the MetroNet Franchise and the Jaguar Franchise effective _____, 2024.

2. **REMOVAL OF FACILITIES.**

a. Pursuant to the Jaguar Franchise and the MetroNet Franchise, MetroNet agrees to remove any cables, wires and appliances from publicly dedicated Streets, alleys or utility easements within the City associated solely with the provision of cable service.

b. MetroNet agrees to restore affected sites to their original condition consistent with all City Code requirements.

c. Nothing herein shall be construed to waive any rights that the City may have with respect to the enforcement of City Code obligations on any MetroNet facilities that remain in the City's streets. Such enforcement rights shall extend to facilities owned by any affiliates of MetroNet. MetroNet agrees to compensate the City for any damages resulting from the discontinued use or abandonment of the cable system, including all costs which the City may incur to remove any abandoned portion of the cable system from the streets.

3. **CONTACT.** MetroNet will provide a phone number and e-mail address for a technical employee who may be contacted for technical questions or issues or to request removal of abandoned or unused MetroNet property.

4. **INSURANCE.** MetroNet agrees to maintain the policies of insurance, pursuant to the terms outlined in Section 22.5 of the MetroNet Franchise, through August 4, 2031.

5. **MAPS.** Within thirty (30) days of the date of adoption of this Agreement, MetroNet shall provide to the City maps showing the location of all existing facilities in the City pursuant to Section 7.08 of the City Code.

6. **PERMITS.** Except as otherwise specified in the IRU Agreement, MetroNet agrees to comply with all permitting obligations and applicable fees applied to right-of-way users pursuant to the City Code. MetroNet agrees to comply with the City Code with respect to any future construction for telecommunications or broadband facilities.

7. **IRU AGREEMENT.** Section 3 of the IRU Agreement shall be deleted in its entirety and replaced with the following:

This Agreement shall expire on August 4, 2036. The City shall have the unilateral right to trigger a renewal term for fifteen (15) years for the continuation of the exclusive use and access to the City Fibers which shall be provided free of charge to the City. The Parties agree that the obligations under the IRU Agreement shall not extend beyond the Useful Life of the City Fibers. "Useful Life", as used in this Section, refers to the period that begins on the installation date of the City Fibers and continues until the date when the City Fibers become technically unusable along a substantial portion of the segments described in Exhibit A due to normal wear over an extended period of time.

8. **POLE ATTACHMENTS.** MetroNet shall continue to comply with the December 10, 2020 Pole Attachment Agreement between MetroNet Fibernet, LLC, and Austin Utilities.
9. **COMPLIANCE WITH MEMORANDUM.** MetroNet shall comply with the agreement set forth in the Memorandum until such time as the City determines, in its sole reasonable discretion, that MetroNet has satisfied the steps MetroNet agreed to undertake with respect to further construction in the City.
10. **UNPAID FRANCHISE FEES AND PEG FEES.** MetroNet shall, within thirty (30) days of the date of adoption of this Agreement, provide payment to the City for unpaid franchise fees and PEG fees collected from its subscribers in the City as set forth in the MetroNet Franchise and the Jaguar Franchise, together with and applicable interest or late fees, in the amount of Fifteen Thousand Five Hundred and No/100 Dollars (\$15,500).
11. **FEES AND COSTS.** MetroNet shall, within thirty (30) days of the date of adoption of this Agreement, fully reimburse the City Twenty-five Thousand and No/100 Dollars (\$25,000.00) for City's reasonable costs and expenses in connection with this Settlement Agreement.
12. **VOLUNTARY AGREEMENT.** This Agreement is freely and voluntarily executed by each Party, without any duress or coercion, and after each Party has consulted with its counsel. Each Party has carefully and completely read all the terms and provisions of this Agreement.
13. **BINDING EFFECT.** This Agreement will inure to the benefit of and be binding upon the Parties and respective successors and assigns. The Parties for themselves and their respective successors, assigns agree to join in or execute any instruments and to do any other act or thing necessary or proper to carry into effect this or any part of this Agreement.
14. **GOVERNING LAW.** This Agreement, and any controversies arising hereunder, shall be interpreted and adjudicated in accordance with the laws of the State of Minnesota, whose courts shall have exclusive jurisdiction thereof.
15. **ENTIRE AGREEMENT.** This Agreement represents the entire understanding and agreement between the parties as to the subject matter hereof and may be modified or waived only by a separate writing.
16. **HEADINGS.** All headings are herein provided for the convenience of reference only and do not affect the meaning or interpretation of this Agreement.
17. **COUNTERPARTS.** This Agreement may be executed electronically and in counterparts, each of which is an original and all of which together constitute one and the same document.
18. **COPIES.** PDF copies of the executed Agreement may be treated as original documents.

IN WITNESS WHEREOF, the parties have executed this Agreement as their free and voluntary acts and deeds, effective as of the date first above written.

CITY OF AUSTIN, MN

By: _____

Its: _____

CMN-RUS, LLC

By: John Campbell
John Campbell (Jun 24, 2024 14:32 CDT)
John Campbell

Its: EVP & General Counsel

JAGUAR COMMUNICATIONS, LLC

By: John Campbell
John Campbell (Jun 24, 2024 14:32 CDT)
John Campbell

Its: EVP & General Counsel



MEMORANDUM

To: Craig Clark
From: Brian Grogan
Date: June 25, 2024
Re: Settlement Agreement - MetroNet

MetroNet has notified the City of Austin, Minnesota ("City") that due to changing market conditions, MetroNet no longer seeks to provide cable/video services in the City. MetroNet has therefore requested termination of Cable Television Franchise Ordinance No. 692, adopted by the City on June 21, 2021; as well as Cable Television Franchise Ordinance No. 611 granting a limited area franchise to Jaguar, adopted by the City on June 16, 2014 ("Cable Franchises").

MetroNet has stated that while it seeks to terminate the Cable Franchises, MetroNet intends to continue to provide broadband service within the City. The provision of broadband service in the City does not currently require franchise authorization. Rather, MetroNet would be required to comply with applicable City Code provisions related to right-of-way construction.

Settlement Agreement Terms:

The City and MetroNet are also parties to an Indefeasible Right of Use Agreement ("IRU Agreement") dated June 14, 2021, which provides for dedicated dark fiber connections to be constructed by MetroNet to specified City locations and provided to the City free of charge. As consideration for the termination of the Cable Franchises MetroNet has agreed to comply with the IRU Agreement which shall expire on August 4, 2036; however, the City shall have the option to renew the IRU Agreement for 15 years.

The City and MetroNet also entered into a Memorandum of Understanding dated November 2, 2023, regarding construction work in the City ("Memorandum"). As part of the terms of the Settlement Agreement MetroNet shall comply with the Memorandum until such time as the City determines that MetroNet has satisfied the steps outlined within the Memorandum.

MetroNet shall continue to comply with the December 10, 2020, Pole Attachment Agreement with Austin Utilities.

MetroNet has agreed to provide payment to the City for unpaid franchise fees and PEG fees collected from its subscribers in the City as set forth in the Cable Franchises, in the amount of \$15,500. MetroNet will reimburse the City \$25,000 for its reasonable costs and expenses in connection with this Settlement Agreement.

The attached Settlement Agreement has been reviewed and agreed to by City staff and MetroNet has executed the document.

Action Requested:

Approve the Settlement Agreement resulting in the termination of the Cable Franchises.

Attachment:

Settlement Agreement - MetroNet and City of Austin.

RESOLUTION NO.

**REQUESTING TERMINATION OF METRO FIBERNET, LLC
CABLE/VIDEO SERVICES IN THE CITY OF AUSTIN, MINNESOTA**

WHEREAS, due to changing market conditions, MetroNet no longer seeks to provide cable/video services in the City of Austin; and

WHEREAS, Metro Fibernet, LLC has requested to termination of Cable Television Franchise Ordinance No. 692 adopted by the City of Austin on June 21, 2021 and Cable Television Franchise Ordinance No. 611 adopted by the City of Austin on June 16, 2014; and

WHEREAS, MetroNet has requested the signing of a settlement agreement to terminate services of the cable/video franchise agreement.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Austin does grant termination of Cable Television Franchise Ordinance No. 692 and No. 611 and authorizes the signing of a settlement agreement to terminate services of the cable/video franchise agreement with MetroNet.

Passed by a vote Yeas and Nays this 5th day of August, 2024.

YEAS

NAYS

ATTEST:

APPROVED:

City Recorder

Mayor

City of Austin
500 Fourth Avenue N.E.
Austin, Minnesota 55912-3773



Phone: 507-437-9940

www.ci.austin.mn.us

MEMO

TO: Mayor and City Council

FROM: Tom Dankert *TD*

DATE: August 5, 2024

SUBJECT: Investment Policy Update 2024
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The City of Austin last updated its Investment Policy in May of 2019 and follows state statutes. While we do not invest in many of the authorized investments, it is always good to mirror state statutes on such policies.

Recently, we have been getting solicitations from brokers for FDIC insured CD's through credit unions. In our investment Policy, I would like to add on page 6 (letter d), the terms "or a credit union" to allow us specific authority to invest in such. Although it may be assumed that we can invest in a credit union CD based on the current policy, it is my request to give clear authority based on discussions with my brokers.

If Council agrees, I would request a resolution approving of the change.

If you have any questions, please do not hesitate to give me a call at 437-9959.

CITY OF AUSTIN, MINNESOTA

INVESTMENT POLICY

August 5, 2024

The purpose of this policy statement is to establish standards governing the investment of city funds. It is the City's policy that available funds be invested to the maximum extent possible, at the highest rates obtainable at the time of investment, in conformance with the legal and administrative guidelines outlined herein.

STATEMENT OF POLICY

Applicability

This directive applies to all investments made by the City, irrespective of fund.

Scope of Investments

The City will invest only in the following instruments or those others that may subsequently be permitted by the State Statute.

- a. United States Treasury Obligations
- b. Federal Agency Securities
- c. Repurchase Agreements (Repos)
- d. Certificates of Deposit (C.D.'s)
- e. Commercial Paper
- f. Banker's Acceptance
- g. Money Market Funds
- h. State and local municipal securities

These instruments are defined in the Appendix.

Vendor Aspects

The vendor aspects of investment activity will focus upon protection of taxpayer dollars and investment income, consistent with statutory authorization and financial prudence. The City will conduct its investment transactions with several legal competing, reputable investment security dealers and qualifying banks utilizing the following guidelines:

A. Repurchase Agreements (Repo's)

1. Perfecting Collateral.

Repo's are considered secured loans with securities as underlying collateral. The collateral in each Repo transaction shall be perfected. (Perfection is a legal concept by which the City attains the right to take delivery and ownership of the collateral

involved in a loan in the event that a debtor defaults and files bankruptcy). With collateral perfection, there is less principal risk for the City since the claim against the collateral is in place in relation to those of other parties.

For Repo's with maturities of 21 days or less, collateral is considered perfected without security delivery. For Repo's with maturities extending past 21 days, perfection occurs only by taking possession of securities. The City will insist on delivery of securities if the Repo transaction is greater than 21 days.

2. Selection of Repo Vendors.

The City will purchase Repo's from vendors who meet certain criteria:

- a. Reporting dealers who are monitored by the New York Federal Reserve Bank.
- b. Nationally supervised commercial banks whose combined capital and surplus equals or exceeds \$25,000,000.
- c. Local, designated depository banks issuing Repo's in amounts of \$500,000 or less and scheduled to mature in seven days or less.
- d. The qualifying bank or dealer must have demonstrated over a significant period of time, a successful, profitable, and reliable operation.
- e. The qualifying bank or dealer must have an established managerial component and knowledgeable professional staff capable of ensuring the continued success of the enterprise.

B. Local Investments

In order to provide an opportunity for small local banks to compete in the bidding process, efforts will be made to offer smaller dollar amounts for bid.

The City of Austin will purchase short-term and medium-term certificates of deposit from vendors based on the following criteria:

1. The rates should match or exceed other investment options.
2. The collateral shall be government securities in excess of FDIC maximum insurance.

C. Bankers Acceptances

Although authorized by Minnesota Law, Bankers Acceptances and Commercial Paper are more risky than instruments of the Federal government or Federal agencies. Because of the credit risk, the City of Austin will follow these guidelines:

1. Bankers acceptances shall be restricted to the top 40 banks in the United States (as measured by deposits).
2. The broker, dealer, or banker shall verify that the Bankers Acceptance is eligible for repurchase by the Federal Reserve System.
3. Bankers acceptances should not be purchased unless the yield is greater than United States Treasury Obligations or Federal Agency Issues.

D. Commercial Paper

1. Commercial Paper shall be restricted to issues which mature in 270 days or less with a rating of A-1 (Moody's), P-1 (Standard & Poors), or F-1 (Fitch) among at least two of the three rating agencies.
2. Commercial Paper shall be purchased only from dealers who report to the Federal Reserve Bank of New York or from qualifying banks.
3. Commercial Paper shall not be purchased unless the yield is greater than United States Treasury Obligations or Federal Agency Issues.

E. Money Market Funds

In order to ensure maximum security, only those money market funds with portfolios consisting solely of United States Treasury Obligations and/or Federal Agency Issues will be considered for investment.

F. Speculative Investments Will Not Be Allowed

The City will not purchase investments that, at the time of investment, cannot be held to maturity. This does not mean that an investment cannot be sold prior to maturity.

Administrative Process

Investments shall be undertaken so as to ensure the preservation of capital in the overall portfolio. Safety of principal is the foremost objective. Liquidity and yield are also important considerations. It is essential that money is always available when needed; therefore, Austin's investment goal is to maximize yield while scheduling maturity dates to coincide with expenditure needs.

The City's investment portfolio shall be designed to attain a market-average rate of return during budgetary and economic cycles, taking into account the City's investment risk constraint and the cash flow characteristics of the portfolio.

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

A. Procedures

Cash management is essential to a good investment program. The Finance Department has responsibility to organize and establish procedures for effective cash management, based on the following guidelines:

1. Cash flow projections should be utilized and updated throughout the year.
2. Each morning cash balances will be prepared based on cash received the previous day, checks paid the previous day, and sizeable checks or wire transfers that present investment opportunity.
3. Each morning, the investment records will be reviewed and updated as investments mature or are purchased.
4. Each month the investment records will be balanced to the financial records.
5. Each month the Administrative Services Director will submit an investment report to the City Council.
6. Interest earnings will be allocated to the various city funds at least quarterly.
7. The general fund will be allocated a management fee equal to one percent of the investment earnings.

B. Banking and Depositories

Investment procedures include controlling the level of bank balances and selecting institutions. At the beginning of each year, the city council approves depositories and investment firms. Minnesota Statutes 118A.03 requires that all deposits be collateralized in the amount of 110% of deposits in excess of federal government insurance coverage.

ELIGIBLE INSTRUMENTS FOR CITY INVESTMENT

- a. United States Treasury Obligations – constitutes the largest segment of the market for fixed-income securities. In general, Treasury securities are the safest and most marketable securities and yield the lowest return for a given maturity of all investment instruments.

Treasury bills which carry the full faith and credit guarantee of the U.S. government are issued at a discount from par and mature in one year or less. *\$10,000 minimum*.

Treasury notes and bonds which are also U.S. Government guaranteed have a semi-annual interest coupon and original maturities of 2 to 30 years. Maturities under 4 years - \$5,000.00 minimum; \$1,000.00 minimum on 4 years and longer.

Treasury STRIPS and Treasury Receipts are zero coupon securities with maturities ranging from 6 months to 30 years. *1,000.00 minimum*.

- b. U.S. Agency securities GSE's (Government Sponsored Enterprises) are instrumentalities, or organizations created by an act of Congress. Government Sponsored Enterprise securities have the implied guarantee of the United States Government and are privileged to certain access to capital and support of government programs. The issuers are generally considered to have the second highest credit quality in the fixed income markets and provide higher yields than U.S. treasury obligations. The ratings on all the agencies that the City can invest are the highest available and included the following specific issuers.

FHLB: The Federal Home Loan Bank system (FHLB) was created by Congress in 1932 and acts as a source of funds for its nearly 8,000 member banks. FHLB does not purchase home mortgages to the same extent as Freddie Mac and Fannie Mae, but primarily lends money to homeowners through its member financial institutions. FHLB System members include commercial banks, thrifts, credit unions and insurance companies. Each member is a shareholder in one of the 12 regional Federal Home Loan Banks; each regional bank is an individual corporate entity, which must meet strict management and capitalization criteria befitting its GSE status. The FHLB System is regulated by the Federal Housing Finance Board (FHFB) and the Office of Finance (OF).

FHLMC: The Federal Home Loan Mortgage Corporation encompasses Freddie Mac; it is a housing GSE created by Congress in 1970 to provide liquidity and stability in the home mortgage market, thereby

increasing the flow of funds available to mortgage borrowers. In order to accomplish this goal, Freddie Mac does not make individual mortgage loans to consumers. Rather, Freddie Mac purchases mortgages from lenders, thereby allowing them to lend the proceeds to more homebuyers. Freddie Mac is regulated by the Secretary of Housing and Urban Development (HUD) and by the Office of Federal Housing Enterprise Oversight (OFHEO).

FFCB: The Federal Farm Credit Bureau is an agency of the Federal government set up to supply credit to various classes of institutions and individuals such as farmers and farm cooperatives.

FNMA: Federal National Mortgage Association chartered under the Federal National Mortgage Association Act in 1938. FNMA is a federal corporation working under the auspices of the Department of Housing and Urban Development (HUD). It is the largest single provider of residential mortgage funds in the United States. Fannie Mae, as the corporation is called, is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans, in addition to fixed-rate mortgages. FNMA's securities are also highly liquid and are widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal.

Other Issuers: There are other GSE issuers, however, they issue fewer securities and are less active in the marketplace. Therefore, yields typically are slightly higher but they provide less liquidity. The City may purchase other GSE names but may limit the amount held in the portfolio.

- c. Repurchase Agreements (Repo's) – provide for the sale of short-term securities by a securities dealer to investors, such as cities, with an agreement to repurchase the securities at a specified future date. The investor receives a given yield while holding the security and the repurchase price is guaranteed in advance. The length of the holding period is tailored to the needs of the investor, but is usually of very short duration. Rates are related to the rates on treasury bills, federal funds, and loans to government security dealers by commercial banks.
- d. Certificates of Deposits (C.D.'s) – the deposit of funds at a commercial bank or a credit union for a specified period of time and at a specified rate of interest. Yields on Certificates of Deposit tend to be higher than on Treasury Bills of comparable maturity.

- e. Commercial Paper – an unsecured promissory note with a fixed maturity of no more than 270 days. Commercial Paper is normally sold at a discount from face value.
- f. Bankers Acceptance – short-term, non-interest bearing note sold at discount and redeemed at face value. It is secured by the goods which it finances, the bank that accepts the draft, and the issuers promise to pay. These notes trade at a rate equal to or slightly higher than Certificates of Deposit, depending on market supply and demand.
- g. Money Market Funds – these are short term, high quality investments, sold by large banks. These instruments include Treasury Bills and Notes, Certificates of Deposit, Commercial Paper, Banker's Acceptances and Federal Agency Securities.

State and local municipal securities. These include the following types of state and local securities:

- A general obligation of any state or local government with taxing powers, which is rated A or better by a national bond rating service;
- A revenue obligation of any state or local government with taxing powers, which is rated AA or better by a national bond rating service;
- A general obligation of the Minnesota Housing Finance Agency which is a moral obligation of the State of Minnesota and is rated A or better by a national rating agency.

Adopted by the Common Council on the 5th of August, 2024.

City Recorder

Mayor

RESOLUTION NO. _____

RESOLUTION REVISING THE INVESTMENT POLICY

WHEREAS, the City Council of the City of Austin adopted an investment on September 7, 1993 and amended such policy on March 2, 2009 and May 20, 2019; and

WHEREAS, the Director of Administrative Services recommends amending the language to allow for additional investing opportunities in credit union certificates of deposit as allowed by Minnesota State Statutes.

NOW THEREFORE, BE IT RESOLVED THAT the City Council of the City of Austin does hereby adopt the Investment Policy and is hereby amended as set forth in the attached Exhibit A.

Passed by a vote of Yeas and Nays this 5th day of August, 2024.

YEAS

NAYS

ATTEST:

APPROVED:

City Recorder

Mayor

RESOLUTION NO.

ACCEPTING DONATIONS TO THE CITY OF AUSTIN

WHEREAS, the City has received gift as follows:

Gift	Donor	For
\$500.00	Mower County	Culture & Arts Graffiti Program

NOW THEREFORE, BE IT RESOLVED that the Austin City Council
accepts said gifts to the City of Austin.

Passed by a vote of yeas and nays this 5th day of August, 2024.

YEAS

NAYS

ATTEST:

APPROVED:

City Recorder

Mayor