

CITY of ALBUQUERQUE

TWENTY THIRD COUNCIL

COUNCIL BILL NO. O-19-87 ENACTMENT NO. _____

SPONSORED BY: Klarissa J. Peña, by request

1 **ORDINANCE**

2 **AMENDING CERTAIN PROVISIONS IN SECTION 4-1-1 ET SEQ., ROA 1994, THE**
3 **FISCAL AGENT ORDINANCE, TO ADD THE CHIEF FINANCIAL OFFICER AS A**
4 **MEMBER OF THE INVESTMENT COMMITTEE, AND TO UPDATE THE TYPES**
5 **OF INVESTMENTS ALLOWED FOR CASH BALANCES NOT REQUIRED FOR**
6 **IMMEDIATE DISBURSEMENT TO ENSURE THIS ORDINANCE COINCIDES**
7 **WITH RECENTLY ENACTED STATUTORY AMENDMENTS PERTAINING TO**
8 **INVESTMENTS OF CASH BALANCES NOT REQUIRED FOR IMMEDIATE**
9 **DISBURSEMENT.**

10 **BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF**
11 **ALBUQUERQUE**

12 **SECTION 1. Section 4-1-1 et seq., ROA 1994, is amended to read:**

13 **"§ 4-1-1 AUTHORITY.**

14 **The City Council, pursuant to the provisions of Article X, Section 6 of the**
15 **Constitution of New Mexico, hereby enacts this article as authorized by such**
16 **section and for the purpose of providing maximum local self-government.**

17 **§ 4-1-2 DEFINITION.**

18 **For the purpose of this chapter, the following definitions shall apply**
19 **unless the context clearly indicates or requires a different meaning.**

20 **BANKING SERVICE PROVIDER. Any of a group of banks or non-bank**
21 **commercial entities, which, independently or in alliance with a Depository**
22 **Financial Institution, provide intermediary, complementary, or end-to-end**
23 **financial and informational services, technical consulting or specialized**
24 **banking products.**

25 **DEPOSITORY FINANCIAL INSTITUTION. Any of a group that includes**
26 **commercial banks, savings banks, savings & loan associations and credit**

[Bracketed/Underscored Material] - New
[Bracketed/Strikethrough Material] - Deletion

1 unions which conduct business by accepting public deposits which are
2 insured by the federal government against loss and channeling their
3 depositor's monies into lending activities.

4 **RATING CATEGORY.** A generic securities rating category of any
5 nationally recognized rating agency without regard, in the case of a long-term
6 rating category, to any refinement or gradation of such long-term rating
7 category by a numerical modifier or otherwise.

8 **§ 4-1-3 DESIGNATION OF FISCAL AGENT.**

9 Depository Financial Institutions doing business in Bernalillo County and
10 having an unimpaired capital and surplus, or in the case of savings and loan
11 associations, regulatory net worth not including retained earnings and
12 subordinated debt, of at least \$5,000,000 may bid for the agreement to be the
13 "fiscal agent of the City of Albuquerque." The bid and associated agreement
14 shall be in accordance with Chapter 5, Article 5, Public Purchases.

15 **§ 4-1-4 REQUIRED SERVICES OF FISCAL AGENT.**

16 The Depository Financial Institution so designated shall enter into an
17 agreement with the [e][C]ity, acting through its Mayor, for:

18 (A) The collection and deposit credit for the [e][C]ity of all checks and
19 other bills of exchange received by the [e][C]ity and payable to its order or
20 bearer.

21 (B) The handling of the [e][C]ity's fiscal depository checking account.

22 (C) The handling of transfers of money.

23 (D) Providing for the investment of funds not required for immediate
24 disbursement.

25 (E) Arranging for the safekeeping of bonds or other securities belonging
26 to, or held by, the [e][C]ity or any official thereof acting in his or her official
27 capacity.

28 (F) Other related commercial banking services beneficial to the [e][C]ity
29 which are requested in the bid specifications.

30 **§ 4-1-5 AGREEMENT WITH FISCAL AGENT.**

31 The agreement shall contain the terms and conditions which are
32 necessary in the opinion of the Mayor for the proper conduct of the fiscal
33 affairs of the [e][C]ity and the safekeeping of the money of the [e][C]ity.

1 § 4-1-6 SECURITY FOR DEPOSITS OF PUBLIC MONEY.

2 (A) Deposits of public money with the fiscal agent, other designated
3 depositories and investments in time deposits shall be secured by securities
4 of the United States, its agencies or instrumentalities, or by securities of the
5 State of New Mexico, its agencies, instrumentalities, counties, municipalities
6 or other subdivisions, or by securities, ~~[including student loans,]~~ that are
7 guaranteed by the United States or the State of New Mexico. Revenue bonds
8 qualify as security for the deposit of public money only if they are
9 underwritten by a member of the National Association of Securities Dealers,
10 known as "NASD," and are rated in any of the three highest major rating
11 categories defined in § 4-1-10 by any nationally recognized rating agency. No
12 security is required for the deposit of public money that is insured by the
13 Federal Deposit Insurance Corporation. All securities specified herein will be
14 accepted as collateral for public money deposits at their current market values
15 subject to periodic review and valuation at intervals determined by the
16 Investment Committee. Minimum collateral requirements as specified from
17 time to time by Investment Committee action must be maintained at all times.

18 (B) Any Depository Financial Institution designated as a depository of
19 public money or having time deposits shall deliver securities of the kind
20 specified in this section, or a joint safekeeping receipt thereof to the Mayor or
21 his designated representative in aggregate value equal to at least one-half the
22 amount of public money placed with such institution. The Investment
23 Committee may direct such institution to deliver securities having more than
24 one-half of the aggregate value of such public money. The Mayor or his
25 designated representative is not liable upon his official bond on account of
26 any funds deposited in the fiscal agency account, other designated
27 depositories or in time deposits when the funds are so secured.

28 § 4-1-7 CITY DEPOSITORIES.

29 The Mayor may also designate, according to his adopted designation
30 procedure, other Depository Financial Institutions doing business as "city
31 depositories" in which money necessary to pay principal, interest, and
32 exchange fees on city notes and bonds may be deposited into trust and
33 paying agent accounts. City depository accounts may also be established in

1 designated financial institutions for the purpose of receiving city utilities
2 payments made at those institutions pending scheduled transfers to the City's
3 Fiscal Agent. Financial Institutions designated by the U.S. Treasury as
4 "minority-owned enterprises" may be designated as city depositories and
5 receive monies for those activities funded exclusively by federal grants-in-aid.
6 No institution shall be so designated unless it has an unimpaired capital and
7 surplus of at least \$500,000.

8 § 4-1-8 OTHER BANKING AND FINANCIAL SERVICES.

9 The [e][C]ity may from time to time request proposals for other general,
10 technical or specialized commercial banking and related financial services
11 which are beneficial to the [e][C]ity. Any Depository Financial Institution or
12 Bank Service Provider meeting the qualifications of the proposal may bid for
13 the opportunity to provide the services as specified in the proposal. The bid
14 and associated agreement shall be in accordance with Chapter 5, Article 5,
15 Public Purchases.

16 § 4-1-9 INVESTMENT COMMITTEE.

17 (A) The Chief Administrative Officer of the [e][C]ity shall appoint an
18 Investment Committee of five members, ~~[one of]~~ which will ~~[be]~~ [include] the
19 [Chief Financial Officer, the] Director of the Department of Finance and
20 Administrative Services[,] and ~~[one of which will be]~~ the [e][C]ity's Treasury
21 Officer. The remaining ~~[three]~~ [two] members will be appointed from anywhere
22 within City Government. In addition, a City Council staff person as designated
23 by the Director of Council Services, the City Controller, the City Economist,
24 the Budget Officer, and the Investment Officer shall participate in the
25 Investment Committee meetings as non-voting members. Committee members
26 may designate an alternate person to serve in their absence at specified
27 committee meetings, and as such the alternate may vote the member's proxy
28 on any motions requiring committee approval.

29 (B) The Investment Committee will be responsible for:

30 (1) Establishing, maintaining and amending general policy and
31 procedures for investing city monies.

32 (2) Establishing collateral requirements for city deposits.

1 (3) Establishing specific parameters and/or limitations on particular
2 types of investments.

3 (4) ~~[Insuring]~~ [Ensuring] proper internal controls are established
4 and maintained to prohibit unauthorized investment activities.

5 § 4-1-10 INVESTMENT OF CASH NOT REQUIRED FOR IMMEDIATE
6 DISBURSEMENT.

7 The Mayor or his designated representative shall, to the extent
8 practicable, invest cash balances over the amount anticipated to be needed to
9 meet operating requirements in any of the following:

10 ~~[(A) Bonds or negotiable securities of the United States of America.~~
11 ~~Securities that are issued by the United States government or by its agencies~~
12 ~~or instrumentalities and that are either direct obligations of the United States~~
13 ~~or are backed by the full faith and credit of the United States government or~~
14 ~~agencies guaranteed or sponsored by the United States government.]~~

15 ~~[(B)]~~[(A)] Accounts with financial institutions located in Bernalillo
16 County, provided that the financial institutions, and the collateral securing the
17 investments permitted by this paragraph, satisfy the requirements for the
18 deposit of public money required by § 4-1-6.

19 ~~[(C) Certificates of deposit, time deposits and banker's acceptances of~~
20 ~~any financial institution located outside the city, the short-term obligations of~~
21 ~~which are rated in any of the three highest rating categories by any nationally~~
22 ~~recognized rating agency, provided that such deposits must be fully secured~~
23 ~~by securities designated in divisions (A) and (B) of this section and held in~~
24 ~~safe-keeping for, or on behalf of, or held in book-entry form in the name of, the~~
25 ~~city.]~~

26 [(B) Securities that are issued by the United States government or by
27 certain of its agencies or instrumentalities and that are either direct
28 obligations of the United States or are backed by the full faith and credit of the
29 United States government or agencies guaranteed or sponsored by the United
30 States government. Only the following United States sponsored Agencies'
31 securities are permitted for investment:

32 i. Federal Home Loan Banks

33 ii. Federal Home Loan Mortgage Corporation

1 iii. Federal National Mortgage Association

2 iv. Federal Farm Credit Banks Funding Corporation

3 v. Federal Agricultural Mortgage Corporation

4 All securities in this subsection must have a maturity of ten years or less
5 at time of purchase.]

6 ~~[(D)]~~[(C)] Bonds or securities of the State of New Mexico[, a New Mexico
7 county or municipality,] or of any [agency—~~or~~ political subdivision
8 ~~or~~][New Mexico] school district ~~[thereof]~~ which has a taxable valuation of real
9 property for the last year of at least \$1,000,000 and has not defaulted in the
10 payment of interest or sinking fund obligation or failed to pay any bonds at
11 maturity at any time within five years preceding the date of investment. [All
12 securities in this subsection must have a maturity date not exceeding ten
13 years at time of purchase.

14 (D) Brokered certificates of deposit (CD's) and CD's offered by the
15 Certificate of Deposit Account Registry Services (CDARS).

16 (E) Mutual funds and exchange-traded funds (ETF) that passively track a
17 broad market, fixed income securities index, provided that the mutual fund or
18 ETF sponsor is registered pursuant to the federal Investment Company Act of
19 1940 and has total assets under management of least one hundred million
20 dollars (\$100,000,000).

21 (F) The Local Government Investment Pool offered by the New Mexico
22 State Treasurer and described in Section 6-10-10.1 NMSA 1978.

23 (G) Shares of pooled investment funds managed by the state investment
24 officer, also known as the New Mexico State Investment Council, as provided
25 in Subsection (G) of Section 6-8-7 NMSA 1978.

26 (H) Securities issued by the following supranational issuers, that are
27 eligible for purchase and sale within the United States, that are denominated
28 in United States dollars, and that have a maturity date not exceeding five years
29 from the date of purchase:

30 i. International Bank for Restruction & Development;

31 ii. International Finance Corporation;

32 iii. Inter-American Development Bank.

1 (I) Commercial paper issued by United States Corporations which are
2 rated A1/P1 and have a maturity date at purchase not exceeding one hundred
3 eighty days.

4 (J) Shares of money market mutual funds registered with the United
5 States Securities And Exchange Commission (SEC), that are subject to SEC
6 Rule 2a-7, and that assess no SEC Rule 12b-1 sales charge or sales load,
7 deferred sales charge or sales load, or redemption fee. These shares are
8 limited to government, prime, and tax-exempt money market mutual funds.]

9 ~~[(E)]~~[K] Repurchase agreements involving the purchase and sale of[,
10 ~~and guaranteed investment contracts the par value of which is collateralized~~
11 ~~by a perfected first pledge of, or security interest in, or the payments of which~~
12 ~~are unconditionally guaranteed by,~~] securities described in [divisions (A) and]
13 [subsection] (B) of this section, which collateral or purchased securities are
14 held by the [e][C]ity, or for the benefit of the [e][C]ity by a party other than the
15 provider of the guaranteed investment contract or repurchase agreement, with
16 a collateralized value of at least 102% of the par value of such repurchase
17 agreement [~~or guaranteed investment contract or 102% of the market value~~
18 ~~thereof~~], valued at intervals of no less than [monthly][daily] and which
19 collateral is not subject to any other pledge or security interest.

20 ~~[(F)]~~[L] The "short-term investment fund[,]" [also known as the Local
21 Government Investment Pool,] described in Section 6-10-10.1 NMSA 1978 or
22 other similar pooled fund maintained by the state for the investment of public
23 funds of local public bodies of the state.

24 ~~[(G) Money market instruments and other securities of commercial~~
25 ~~banks, broker-dealers or recognized financial investors, which securities or~~
26 ~~institutions are rated in the highest rating category by any nationally~~
27 ~~recognized rating agency or which securities are guaranteed by a person or~~
28 ~~entity whose long-term debt obligations are rated in the highest rating~~
29 ~~category by any nationally recognized rating agency, including, without~~
30 ~~limitation, securities of, or other interests in, any open-end or closed-end~~
31 ~~management type investment company or investment trust registered under~~
32 ~~the provisions of 15 U.S.C. Sections 80(a)-1 et seq., which invest only in, or~~

1 ~~whose securities are secured only by, obligations of the type set forth in~~
2 ~~divisions (A) and (B) of this section.]~~

3 ~~[(H) Shares of pooled investment funds managed by the state investment~~
4 ~~officer, as provided in Subsection (G) of Section 6-8-7 NMSA 1978.]~~

5 [(H)][M] (1) Any other investment permitted at the time of the
6 investment by any statute of the State of New Mexico for municipalities which
7 have not adopted a home rule charter.

8 (2) In the event of a conflict with the statutes of the State of
9 New Mexico and the provisions of this section, the provisions of this section,
10 having been adopted pursuant to the provisions of Article X, Section 6 of the
11 constitution of the State of New Mexico and the home rule Charter of the
12 [e][C]ity [of Albuquerque] shall prevail.

13 § 4-1-11 INVESTMENT OF BOND PROCEEDS.

14 (A) The Mayor or his designated representative shall, as practicable,
15 invest the proceeds of all city bonds and other securities and all money set
16 aside for the payment of, or placed in a reserve fund for, such bonds and other
17 securities until the money is needed for the purposes designated in the
18 ordinance or resolution of the [e][C]ity authorizing the issuance of, or
19 otherwise relating to, such bonds or other securities. Income from these
20 investments shall be applied to the payment of principal of, premium, if any,
21 and interest on the bonds, for the purposes for which the bonds were issued,
22 to fund any debt service or other reserve account relating to the bonds or
23 other securities, to pay rebate, penalty, interest and other obligations of the
24 [e][C]ity relating to the bonds or other securities under the Internal Revenue
25 Code of 1986, as amended, including any regulations applicable under the
26 code, to pay the costs and expenses of issuing and administration of the
27 bonds or other securities or for the other related purposes set forth in any
28 resolution or ordinance of the [e][C]ity relating to the bonds or other
29 securities.

30 (B) Notwithstanding any other provision of law to the contrary, proceeds
31 of the bonds and other securities of the [e][C]ity and amounts set aside by the
32 [e][C]ity in a sinking fund or otherwise for the payment of city bonds and other
33 securities or in a reserve fund relating thereto may be invested in:

1 (1) The securities listed in § 4-1-10.

2 (2) Deposits which are fully insured by the Federal Deposit
3 Insurance Corporation or which are secured by obligations described in
4 divisions (A) and (B) of § 4-1-10.

5 (3) Any other investment specifically permitted by the ordinance
6 authorizing the issuance of the bonds or other securities or set forth in an
7 indenture, escrow agreement or trust agreement, approved by the Council,
8 relating to the bonds or other securities.

9 (4) Obligations, the interest on which is excluded from gross
10 income of the recipient for federal income tax purposes and in any other
11 instrument which does not constitute "investment property" under Section
12 148 of the Internal Revenue Code, as amended from time to time, which is
13 rated in any of its three highest major rating categories by any nationally
14 recognized rating agency.

15 (C) The terms of this section shall not be applicable to industrial revenue
16 or other conduit bonds or other securities which are payable solely from:

17 (1) Funds other than funds of the [e][C]ity, its departments or
18 agencies;

19 (2) The revenues of a project financed with the proceeds of
20 industrial revenue or other conduit bonds or other securities; or

21 (3) A combination of the funds and revenues described in divisions
22 (1) and (2) of this division (C).

23 § 4-1-12 CUSTODY OF SECURITIES.

24 Securities purchased or held under the provisions of this article shall be
25 in the possession of the Mayor or his designated representative who may
26 deposit with a financial institution or trust company such securities as he
27 shall consider advisable to be held in safekeeping by such agent."

28 SECTION 2. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
29 clause, word or phrase of this ordinance is for any reason held to be invalid or
30 unenforceable by any court of competent jurisdiction, such decision shall not
31 affect the validity of the remaining provisions of this ordinance. The Council
32 hereby declares that it would have passed this ordinance and each section,

1 paragraph, sentence, clause, word or phrase thereof irrespective of any
2 provision being declared unconstitutional or otherwise invalid.

3 SECTION 3. COMPILATION. This ordinance shall be incorporated in and
4 compiled as part of the Revised Ordinances Of Albuquerque, New Mexico,
5 1994.

6 SECTION 4. EFFECTIVE DATE. This ordinance shall take effect five days
7 after publication by title and general summary.

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CITY OF ALBUQUERQUE
Albuquerque, New Mexico
Office of the Mayor

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM

August 28, 2019

TO: Klarissa Peña, President, City Council

FROM: Timothy M. Keller, Mayor 


SUBJECT: Amendments to Fiscal Agent Ordinance

This Bill amends City Ordinance 4-1-1, the Fiscal Agent Ordinance, to add the position of Chief Financial Officer, recently appointed by the Mayor, as a designated member of the City's Investment Oversight Committee. In addition, the Bill aligns permissible investments types with those designated in NMSA 6-10-10, Sections A-H (1978, as amended), pursuant to changes to this Statute that were signed into law by Governor Lujan-Grisham in May 2019.


The attached proposed Ordinance is hereby forwarded to the Council for its consideration and action.

Amendments to Fiscal Agent Ordinance

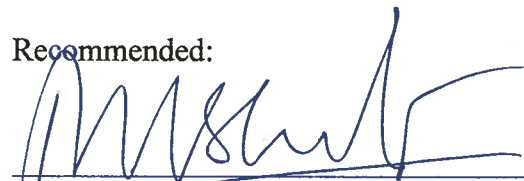
Approved:

 12/31/17
Sarita Nair Date
Chief Administrative Officer

Approved as to Legal Form:

 8-30-19 (AV)
Esteban Aguilar Date
City Attorney

Recommended:

 12/15/19
Sanjay M. Bhakta Date
Chief Financial Officer

Cover Analysis

1. What is it?

Required amendments to Section 4-1-1 et seq., ROA 1994, the Fiscal Agent Ordinance.

2. What will this piece of legislation do?

Adds the Chief Financial Officer as a member of the Investment Committee, and updates the types of investments allowed for cash balances not required for immediate disbursement.

3. Why is this project needed?

Maximizes the effectiveness of the Investment Committee by adding the Chief Financial Officer as a member, and ensures that the City Ordinance's investment provisions are aligned and consistent with State of New Mexico's recently enacted statutory amendments pertaining to investments of cash balances not required for immediate disbursement.

4. How much will it cost and what is the funding source?

No cost.

5. Is there a revenue source associated with this Plan? If so, what level of income is projected?

N/A.

FISCAL IMPACT ANALYSIS

TITLE: Amending certain provisions in Section 4-1-1, Fiscal Agent Ordinance

R: O:

FUND: 110

DEPT: DFAS

☒ No measurable fiscal impact is anticipated, i.e., no impact on fund balance over and above existing appropriations.

☐ (If Applicable) The estimated fiscal impact (defined as impact over and above existing appropriations) of this legislation is as follows:

	2020	Fiscal Years 2021	2022	Total
Base Salary/Wages				-
Fringe Benefits at	-	-	-	-
Subtotal Personnel	-	-	-	-
Operating Expenses		-		-
Property		-	-	-
Indirect Costs	-	-	-	-
Total Expenses	\$ -	\$ -	\$ -	\$ -
<input type="checkbox"/> Estimated revenues not affected				
<input checked="" type="checkbox"/> Estimated revenue impact				
Revenue from program				0
Amount of Grant		-	-	
City Cash Match				
City Inkind Match				
City IDOH	-	-	-	-
Total Revenue	\$ -	\$ -	\$ -	\$ -

These estimates do not include any adjustment for inflation.

* Range if not easily quantifiable.

Number of Positions created

COMMENTS: Adoption of this Bill will have no fiscal impact on the City's General Fund budget.

COMMENTS ON NON-MONETARY IMPACTS TO COMMUNITY/CITY GOVERNMENT:

PREPARED BY:

APPROVED:

CHIEF INVESTMENT OFFICER

DIRECTOR

REVIEWED BY:

EXECUTIVE BUDGET ANALYST

BUDGET OFFICER (date)

CITY ECONOMIST