Santa Fe County

Resolution No. 2007-102

SFC CLERK RECORDED 06/26/2007

A Resolution Establishing Santa Fe County's Investment Policy and Repealing All Previous Resolutions Regarding Investment Policies and Investment Committees

I. SCOPE

This Investment Policy governs the investment activities of the County of Santa Fe ("County") and applies to all financial assets held by the County Treasurer ("Treasurer").

II. GENERAL STATEMENT OF STATUTORY RESPONSIBILITY

The Board of County Commissioners of the County of Santa Fe ("BCC"), acting as the County Board of Finance, is charged with the ultimate supervision and control of all County funds, pursuant to NMSA 1978, §§ 6-10-8 (1987), 6-10-10 (2003), 6-10-35(G)(1987). Among other things, the County Board of Finance has the statutory duty to:

- select financial institutions for the deposit of County funds;
- set the collateral requirements for such depository financial institutions; and
- select financial institutions to act as custodians for the collateral required of depository financial institutions.

Pursuant to NMSA 1978, §§ 4-43-2 (2001), 6-10-8, and 6-10-10, the Treasurer has the statutory responsibility for the day-to-day management of County deposits and investments. In furtherance of this duty, the Treasurer must maintain accurate books and records, which must be reported to the County Board of Finance on a regular basis.

Pursuant to NMSA 1978, §§ 6-10-10 and 6-10-31 (1987), the County Board of Finance and the Treasurer have responsibility over the selection of:

- investment strategies for County funds that are not required to meet the County's immediate cash flow needs; and
- suitable securities and other investment products.

The Santa Fe County Clerk ("County Clerk") is, ex officio and without additional compensation, the Clerk of the BCC when acting as the County Board of Finance. NMSA 1978, § 6-10-8.

III. INVESTMENT OBJECTIVE

The paramount objective of this Policy is to preserve and protect County funds while earning a market rate of interest on all money that it is not immediately required to meet the County's cash flow needs. Toward that end, the County's goal is for all money that is not necessary to meet the County's immediate operational requirements to be fully invested in investments authorized by Section VII of this Policy or such other investments as the County Board of Finance may expressly authorize in advance by resolution.

Prudent investing requires that the County Board of Finance and Treasurer work closely together on an on-going basis. The County Board of Finance and Treasurer must also have an accurate assessment of the County's current and future cash flow needs. This requires close coordination between the Treasurer and the County Finance Director ("Finance Director"), among other people. To achieve these goals, there is hereby created the Investment Committee, comprised of the members and charged with the duties set forth in Section VI of this Policy. In addition, the BCC shall convene as the County Board of Finance at least once per quarter.

IV. DEFINITIONS

A. "BCC" means the Board of County Commissioners of the County of Santa Fe.

B. "CD" means Certificate of Deposit.

C. "Collateral" means the following securities and financial obligations eligible to serve as collateral for deposits of public money under NMSA 1978, §§ 6-10-16 (2000) and 6-10-16.1 (2001):

1. Securities of the United States, its agencies or instrumentalities.
2. Securities of the State of New Mexico, its agencies, instrumentalities, counties, municipalities or other subdivisions.
3. Securities, including student loans, that are guaranteed by the United States or the State of New Mexico.
4. Revenue bonds that are underwritten by a member of the national association of securities dealers, known as "N.A.S.D.", and are rated "BAA" or above by a nationally recognized bond rating service.
5. Letters of credit issued by a federal home loan bank.

D. "County" means Santa Fe County.

E. "County Board of Finance" means the BCC acting as the County Board of Finance pursuant to NMSA 1978, Chapter 6, Article 10

F. "County Clerk" means the Santa Fe County Clerk.

G. "Custodial Bank" means a Federal Reserve Bank or branch or a bank whose deposits are secured by the FDIC that has been designated by the County Board of Finance to serve as a custodian of the collateral required of a Depository Financial Institution pursuant to this Policy.

H. "Depository Financial Institution" means a Financial Institution designated by the County Board of Finance as qualified to receive deposits of County funds in accordance with this Policy.

I. "Equitable Distribution" means the portion of the County's interest-bearing deposits that a Depository Financial Institution is eligible to receive under Section VIII of this Policy.

J. "FDIC" means the Federal Deposit Insurance Corporation.

K. "Federal Insurance" means deposit insurance provided to Financial Institutions by the FDIC, NCUA, or other United States agency.

L. "Finance Director" means the Santa Fe County Finance Director.

M. "Financial Institution " means any bank, savings and loan association, or credit union whose deposits are insured by an agency of the United States and that has its main office or a manned branch office located within Santa Fe County.

N. "Investment Committee" means the committee comprised of the members and charged with the duties set forth in Section VI of this Policy.

O. "Local Government Investment Pool" means the investment pool of that name administered by the New Mexico State Treasurer.

P. "NCUA" means the National Credit Union Administration.

Q. "Risk Assessment" means the Treasurer's assessment of a Financial Institution's fitness to be a Depository Financial Institution or a bank's fitness to be a Custodial Bank. The Treasurer makes this assessment based upon the uniformly applied financial criteria set forth in this Policy.

R. "Risk Classification" means the classification assigned to a Depository Financial Institution as part of the Treasurer's Risk Assessment. The Risk Classifications used by the Treasurer and their criteria are as follows:

(1) "CLASS A" means a Depository Financial Institution with all of the following financial ratios:
   (a) a primary capital to asset ratio, as defined by the FDIC, of 6.1 percent or greater;
   (b) a net income after taxes to average asset ratio of .61 percent or greater for the current and previous three quarters; and
   (c) a ratio of non-performing loans to primary capital ratio of 34.9 percent or less, where non-performing loans are defined as at least 90 days past due.

A Financial Institution that fails to maintain any one of these ratios shall be automatically reclassified into the next lower Risk Classification.

(2) "CLASS B" means a Depository Financial Institution with all of the following financial ratios:
   (a) a primary capital to asset ratio, as defined by the FDIC, of at least 5 percent;
   (b) a net income after taxes to average asset ratio of at least .51 percent for the current and previous three quarters; and
   (c) a ratio of non-performing loans to the bank's primary capital of no more than 49.9 percent, where non-performing loans are defined as at least 90 days past due.

A Financial Institution that fails to maintain any one of these ratios shall be automatically reclassified into the next lower Risk Classification.

(3) "CLASS C" means a Depository Financial Institution with any one of the

following financial ratios:

(a) a primary capital to asset ratio, as defined by the FDIC, of less than 5 percent;

(b) a net income to average asset ratio less than .51 percent for the current and previous three quarters; or

(c) a ratio of non-performing loans to the bank's primary capital of greater than 49.9 percent, where non-performing loans are defined as at least 90 days past due.

(4) "CLASS D" means a Depository Financial Institution with any two of the following financial ratios:

(a) a primary capital to asset ratio, as defined by the FDIC, of less than 2 1/2 percent;

(b) a net income to average asset ratio of less than .10 percent for the current and previous three quarters; or

(c) for any two consecutive quarters during the past 12 months, a ratio of non-performing loans to the bank's primary capital of greater than 67 percent, where non-performing loans are defined as at least 90 days past due.

A Financial Institution with all three of the above financial ratios may not be designated or continue as a Depository Financial Institution for any amount in excess of its Federal Insurance.

S. "Surety Bond" means a surety bond offered by a Depository Financial Institution as security for County funds. To qualify as security, Surety Bonds must comply with Section X.C of this Policy.

T. "Treasurer" means the Santa Fe County Treasurer.

V. COUNTY BOARD OF FINANCE MEETINGS AND REQUIRED RECORD KEEPING

A. County Board of Finance Meetings. In order to discharge its statutory responsibilities, the BCC shall convene as the County Board of Finance at least quarterly and shall do so during the BCC's administrative meetings. The Chairman of the BCC, who shall also serve as the Chairman of the County Board of Finance, may order additional meetings of the County Board of Finance whenever, in his opinion, such meetings are necessary and shall order such meetings whenever requested to do so by two commissioners of the BCC, the Treasurer, or the Investment Committee. A majority of the BCC, meeting as the County Board of Finance, shall constitute a quorum for the transaction of business. NMSA 1978, § 6-10-8.

B. Investment Oversight. At the quarterly meeting of the County Board of Finance, the Treasurer shall present a detailed report concerning the County's current investments. That report shall include, but not be limited to, the following:

- The total amount of County funds, broken out by the amount and type of account or investment (e.g., checking accounts -- $500,000, CD's -- $500,000, etc.).
- The cost basis and market value of each security as well as the amount invested in

each type of security.

- The portfolio's maturity schedule, yields, and cash flow.
- All transactions that occurred during the reporting period.
- All realized gains or losses.

In addition, the Finance Director shall present a detailed report of the County's cash flow requirements for the foreseeable future, and the Treasurer shall present his investment plan for the foreseeable future. The County Board of Finance shall approve or disapprove of the Treasurer's investment plan. If it disapproves, it shall specify the portions of the plan that it finds objectionable and recommend appropriate changes to address its objections. At that or a subsequent meeting, the Treasurer may submit a revised plan for approval that incorporates the County Board of Finance's recommendations or that otherwise addresses its objections.

C. Depository Financial Institution and Custodial Bank Oversight. At its quarterly meeting, the County Board of Finance shall consider (i) the application of any Financial Institution interested in becoming a Depository Financial Institution or of any bank interested in becoming a Custodial Bank, and (ii) when requested to do so by the Treasurer, the continued fitness of a Depository Financial Institution or Custodial Bank to serve in such capacity. In exercising its statutory duties in this regard, the County Board of Finance shall consider, among other factors, the following:

- the Risk Assessment of the Financial Institution or bank;
- the business reputation of the Financial Institution or bank;
- the Financial Institution's or bank's compliance with this Policy;
- the Financial Institution's or bank's compliance with its contractual obligations to the County;
- the Financial Institution's willingness to pay the statutory minimum amount of interest on interest-bearing accounts, as set forth in NMSA 1978, §§ 6-10-30 (2001) and 6-10-36(E) (1997); and
- the Treasurer's recommendation.

D. Required Records. The Treasurer shall require duplicate receipts or deposit slips be given for each deposit of County funds. NMSA 1978, § 6-10-10(D) (2003). In addition, Depository Financial Institutions shall, on the first day of each month, deliver to the Treasurer two itemized statements concerning County accounts, which shall show the daily balance of the account(s) for the preceding month and accrued interest. NMSA 1978, § 6-10-29(A) (1987). The Treasurer shall maintain one copy of the receipts, deposit slips, and statements; the other copy shall be filed with the Clerk on the first day of each month. If the first day of the month falls on a weekend or legal holiday, the delivery and filing required under this subsection shall take place on the next business day that is not a legal holiday.

VI. INVESTMENT COMMITTEE

A. Statement of Purpose. Prudent investing requires that the County Board of Finance and Treasurer, among other people, work closely together on an on-going basis. For instance, the County Board of Finance and Treasurer must have an accurate assessment of the County's current and future cash flow needs from the Finance Department. Likewise, the County Attorney's Office must be closely involved with investment decisions, so as to stay apprised of and answer any legal issues that may arise. The Investment Committee created by this Section shall have primary responsibility for ensuring the on-going, inter-departmental coordination that is a prerequisite for the prudent investment of County funds.

B. Investment Committee Members. The members of the Investment Committee shall be:

- the Chairman of the County Board of Finance or the Chairman's designee;
- the County Manager or the County Manager's designee;
- the Treasurer or the Treasurer's designee;
- the Finance Director or the Finance Director's designee;
- the County Attorney or the County Attorney's designee; and
- a non-County employee nominated by the Treasurer and appointed by the Investment Committee.

C. Investment Committee Meetings. The Investment Committee shall meet as frequently as necessary to fulfill its purpose but in no event less than once per month. At its meetings, the Finance Director shall advise the Investment Committee of the County's cash flow requirements for the foreseeable future. The Treasurer shall update the Investment Committee on the County's current investments, including their yield and maturity dates. The Treasurer shall also advise the Investment Committee of his investment strategy for the foreseeable future, taking into account the County's projected financial requirements. The Investment Committee shall recommend such adjustments to the Treasurer's investment strategy as are necessary to maximize the income earned on County money while ensuring that the County has sufficient liquid funds available to meet its financial obligations as they come due.

VII. PERMITTED INVESTMENTS

Subject to the County Board of Finance's oversight and this Policy, the Treasurer is authorized to invest County funds in the following:

- the Local Government Investment Pool;
- interest bearing accounts as well as CDs and other time deposits with Depository Financial Institutions;
- bonds, notes, or other debt securities issued by and backed by the full faith and credit of the United States; and
- bonds, notes, or other debt securities that are direct obligations of the federal home loan mortgage association, the federal national mortgage association, the federal farm credit bank, or the student loan marketing association and either (i) backed by the full faith and credit of the United States or (ii) rated at least Aaa or AAA by Moody's Investors Service, Inc. or Standard & Poor's.

NMSA 1978, §§ 6-10-10(A)-(B) (2003), 6-10-10(F)(2), 6-10-10(G)(3), 6-10-31, and 6-10-36(C)-(D) (1997). The Treasurer is prohibited from investing County funds in any other security, bond, or other investment product, unless the County Board of Finance authorizes such investment in advance by resolution. Furthermore, absent exceptional circumstances, the Treasurer shall hold investments until maturity.

VIII. EQUITABLE DISTRIBUTION OF INTEREST-BEARING DEPOSITS

A. Statement of Policy. In accordance with NMSA 1978, § 6-10-36 (1997), the County's policy is to equitably distribute its interest-bearing deposits among interested and qualified Financial Institutions who have their main office or manned branch offices within Santa Fe County. To be eligible for an Equitable Distribution, a Financial Institution must be designated by the County Board of Finance as a Depository Financial Institution in accordance with, and otherwise comply with, this Policy. The Treasurer, however, is not obligated to invest County funds in any interest-bearing accounts or to maintain any particular level of interest-bearing deposits. Furthermore, as set forth in Section VIII.E, the County's equitable distribution policy must yield to the paramount goal of the prudent management of County funds whenever necessary.

B. Calculating a Depository Financial Institution's Equitable Distribution of County's Interest-Bearing Deposits. The basic formula for calculating a Depository Financial Institution's equitable share of the County's interest-bearing deposits is as follows: (a) Equitable Distribution equals (b) County's interest-bearing deposits for upcoming quarter multiplied by ((c) the Financial Institution's net worth divided by (d) the total net worth of all Depository Financial Institutions); i.e., a=b(c/d). Each of these variables shall be derived as follows:

(b) On a quarterly basis, the Treasurer shall determine the amount of County funds to be invested in interest-bearing accounts for the upcoming quarter. For purposes of this Section, interest-bearing accounts include CDs and other time deposits. 1987 N.M. Op. Att'y Gen. No. 87-50.

(c) A Depository Financial Institution's net worth shall be calculated in accordance with NMSA 1978, § 6-10-36(C) and applicable rules promulgated by the Financial Institutions Division of the Regulation and Licensing Department; viz., NMAC 12.16.3. The net worth of a Depository Financial Institution shall be calculated based upon the sum of the deposits of its main office (if any) and all of its manned branches (if any) located within the County of Santa Fe. For example, if a Depository Financial Institution has its main office and two manned branches within the County of Santa Fe, each with $1 million in deposits, the total deposits of the Depository Financial Institution for purposes of calculating its net worth would be $3 million.

(d) The total net worth of all Depository Financial Institutions means the combined net worth of all Depository Financial Institutions. For example, if there were three Depository Financial Institutions, each with a net worth of $200,000, the total net worth of all Depository Financial Institutions would be $600,000. Consequently, each Depository Financial Institution would be eligible to receive one-third of the County's interest-bearing deposits for the coming quarter.

C. Necessary Reductions to and Forfeiture of Equitable Distributions. A Depository Financial Institution's Equitable Distribution shall be reduced as necessary in the following situations:

(1) Equitable Distribution Exceeds Security. If the Depository Financial

Institution lacks sufficient Federal Insurance, Surety Bonds, or Collateral to secure the full amount of its Equitable Distribution at the level required by this Policy, the Treasurer shall give the Depository Financial Institution the opportunity to provide the necessary additional Surety Bonds or Collateral. Should the Depository Financial Institution fail to do so within ten (10) calendar days, its Equitable Distribution shall be reduced to the amount that can be secured in accordance with this Policy.

(2) Credit Unions. By law, the County may only deposit money with credit unions "to the extent such deposits are insured by an agency of the United States." NMSA 1978, § 6-10-36(D). Accordingly, should a credit union Depository Financial Institution's Equitable Distribution exceed the amount of Federal Insurance available for County deposits, its Equitable Distribution shall be reduced to the amount that is fully insured.

(3) Failure to Pay Statutory Minimum Amount of Interest. A Depository Financial Institution that refuses to pay the statutory minimum amount of interest at the time of deposit forfeits its right to an Equitable Distribution. NMSA 1978, § 6-10-36(E).

D. Redistribution of Reduced and Forfeited Equitable Distributions. Should a Depository Financial Institution's Equitable Distribution be reduced or forfeited as provided in Sections VIII.C(1)-(3), the forfeited or reduced amount shall be redistributed amongst the remaining Depository Financial Institutions eligible to receive additional County deposits. Such redistribution shall be done in accordance with the formula set forth in Section VIII.B; provided, however, that formula variables (b) and (d) shall be derived as follows:

(b) County's interest-bearing deposits for upcoming quarter shall mean the forfeited or reduced amounts to be redistributed.

(d) The total net worth of all Depository Financial Institutions shall mean the combined net worth of all remaining Depository Financial Institutions eligible to receive additional County deposits.

This process shall be repeated until (i) all County funds that the Treasurer had planned to invest in interest-bearing accounts have been distributed among Depository Financial Institutions or (ii) no Depository Financial Institutions remain that are eligible to receive additional County funds. In the latter event, the Treasurer shall make alternative plans to invest the funds in accordance with this Policy.

E. Equalizing Equitable Distribution Surpluses and Deficits. The prudent investment of County funds will occasionally involve investing money in CDs and other time deposits. Such deposits may have staggered maturity dates as well as terms that span multiple quarters. Notwithstanding the Treasurer's efforts to equally distribute time deposits of like maturity, this means that there may not be sufficient liquid funds earmarked for interest-bearing deposits available to fully fund a Depository Financial Institution's Equitable Distribution in any given quarter. It also means that, due to the term of the County's time deposits with them, some Depository Financial Institutions may have County deposits in excess of their Equitable Distribution for the given quarter. Under no circumstances shall the County make an early withdrawal of time deposits for the sole purpose of redistributing money so that each Depository Financial Institution receives the full amount (and no more) of its Equitable Distribution in a given quarter. Rather, when the maturity date of the County's time deposits precludes each Depository Financial Institution from receiving the full amount (and no more) of its Equitable Distribution in a given quarter, the Treasurer shall equalize Equitable Distributions during subsequent quarters, in accordance with this subsection.

(1) Cumulative Surplus and Deficit Accounts. The Treasurer shall maintain a cumulative total of each Depository Financial Institution's Equitable Distribution surpluses and deficits; i.e., the amount by which the actual money on deposit with a Depository Financial Institution exceeds (surplus) or falls-short (deficit) of its Equitable Distribution. For example, assume that there are three Depository Financial Institutions in Quarter #1, each with the same net worth and thus entitled to an equal share of the County's interest-bearing deposits. In Quarter #2, the BCC has designated a fourth Depository Financial Institution, which has the same net worth as the other three and is thus also entitled to an equal share of the County's interest-bearing deposits. Their surplus and deficit accounts would be calculated, under the additional assumptions stated, as follows:

Quarter #1: Treasurer plans to invest $1,000,000 in interest-bearing accounts during Quarter 1.

Bank	Equitable Distribution	Actual Amount and Type of Deposit	Quarterly Surplus/Deficit	Cumulative Surplus/Deficit
A	$333,333.33	$333,333.33 in a 6 month CD.	$0	$0
B	$333,333.33	$333,333.33 in a 6 month CD.	$0	$0
C	$333,333.33	$333,333.33 in a 6 month CD.	$0	$0

Quarter #2: Treasurer plans to invest $1,000,000 in interest-bearing time deposits during Quarter 2.

Bank	Equitable Distribution	Actual Amount and Type of Deposit	Quarterly Surplus/Deficit	Cumulative Surplus/Deficit
A	$250,000	$333,333.33 in a 6 month CD, set to mature in 3 months.	$83,333.33	$83,333.33
B	$250,000	$333,333.33 in a 6 month CD, set to mature in 3 months.	$83,333.33	$83,333.33
C	$250,000	$333,333.33 in a 6 month CD, set to mature in 3 months.	$83,333.33	$83,333.33
D	$250,000	$0	($250,000.00)	($250,000.00)

(2) Equalizing Equitable Distributions. In order to equalize Equitable Distributions over time, the Treasurer shall increase or decrease the amount of money actually deposited with a Depository Financial Institution to account for the institution's cumulative surplus/deficit account. Deposits with a Depository Financial Institution with a cumulative surplus account

shall be reduced to the extent necessary to erase the cumulative deficit account of another Depository Financial Institution, whose deposits shall be increased by a corresponding amount. For example, continuing with the above hypothetical, the County's deposits would be distributed in Quarter 3 as follows:

<u>**Quarter #3:**</u> Treasurer plans to invest $1,000,000 in interest-bearing time deposits during Quarter 3.

Bank	Equitable Distribution	Actual Amount and Type of Deposit	Quarterly Surplus/Deficit	Cumulative Surplus/Deficit
A	$250,000	$166,666.67 in a 3 month CD.	($83,333.33)	$0
B	$250,000	$166,666.67 in a 3 month CD.	($83,333.33)	$0
C	$250,000	$166,666.67 in a 3 month CD.	($83,333.33)	$0
D	$250,000	$500,000 in a 3 month CD.	$250,000.00	$0

IX. DEPOSITORY FINANCIAL INSTITUTIONS

A. <u>Application to Become a Depository Financial Institution for Amounts that are Fully Federally Insured.</u> A Financial Institution interested in only being qualified to receive County funds up to the limits of its Federal Insurance shall submit to the Treasurer the following:

(1) A written proposal setting forth:
- (a) its interest in becoming a Depository Financial Institution and its qualifications to be one;
- (b) its agreement to pay the statutory minimum interest rate established by the Board of Finance;
- (c) the account and service charges and fees it proposes to charge the County, which shall not be more than the charges and fees it customarily charges its best customers;
- (d) its own calculation of its net worth, determined in accordance with Section VIII.B of this Policy and applicable law; and
- (e) whether it desires regular savings deposits or time deposits.

(2) A copy of its FDIC or NCUA certification.

(3) The Financial Institution's quarterly call statements and its "New Mexico Financial Institution Quarterly Report", a report generated by the State Treasurer, for the preceding four quarters. Newly chartered Financial Institutions must submit the same documents for as many quarters as possible.

Upon determining that the Financial Institution is Federally Insured, the Treasurer shall issue a certificate designating the Financial Institution as a Depository Financial Institution. Thereafter, the Treasurer may begin to deposit County Funds with the Depository Financial Institution, up to the limits of its Federal Insurance.

B. Application to Become a Depository Financial Institution for Amounts in Excess of Federal Insurance. A Financial Institution interested in becoming a Depository Financial Institution for amounts in excess of their Federal Insurance must submit to the Treasurer the following:

(1) A written proposal setting forth:
  (a) its interest in becoming a Depository Financial Institution and its qualifications to be one;
  (b) its agreement to pay the statutory minimum interest rate established by the Board of Finance;
  (c) the account and service charges and fees it proposes to charge the County, which shall not be more than the charges and fees it customarily charges its best customers;
  (d) its own calculations of the financial matters set forth in Section IX.C of this Policy;
  (e) how it intends to secure County deposits; i.e., with Federal Insurance, Surety Bonds, or Collateral;
  (f) the amount of deposits for which it desires to be eligible; and
  (g) whether it desires regular savings deposits or time deposits.
(2) A copy of its FDIC or NCUA certification.
(3) The Financial Institution's quarterly call statements and its "New Mexico Financial Institution Quarterly Report", a report generated by the State Treasurer, for the preceding four quarters. Newly chartered Financial Institutions must submit the same documents for as many quarters as possible.

To be considered at the next scheduled meeting of the County Board of Finance, the Financial Institution must submit the above application packet at least one month before the meeting. If the material is submitted less than one month before the next scheduled meeting of the County Board of Finance, the Financial Institution's application to be designated a Depository Financial Institution shall be considered at the following meeting of the County Board of Finance. In that event, the Treasurer shall ask the Financial Institution to update its proposal with the most recent financial information, statements, and reports.

The County Board of Finance shall consider all timely applications to become Depository Financial Institutions at its quarterly meetings. The County Board of Finance shall notify a qualified Financial Institution of (i) its decision to designate it as a Depository Financial Institution and (ii) the minimum level of Collateral it is required to maintain for all deposits that are not Federally Insured or secured by a Surety Bond; provided, however, that the Treasurer may, in his discretion, require a higher level of Collateral, per Section X.E of this Policy. Once the Financial Institution has delivered the necessary Surety Bond or Collateral in accordance with Sections X.C, X.H, and X.I of this Policy, the Treasurer shall issue a certificate designating the Financial Institution as a Depository Financial Institution. Thereafter, the Treasurer may begin to deposit County Funds with the Depository Financial Institution, up to the amount that can be secured as required by Section X of this Policy.

C. Quarterly Submission of Required Financial Reports and Calculations. In completing the Risk Assessment and Classification required by this Policy, the Treasurer shall use figures taken from the Depository Financial Institution's quarterly call statements and its "New Mexico Financial Institution Quarterly Report", a report generated by the State Treasurer. The Depository Financial Institution shall furnish both documents to the Treasurer no later than the tenth day of the second month following the end of each calendar quarter.

At that same time, a Depository Financial Institution qualified to receive County funds in excess of its Federal Insurance shall also submit to the Treasurer its own calculations of its:

(i) primary capital to asset ratio, as defined by the FDIC;

(ii) net income after taxes to total average asset ratio for the current quarter and previous three quarters; and

(iii) ratio of non-performing loans to its primary capital, where non-performing loans are defined as loans that are at least 90 days past due;

(iv) net worth, determined in accordance with Section VIII.B of this Policy and applicable law.

In contrast, a Depository Financial Institution that is only qualified to receive County funds up to the limits of its Federal Insurance shall submit to the Treasurer its own calculation of its net worth, determined in accordance with Section VIII.B of this Policy and applicable law.

If the tenth day falls on a weekend or a legal holiday, the reports and calculations required under this subsection shall be submitted on the next business day that is not a legal holiday.

D. Certification Required. The calculations and reports provided to the Treasurer pursuant to this Section shall be certified in writing by (i) the president or an executive officer of the Depository Financial Institution or (ii) a person authorized by corporate resolution to certify the financial information of the Depository Financial Institution.

E. Additional Certified Information. At any time between quarterly reporting periods, the Treasurer may require a Depository Financial Institution to submit any additional certified information necessary to assess its risk level.

F. Failure to Qualify for a Class D Risk Classification. If a Depository Financial Institution fails to qualify for a Class D Risk Classification, the Treasurer shall (i) not deposit any additional County money with that institution, (ii) withdraw all deposits, provided that time deposits shall be withdrawn as they mature, and (iii) revoke the certificate designating the Financial Institution as a Depository Financial Institution.

G. Reporting and Effect of Final Administrative Enforcement Action. Depository Financial Institutions must immediately report to the Treasurer any final administrative enforcement action against the institution. If the Treasurer believes that such administrative action indicates a high level of risk to public deposits with that Financial Institution, the Treasurer shall report the matter to the County Board of Finance. At its next meeting, the County Board of Finance shall decide whether the Financial Institution shall remain a Depository Financial Institution and, if so, whether additional Security shall be required. The Depository Financial Institution may appear at the BCC meeting to present its position regarding those matters. Pending the County Board of Finance's decision, the Treasurer may make an emergency withdrawal of County deposits, including the early withdrawal of any deposits, if he determines that such withdrawal is reasonably necessary to protect County funds.

X. INSURANCE AND SECURITY REQUIREMENTS

A. Statement of Policy. Deposits of public money in credit unions must be fully Federally Insured. NMSA 1978, § 6-10-36(D). In contrast, deposits of public money in banks and savings and loan associations must be secured by either:

(i) Federal Insurance;

(ii) Surety Bonds; or

(iii) Collateral.

NMSA 1978, §§ 6-10-16 and 6-10-16.1.

B. Federal Insurance. Depository Financial Institutions using Federal Insurance to secure County deposits must certify quarterly, in writing, the total amount of County money on deposit with the institution that is Federally Insured.

C. Surety Bonds. To qualify as security under this Policy, a Surety Bond must be:

(i) in the form required by NMSA 1978, § 6-10-15 (1981);

(ii) issued by a surety company that is continually rated in the highest category by at least one nationally recognized statistical rating agency and is licensed to do business in New Mexico; and

(iii) approved first by the County Board of Finance and then by the District Court.

See NMSA 1978, §§ 6-10-15 and 6-10-16.1. Surety Bonds that meet all of the above requirements are sufficient to secure the aggregate penal amount of the Surety Bonds. All such Surety Bonds shall be filed with the Clerk, who shall record them in the "depository bond record" required to be kept by NMSA 1978, § 6-10-15.

Should a surety company fall below the highest rating category, any Surety Bond issued by the company shall no longer be eligible to serve as security under this Policy.

D. Valuation of Collateral. Securities that are obligations of the state of New Mexico, its agencies, institutions, counties, municipalities, or other subdivisions shall be accepted as security at par value. All other Collateral shall be accepted as security at market value. NMSA 1978, § 6-10-16(C).

E. Collateral Levels. The County Board of Finance is responsible for determining the amount of Collateral Depository Financial Institutions must pledge as security for County deposits. NMSA 1978, § 6-10-20 (1991). The County Board of Finance hereby delegates to the Treasurer the authority to establish required Collateral levels for each Depository Financial Institution, in accordance with the following Risk Classification based guidelines. Whenever, in his opinion, additional Collateral is necessary to safeguard County funds, the Treasurer may require a higher level of Collateral for a Depository Financial Institution, generally, or for a particular investment with a Depository Financial Institution. The Treasurer may not, however, reduce the level of Collateral required below that set forth in the guidelines.

As used in this subsection, the (x) "Amount to be Collateralized" equals (y) the total amount of the money to be deposited with the Depository Financial Institution minus (z) the amount of money Federally Insured or secured by Surety Bonds; i.e., x=y-z. These collateral guidelines apply to both new deposits and reinvestments of existing deposits. These guidelines shall become effective five (5) days after filing with the County Clerk.

(1) CLASS A. A Class A Depository Financial Institution shall maintain Collateral with an aggregate value equal to fifty percent (50%) of the Amount to be Collateralized; i.e., the statutory minimum level set forth in NMSA 1978, § 6-10-17.

(2) CLASS B. A Class B Depository Financial Institution shall maintain Collateral with an aggregate value equal to seventy-five percent (75%) of the Amount to be Collateralized.

(3) CLASS C. A Class C Depository Financial Institution shall maintain Collateral with an aggregate value equal to one hundred percent (100%) of the Amount to be Collateralized.

(4) CLASS D. A Class D Depository Financial Institution shall maintain Collateral with an aggregate value equal to one hundred percent (120%) of the Amount to be Collateralized.

F. <u>Newly Chartered Financial Institutions.</u> A newly chartered financial institution chosen as a Depository Financial Institution shall have a Class A Risk Classification for its first year of operation. In its second year of operation, the Treasurer shall classify the newly charted financial institution based upon the criteria set forth in Section IV.Q of this Policy. For that purpose, the newly chartered financial institution's net operating income shall be annualized beginning with the first quarter of the second year.

G. <u>Acceptability of Collateral.</u> The Treasurer reserves the right to reject, either at the time of submission or at any time thereafter, Collateral that does not meet all statutory criteria or that is not of sufficient quality to secure the County's deposits.

H. <u>Security Interest Agreement.</u> As required by statute, the County must enter into a written security agreement with any Depository Financial Institution that desires to pledge Collateral as security for County deposits. NMSA 1978, § 6-10-18(A) (1991). The security agreement shall provide for a security interest in the Collateral in favor of the County and shall be in such form as the County deems acceptable.

I. <u>Delivery of Collateral to Custodial Bank; Joint Safekeeping Receipt.</u> A Depository Financial Institution desiring to pledge Collateral as security for County deposits must deliver the required Collateral to a Custodial Bank with whom it has a written agreement. NMSA 1978, § 6-10-21 (1991). Prior to entering into the written agreement, the Depository Financial Institution shall deliver a copy of the proposed contract to the Treasurer, who shall determine whether the agreement contains conditions sufficient to "adequately protect the interests of the" County in the Collateral. NMSA 1978, § 6-10-21. At a minimum, the agreement shall (i) preclude the Custodial Bank from releasing or substituting Collateral without the prior written approval of the Treasurer and (ii) require the Custodial Bank to follow the Treasurer's written instructions regarding the transfer of Collateral to the Treasurer if and when the Depository Financial Institution defaults in its obligations to the County.

Upon delivery of the Collateral to a Custodial Bank, the Depository Financial Institution shall deliver to the Treasurer a "joint safekeeping receipt issued by the [C]ustodial [B]ank[.]" NMSA 1978, § 6-10-17.

J. Monthly Collateral Reports. No later than the tenth day of each month, Depository Financial Institutions shall submit a monthly collateral level report to the Treasurer, utilizing the State Treasurer's "State Treasurer Collateral Compliance Monthly Report".

K. Failure to Maintain Required Collateral. In the event a Depository Financial Institution fails to maintain the required level of acceptable Collateral, the Treasurer shall request that the Depository Financial Institution substitute or provide additional acceptable Collateral sufficient to meet its collateralization requirements within ten (10) calendar days. If the Depository Financial Institution does not comply with the request, the Treasurer shall, within the next ten (10) calendar days, withdraw all County funds from the Depository Financial Institution without penalty, notwithstanding any other provision of law to the contrary. NMSA 1978, § 6-10-17.1.

XI. CUSTODIAL BANKS

A. Application to Become a Custodial Bank. A bank interested in becoming a Custodial Bank must submit to the Treasurer the following:

(1) A written proposal setting forth:
  (a) its interest in becoming a Custodial Bank and its qualifications to be one; and
  (b) its own calculations of the financial ratios set forth in Section XI.B of this Policy.

(2) A copy of its FDIC certification.

(3) The bank's quarterly call statements and its "New Mexico Financial Institution Quarterly Report", generated by the State Treasurer, for the preceding four quarters. Newly chartered banks must submit the same reports for as many quarters as possible.

To be considered at the next scheduled meeting of the County Board of Finance, the bank must submit the above application packet at least one month before the meeting. If the packet is submitted less than one month before the next scheduled meeting of the County Board of Finance, the bank's application shall be considered at the following meeting of the County Board of Finance. In that event, the Treasurer shall ask the bank to update its proposal with the most recent financial information, statements, and reports.

B. Custodial Bank Risk Assessment. To qualify to be a Custodial Bank, a bank must have maintained the following ratios for each of the previous four quarters:

(1) a primary capital to asset ratio, as defined by the FDIC, of greater than 6.1 percent;

(2) a net income after taxes to total average asset ratio of .61 percent or higher; and

(3) a non-performing loans to primary capital ratio of 34.9 percent or lower, where non-performing loans are defined as loans that are at least 90 days past due.

To qualify as a Custodial Bank, a newly chartered financial institution must have maintained the above ratios for as many quarters as it has been in business.

C. Quarterly Submission of Required Financial Reports and Calculations. In completing his Risk Assessment, the Treasurer shall use figures taken from the Custodial Bank's quarterly call statements and its "New Mexico Financial Institution Quarterly Report", generated by the State Treasurer. The Custodial Bank shall furnish both documents to the Treasurer no later than the tenth day of the second month following the end of each calendar quarter. At that same time, the Custodial Bank shall also submit its own calculations of its:

(1) primary capital to asset ratio, as defined by the FDIC;
(2) net income after taxes to total average asset ratio for the current quarter and previous three quarters; and
(3) ratio of non-performing loans to its primary capital, where non-performing loans are defined as loans that are at least 90 days past due.

If the tenth day falls on a weekend or a legal holiday, the reports and calculations shall be submitted on the next business day that is not a legal holiday.

D. Unacceptable Risk Assessment. The Treasurer shall disqualify a bank from acting as a Custodial Bank if any of the following conditions occur:

(1) The Custodial Bank maintains any one of the following risk assessment ratios for three consecutive quarters:
   (i) a primary capital to asset ratio, as defined by the FDIC, below 6.1 percent;
   (ii) a net income after taxes to total average asset ratio below .61 percent; or
   (iii) a non-performing loans to primary capital ratio above 34.9 percent, where non-performing loans are defined as loans that are at least 90 days past due.
(2) The Custodial Bank maintains any two of the following risk assessment ratios for two consecutive quarters:
   (i) a primary capital to asset ratio, as defined by the FDIC, below 6.1 percent;
   (ii) a net income after taxes to total average asset ratio below .61 percent; or
   (iii) a non-performing loans to primary capital ratio above 34.9 percent, where non-performing loans are defined as loans that are at least 90 days past due.
(3) The Custodial Bank maintains any one of the following risk assessment ratios for more than one quarter:
   (i) a primary capital to asset ratio, as defined by the FDIC, below 5.0 percent;
   (ii) a net income after taxes to total average asset ratio below .51 percent; or
   (iii) a non-performing loans to primary capital ratio above 49.9 percent, where non-performing loans are defined as loans that are at least 90 days past due.

The Treasurer shall notify the bank in writing that it is no longer eligible to be a Custodial

Bank, stating the reasons for his decision. Within three (3) business days of its receipt of the Treasurer's written notice, the disqualified Custodial Bank shall notify all Depository Financial Institutions for which it holds Collateral that it is no longer eligible to serve as a collateral custodian. Thereafter, the disqualified Custodial Bank shall cooperate in the expeditious and orderly transfer of collateral within its custody.

E. Collateral Reports. On a monthly basis, Custodial Banks shall report to the Treasurer the type and amount of Collateral it holds for each Depository Financial Institution for which it holds collateral. For each item of Collateral, the report shall specifically identify the following:

(i) the name and market symbol or other identifying information of the collateral (e.g., the series and issue date of U.S. Treasury Savings Bonds);
(ii) the total number of each item of Collateral held; and
(iii) the total market value or par value of each item of Collateral, as required by Sections X.B and X.C of this Policy.

The Custodial Bank shall furnish its collateral report for the previous month to the Treasurer no later than the tenth day of the month. If the tenth day falls on a weekend or a legal holiday, the reports and calculations shall be submitted on the next business day that is not a legal holiday.

F. Certification Required. The calculations and reports provided to the Treasurer pursuant to this Section shall be certified in writing by (i) the president or an executive officer of the Custodial Bank or (ii) a person authorized by corporate resolution to certify the financial information of the Custodial Bank.

G. Additional Certified Information. At any time between quarterly reporting periods, the Treasurer may require a Custodial Bank to submit any additional certified information necessary to assess its risk level.

H. Common Ownership Restrictions. A Custodial Bank may not hold the collateral of a Depository Financial Institution where the relationship between the two institutions is one of parent-subsidiary or the two institutions are owned, directly or indirectly, by the same person, corporation, or other entity.

XII. MISCELLANEOUS PROVISIONS

A. Minimum Interest Rates. Depository Financial Institutions must pay the statutory minimum rate of interest on the County's interest-bearing accounts and CDs and other time deposits, as set forth in NMSA 1978, §§ 6-10-30 and 6-10-36(E) as well as applicable regulations.

B. Early Withdrawal. Except for withdraw due to failure to maintain adequate collateral under Section IX.K, the Treasurer may only make the early withdrawal of County funds in accordance with federal law governing a Depository Financial Institution's ability to repay deposits before maturity. NMSA 1978, § 6-10-34 (1987).

C. Bonding of Treasurer and Deputy Treasurer. The Treasurer and Deputy Treasurer shall be bonded as required by NMSA 1978, §§ 4-44-35 (1967), 6-10-38 (1967), 6-10-39 (1953), and 10-1-13 (1967).

D. Reservation of Rights and Duties. Nothing herein shall restrict the BCC or

Treasurer from the lawful exercise of other rights and duties conferred by law.

E. Use of Brokers and Financial Advisors. Given the increased costs associated with brokerage and financial advisory services, brokers and financial advisors will only be utilized if the rate of return, net of the broker's or financial advisor's commissions and other costs, exceeds the rate of return on other available investments. Furthermore, the Treasurer may only contract with brokers or financial advisors if the contract would qualify for the exemption from competitive sealed proposals set forth in NMSA 1978, § 13-1-129(A)(2) (1991).

F. Prudent Investor Standard. Investments made pursuant to this Policy shall be governed by the prudent investor rule set forth in the Uniform Prudent Investor Act, NMSA 1978, § 45-7-601 to § 45-7-612 (1995).

G. Conflict of Interest; Bribery Statutes. BCC members, the Treasurer, members of the Investment Committee, and brokers shall disclose all financial interests that (i) will be impacted by the County's investment activities, (ii) conflict with the proper execution of this Policy or the County's investment program, or (iii) otherwise affect or impair their ability to make impartial investment decisions regarding County funds. In addition, BCC members, the Treasurer, and members of the Investment Committee shall otherwise comply with Santa Fe County Ordinance No. 2004-3, as amended.

H. Notice of Bribery Statutes. State law makes it a felony to offer, pay, or receive a bribe in conjunction with the depositing or investing of County funds. See, e.g., NMSA 1978, §§ 6-10-40 (1987) and 6-10-53 (1941).

I. Previous Investment Policies Repealed; Annual Review of this Policy. This Policy supersedes any and all previously adopted investment policies, including Santa Fe County Resolution No. 1999-67, which are hereby repealed. This policy shall be reviewed on an annual basis.

J. Previous Resolutions Establishing Investment Committees Repealed. This Policy supersedes any and all previously adopted resolutions establishing any investment committee, including Santa Fe County Resolution No. 1999-142 and Resolution No. 2004-107, which resolutions are hereby repealed and which committees are hereby abolished.

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K. <u>Status of County's Fiscal Agent Unaffected.</u> Nothing in this Policy shall preclude the County from selecting a Depository Financial Institution to act as the County's fiscal agent. The Treasurer, however, shall not deposit County funds in non-checking, interest-bearing accounts with the fiscal agent, except to the extent of the fiscal agent's Equitable Distribution under Section VIII of this Policy.

PASSED, APPROVED, AND ADOPTED THIS 26 day of June 2007.

BOARD OF COUNTY COMMISSIONERS

By: ______________________
Virginia Vigil, Chair

ATTEST:

____
Valerie Espinoza, County Clerk

APPROVED AS TO FORM:

Carolyn Ulich for
Stephen C. Ross
County Attorney

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC RESOLUTIONS
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I Hereby Certify That This Instrument Was Filed for Record On The 26TH Day Of June, A.D., 2007 at 18:02 And Was Duly Recorded as Instrument # 1489323 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Valerie Espinoza
Deputy ______________ County Clerk, Santa Fe, NM

SFC CLERK RECORDED 06/26/2007