

INCORPORATED COUNTY OF LOS ALAMOS CODE ORDINANCE NO. 02-353

**A CODE ORDINANCE AMENDING CHAPTER 20, ARTICLE IV,
REGARDING THE DEPOSIT AND INVESTMENT OF COUNTY FUNDS**

WHEREAS, the Incorporated County of Los Alamos ("County"), pursuant to State law, has established a deposit and investment of County funds Code, as found in Chapter 20, Article IV, of the Los Alamos County Code of Ordinances; and

WHEREAS, the deposit and investment of County funds Code was last substantially amended in 2005, by Code Ordinance 02-067; and

WHEREAS, the amendments to the deposit and investment of County funds Code will increase efficiency and ease of administration; and

WHEREAS, it has been determined that it is in the best interest of County that the deposit and investment of County funds Code be amended as provided below.

**BE IT ORDAINED BY THE GOVERNING BODY OF THE INCORPORATED COUNTY
OF LOS ALAMOS:**

Section 1. Section 20-401 of the Code of the Incorporated County of Los Alamos is amended to read as follows:

Sec. 20-401. County Investment Policy.

~~This article shall be known as the "Incorporated County of Los Alamos Investment Policy," adopted pursuant to art. X, § 6 of the state constitution and section 103 of the Charter. The County shall promulgate an investment policy that conforms to this article and shall be adopted by Council.~~

Section 2. Section 20-402 of the Code of the Incorporated County of Los Alamos is amended to read as follows:

Sec. 20-402. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Financial institution means a federally insured bank or savings and loan association.

Investment officer means the chief financial officer or his designee.

Local financial institution means those qualified financial institutions whose main office or manned branch office is located within the County corporate limits.

Net worth means as defined by the financial institutions division of the regulation and licensing department of the state.

Qualified financial institution means a financial institution which meets all of the following requirements to qualify as a depository for the County:

- (1) Equity-to-asset ratio is equal to or greater than the level recommended by the federal deposit insurance corporation;

- (2) A current audited annual financial statement has been submitted to the County;
- (3) No successive losses for two preceding years;
- (4) If not a local financial institution, its assets must be in excess of \$1,000,000,000.00; and
- (5) Not operating under a letter of agreement or cease and desist order issued by any regulatory agency.

Qualified repurchase agreement provider means a bank, investment banking firm, or insurance company whose long-term debt obligations (or claims-paying ability) are rated in one of the top two rating categories by Moody's Investors Service, Inc., and Standard & Poor's Corporation.

Repurchase agreement means a contract for the present purchase and resale at a specified time in the future of specific securities at specified prices, which price differential represents investment income.

SIPC means security investment protection corporation.

Special County funds means the capital projects permanent fund, the cemetery permanent fund, and other special revenue funds. ~~the expenditures fund for capital projects, and the government operations assistance permanent fund.~~

Time deposit means a certificate of deposit or savings certificate deposited in a federally insured bank or savings and loan association.

U.S. government obligations means bonds, notes or other obligations of the United States government, its agencies, government-sponsored enterprises, corporations or instrumentalities and that portion of bonds, notes or other obligations guaranteed as to principal and interest and issued by the United States government, its agencies, government-sponsored enterprises, corporations or instrumentalities or issues pursuant to acts or programs authorized by the United States government.

Section 3. Section 20-403 of the Code of the Incorporated County of Los Alamos is amended to read as follows:

Sec. 20-403. Policy Declarations.

- (a) *Investment goals.* County funds shall be invested by the investment officer in an effort to:
 - (1) Maximize investment returns while minimizing risk;
 - (2) Maintain a level of liquidity to ensure meeting unanticipated cash needs;
 - (3) Allow for diversification of the County's portfolio;
 - (4) Recognize the impact of the County's investment program on the local economy; and
 - (5) Minimize the amount of money in noninterest-bearing accounts.
- (b) *Criteria for investment selection.* The criteria for selecting investments shall be in the following order of priority:
 - (1) Safety;
 - (2) Liquidity; and
 - (3) Total return.

- (c) *Standard of prudence.* The standard of prudence to be applied by the investment officer shall be the prudent investor rule, which is: "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment considering the probable safety of their capital as well as the probable income to be derived." The prudent investor rule shall be applied in the context of managing the overall investment portfolio.
- (d) *Responsibility.* The investment officer, acting in accordance with the County investment policy as approved by the County Council and exercising due diligence, shall not be held personally responsible for a specific security's credit risk or market price changes, provided that these deviations are reported and that appropriate action is taken to control adverse developments.
- (e) *Allowed investment instruments.* The investment officer may invest County funds in the ~~following types of accounts, securities, and instruments:~~ in accordance with the authorized asset classes and investment types that are prescribed under New Mexico State law. The Investment Officer is charged with the supervision and control of the allowed investment instruments and may invest all sinking funds or unexpended funds from the sale of bonds or other negotiable funds not immediately necessary for public use.
- ~~(1) U.S. government obligations;~~
 - ~~(2) Bonds or negotiable securities of the state or of any County, municipality or school district within the state which has a taxable valuation of real property for the last preceding year of at least \$100,000,000.00 and has not defaulted in the payment of any interest or sinking fund obligation and has not failed to meet any bonds at maturity at any time within five years last preceding;~~
 - ~~(3) Time deposits in a qualified financial institution, and subject to the following:~~
 - ~~a. In placing time deposit moneys, preference shall be given to the local qualified financial institutions whenever competing bids from out-of-town qualified financial institutions do not exceed the highest bid from the local qualified financial institutions.~~
 - ~~b. The total of time deposits with any qualified financial institution shall not at any time exceed the net worth of the financial institution.~~
 - ~~(4) Interest bearing checking accounts in qualified financial institutions;~~
 - ~~(5) Time deposits or interest bearing checking accounts in any nonqualified financial institution up to the amount of federal deposit insurance coverage;~~
 - ~~(6) State treasurer's local short-term investment fund; and~~
 - ~~(7) State investment council's long-term investment funds.~~
- (f) *Security for deposits.* Any qualified financial institution designated as a County depository shall deliver securities of the type specified herein to the investment officer based on a minimum ~~chief financial officer~~ in an aggregate value equal to at least one-half one hundred percent ~~at least one-half one hundred percent~~ of the amount of the County money to be received. No security is required for the deposit of money that is insured by the federal deposit insurance corporation or the national credit union administration. ~~Deposits requiring security shall be secured by:~~
- ~~(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) Letters of credit issued by a federal home loan bank.~~

(g) *Safekeeping of securities.*

- (1) No County funds to be invested in negotiable securities shall be paid out unless there is a simultaneous transfer of securities either by physical delivery or, in the case of uncertificated securities, by appropriate book entry on the books of the issuer, to the County or to a third party safekeeping financial institution acting as agent or trustee for the County, which agent or trustee shall furnish timely confirmation to the County. An investment management firm under contract with the County shall not also act as custodian for any securities purchased for the County.
- (2) Notwithstanding the provisions of subsection (g)(1) of this section, securities may be held in street name with an SIPC-insured broker or dealer at a level not to exceed the amount of the SIPC insurance plus the amount of insurance provided by an insurance company which has received an A+ rating by A.M. Best & Company.

Section 4. Section 20-405 of the Code of the Incorporated County of Los Alamos is removed in its entirety as follows:

~~Sec. 20-405. Investment of County Funds in Repurchase Agreements.~~

~~In addition to any other investment permitted under this article, amounts held in any County fund may be invested in repurchase agreements having a term not exceeding 25 years; provided, however, that the County (or the County's bond trustee) shall enter into a repurchase agreement only with financial institutions which constitute a qualified repurchase agreement provider at the time of the execution and delivery of the repurchase agreement.~~

Section 5. Section 20-406 of the Code of the Incorporated County of Los Alamos is removed in its entirety, as follows:

~~Sec. 20-406. Collateralization of Repurchase Agreements.~~

~~Each repurchase agreement shall provide that the obligations of the qualified repurchase agreement provider under a repurchase agreement shall be fully collateralized by delivery against payment of U.S. treasury obligations or U.S. government agency obligations to a mutually agreeable independent custodian which shall be equal in market value (to be determined at least quarterly) to at least 102 percent of the investment amount under the repurchase agreement.~~

Section 6. Severability. Should any section, paragraph, clause or provision of this Ordinance, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

Section 7. Effective Date. This Code Ordinance shall become effective thirty (30) days after publication of notice of its adoption.

Section 8. Repealer. All other ordinances or resolutions, or parts thereof, inconsistent herewith are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

PASSED AND ADOPTED this 28th day of May 2024.

INCORPORATED COUNTY OF LOS ALAMOS

**Denise Derkacs,
Council Chair**

ATTEST:

**Naomi D. Maestas,
Los Alamos County Clerk**