

BOARD OF COUNTY COMMISSIONERS OF TORRANCE COUNTY

ORDINANCE NO. 2025-_____

AN ORDINANCE ADOPTING THE TORRANCE COUNTY PERMANENT FUND

WHEREAS, pursuant to New Mexico Stat § 6-6-19, the County is permitted, by Ordinance, to create a local government permanent fund and a local government income fund; and

WHEREAS, since 2019, Torrance County has approved numerous repower or new Renewable Energy Industrial Revenue Bond agreements; and

WHEREAS, these agreements include annual Payment in lieu of Taxes (PILT) payments to school districts and Torrance County; and

WHEREAS, current and future annual PILOT payments to the County will exceed \$3.0 million dollars in combined revenue; and

WHEREAS, historically the County has experienced economic downturns and unforeseen increases in expenses and has created a Reserve Fund pursuant to County Ordinance 2404-02 to address those issues; and

WHEREAS, the County's enhanced revenue picture provides an opportunity to create a permanent fund to address fiscal needs of future generations in order to protect the health, safety, and welfare of the people of Torrance County from funds over and above those deposited in the Reserve Fund; and

WHEREAS, the amount that may be deposited into the local government permanent fund is a portion of the County's unappropriated general fund surplus; and

WHEREAS, it is the desire of the Board of County Commissioners to create an Income Fund within the County General Fund to receive earnings from investments made within the Permanent Fund that may be expended as set forth by a resolution of the County Board of Commissioners.

NOW, THEREFORE BE IT ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF TORRANCE COUNTY that Exhibit A is hereby adopted as the Torrance County Permanent Fund Ordinance.

**PASSED, APPROVED AND ADOPTED THIS _____ DAY OF _____, 2025.
THE BOARD OF COUNTY COMMISSIONERS OF TORRANCE COUNTY**

BOARD OF COUNTY COMMISSIONERS

Ryan Schwebach, Chair - District 2

Kevin McCall, Vice Chair - District 1

Linda Jaramillo, Member - District 3

ATTEST:

Sylvia Chavez, Torrance County Clerk

Date

APPROVED AS TO FORM:

Michael Garcia, Torrance County Attorney

PERMANENT FUND INVESTMENT POLICY OF TORRANCE COUNTY

Effective _____, 2025

INTRODUCTION:

This Investment Policy ("Policy") applies to all financial assets of the Torrance County, New Mexico ("County") Permanent Fund ("Fund")

1) SCOPE OF POLICY:

The goal of this Policy is to protect the public's Fund and to invest its funds in a manner that insures the safety of the investment, that provides for adequate liquidity and proper maturities and that maximizes investment income after providing for safety and liquidity. It also serves to establish a clear understanding between the County and any portfolio manager, financial institution and/or investment advisor utilized by the County as to the guidelines, limitations and directions that the County has determined appropriate for Fund's accounts under its purview.

It is the policy of the County to be fully invested at all times.

2) OBJECTIVE: The primary objectives, in priority order, of the County's investment and deposit activities shall be:

SAFETY: Safety of principal is the foremost objective of the investment program. Investments Fund shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. To attain this objective, diversification is required in order that potential losses on individual investments do not exceed the income generated from the remainder of the portfolio.

LIQUIDITY: The Fund's portfolios will remain sufficiently liquid to enable the County to meet all expenses which might be reasonably anticipated. Future use of the Fund's income shall be criteria in determining maturities for any investment.

RETURN ON INVESTMENTS AND DEPOSITS: The County's investment and deposit portfolios shall be designed with the objective of attaining at least a market rate of return throughout budgetary and economic cycles, taking into account the County's risk constraints and the cash flow characteristics of the portfolios.

3) DELEGATION OF AUTHORITY:

The Board of County Commissioners ("Board"), acting in its capacity as the County Board of Finance ("BOF") pursuant to §6-10-8, NMSA 2018, shall have authority to set policy for management of the Fund's investments and ensure that this Policy is carried out.

The County Treasurer ("Treasurer"), with the advice and consent of the BOF charged with the supervision and control of the respective funds, has ultimate authority over the investment of the Fund as outlined in the Policy. The Treasurer shall be responsible for all investment shall implement and maintain the system of controls outlined in the Policy in order to regulate investment activities pursuant to §4-38-1 and § 6-10-10-F NMSA 2018. The Treasurer shall designate in writing an employee of the Treasurer's office to act on the Treasurer's behalf in the absence of the Treasurer.

4) PRUDENT PERSON RULE:

The prudence which is to be used by the Treasurer investing for the Fund shall be used in accordance with the provisions of §6-8-10, NMSA 2018 which states "Investments shall be made with judgement 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."

5) ETHICS AND CONFLICT OF INTEREST:

All Board members, the County Manager and the Treasurer shall refrain from personal business activity that could conflict with the proper execution of the Fund's investment program or which could affect or impair their ability to make impartial investment decisions on behalf of the County (§6-10-40 and 6-10-53 NMSA 2018) and the New Mexico Constitution Article VII, Section 4.

6) INVESTMENTS:

The Fund may be invested in those financial instruments authorized by the laws of the State of New Mexico, including the following approved investments and deposits:

- A. Certificates of Deposits with federal or state-chartered banks, savings banks or credit unions, to be collateralized by United States Treasury or agency securities whose daily closing price ("mark-to-market") is equal to or greater than that portion of the Certificate of Deposit and interest thereon and/or Municipal Bonds issued by New Mexico entities at par, for those amounts that the FDIC or NCUSIF does not insure;
- B. Shares of a diversified investment company registered pursuant to the federal Investment Company Act of 1940 that invests in fixed-income securities or debt instruments that passively match or track the components of a broad-market, fixed-income-securities market index; provided that the investment company or manager has total assets under management of at least one hundred million dollars (\$100,000,000) and provided that the BOF of the county or municipality may allow reasonable administrative and investment expenses to be paid directly from the income or assets of these investments; is registered with the United States securities and exchange commission; complies with the diversification, quality and maturity requirements of Rule 2a-7, or any successor rule, of the United States securities and exchange commission applicable to money market mutual funds; and assesses no fees pursuant to Rule 12b-1, or any successor rule, of the United States securities and

exchange commission, no sales load on the purchase of shares and no contingent deferred sales charge or other similar charges, however designated, provided that the County shall not, at any time, own more than five percent of a money market mutual fund's assets.

- C. Bonds or negotiable securities of the United States, the state or a county, municipality or school district that has a taxable valuation of real property for the last preceding year of at least one million dollars (\$1,000,000) and that has not defaulted in the payment of any interest or sinking fund obligation or failed to meet any bonds at maturity at any time within five years last preceding and that have a maturity date that does not exceed ten years from the date of purchase;
- D. Short term investments with the Local Government Investment Pool as per §6- 1 0- 1.1 NMSA 2018. Also see §6-1 0-1 0 and 6-10-44, NMSA 2018;
- E. Securities that are issued and backed by the full faith and credit of the United States government or issued by its agencies or instrumentalities, including securities issued by federal home loan banks, the federal home loan mortgage corporation, the federal national mortgage association, the federal farm credit banks funding corporation, the federal agricultural mortgage corporation or the government national mortgage association and that have a maturity date that does not exceed ten years from the date of purchase; or "United States government sponsored enterprises" includes federal home loan banks, the federal home loan mortgage corporation, the federal national mortgage association, the federal farm credit banks funding corporation, the federal agricultural mortgage corporation and the government national mortgage association;

All investments set forth in A-E above must have readily ascertainable market value and be easily marketable.

In the event that any State Statutes are legally changed or modified to allow other securities or financial instruments as appropriate for investment by the County then this Policy may be amended to include those securities or financial instruments as appropriate with the approval of the Board.

7) SCHEDULING OF INVESTMENT MATURITIES:

Investment maturities shall be scheduled to coincide with projected cash flow needs, taking into account expenditures of the County the Fund is projected to finance. The Treasurer shall provide the Board with current schedules on a quarterly basis for their review and approval.

8) SECURITIES INVESTMENT SELECTION CRITERIA AND ASSET ALLOCATION:

- A. Cash and cash equivalents may include Treasury bills, notes or bonds, certificates of deposit due within twelve (12) months, and money market funds that invest in

securities of the U.S. Government and its agencies. The purpose of these funds is to provide income, liquidity and preservation of the Funds' principal value.

- B. The maximum maturity or duration of any securities purchased for an account shall not be greater than ten (10) years.
- C. The maturity schedule of the securities portfolios must take into account and reflect future cash needs and the goal of maximizing investment returns after providing for safety and liquidity.
- D. The weighted duration of the securities portfolios should not exceed five (5) years unless there is prior review by the Treasurer. Duration is defined as the weighted average time to full recovery of principal and interest payments. Duration provides a summary statistic of the average maturity of the portfolio. Second, it is an essential tool in immunizing a portfolio from interest rate risk. Finally, duration can be used to estimate the interest rate sensitivity of a portfolio. For example, if the portfolio has a duration of five (5) years, and if yields decline by one percent, the portfolio market value could rise in value by approximately five (5) percent. In the case of Mortgage-Backed Securities, (MBS) the average life of the MBS pools should not exceed seven (7) years.
- E. The Treasurer shall give a verbal and written report at least quarterly to the Board regarding the current investment selection criteria and asset allocation of the Fund.

9) DIVERSIFICATION

The County will diversify their investments by security. The County will diversify the use of investment instruments to avoid incurring unreasonable risks inherent in over-investing in specific instruments, individual financial institutions or maturities.

10) SAFEKEEPING OF SECURITIES:

All investment securities owned by the County shall be held in third-party safekeeping by an institution acceptable to the County. The safekeeping institution shall issue a Safekeeping Receipt or other evidence (i.e. book entry notice) to the County listing the specific instrument, rate, amount, maturity date, instrument number, term and other pertinent information. Any financial institution holding securities for the benefit of the County shall be required to provide insurance sufficient to cover 100% said securities in the event that the financial institution fails financially and is unable to meet obligations to securities clients. Insurance such as Securities Investor Protection Corporation (SIPC) and private insurance shall be acceptable. The Treasurer shall prepare and provide the Board the Safekeeping Report at least quarterly.

11) SPENDING POLICY

Annually, no later than August 1st of each fiscal year, the County Treasurer or designee shall prepare a report to the Board confirming the amount of Earnings in the Permanent Fund for the preceding fiscal year. Earnings shall be defined as the difference between

the accumulated deposits by the County (Principal) and the fair market value of the Permanent Fund, which shall include interest, dividend earnings and any capital gains, realized and unrealized, net of any capital losses.

If the difference is higher than the Principal, a distribution of the Earnings may be made to the Income Fund within the County General Fund to be used for general purposes, as determined by the Board. No distribution shall be made if the difference falls below the prior fiscal year's principal amount.

The Board may, by resolution, direct the Treasurer to retain any portion of the aforementioned Earnings distribution in the Permanent Fund to be added to the Principal amount rather than distribute it to the Income Fund within the County General Fund

12) PERFORMANCE STANDARDS:

The investment portfolios shall be designed with the objective of obtaining a rate of return throughout budgetary and economic cycles, commensurate with the investment risk constraints and the cash flow needs.

Market Yield (Benchmark): The investment strategy of the County is active. Given this strategy, the basis used by the Board to determine whether market returns are being achieved shall be the Barclay's Intermediate Term Government Index or other appropriate indices as designated by the Board.

13) SECURITIES COMMUNICATIONS AND REPORTS:

Any investment advisor and/or professional fund manager actively doing business with the County must submit to the Treasurer, County Manager and Finance Director on, but not less than, both a quarterly, and fiscal annual basis, investment reports showing total amount invested, cost basis and market value of each security, amount invested in each type of security, maturity schedule of the portfolio, yield and cash flow analysis of the portfolio, and the time weighted return for each reporting period. They shall also submit or cause to be submitted by a third-party custodian, within seven (7) business days at the end of each month, a report showing account balances, transactions, market valuations and similar information. Any transaction that occurred during the reporting period should be shown as well as any realized gains or losses. All exhibits and written material that will be used for presentation to the Treasurer and BOF shall be submitted to and received by the Treasurer at least five (5) business days prior to any meetings with the Board, unless otherwise approved in writing or unless waived in writing by the Treasurer.

14) INVESTMENT ADVISOR:

The County may retain an Investment advisor under a contract approved by the Board, if said advisor: (i.) is licensed to perform such services in the State of New Mexico, is a

Registered Investment Advisor (“RIA”) or Investment Advisor Representative of an RIA, (ii.) has had at least seven years experience in managing and/or advising investments approved herein for other governments or fiduciary institutions, (iii.) has liability and fiduciary insurance coverage, (iv.) agrees to the communications requirements herein; (v.) agrees to advise the County in writing of any significant changes in the investment philosophy, management style, ownership, organizational structure financial condition or senior personnel staffing of the firm or manager assigned to the County within 30 days of each change; (vi.) does not have a proprietary interest in any professional fund manager utilized by the County. (vii.) is compensated only on a fee (agent only) basis and does not receive commissions, mark-ups or other compensation on securities purchased for the County; (viii.) agrees to meet personally with the Treasurer and the Board at least quarterly; and (ix) agrees to be bound by the dictates of this Policy. Such meetings shall address the investment advisor’s views on developments within the national/local economies, the securities and interest rate markets and the potential affects of these developments on investment and deposit strategy, portfolio maturities, potential amendments to this Policy and other fiscal matters. The investment advisor’s performance shall be evaluated based on the lesser of a 3–5-year time period or a complete market cycle. A copy of this Policy shall be given to the investment advisor by the County.

15) PROFESSIONAL FUND MANAGER:

The Treasurer, with advice and consent of the BOF, may retain one or more professional fund manager(s), under a contract or other agreement approved by the Board, if said manager: (i.) is licensed to perform such services in the State of New Mexico and as an RIA under the Investment Advisor's Act of 1940, as amended, (ii.) has had at least seven years experience in managing investments approved herein for other governments and fiduciary institutions and has at least \$1,000,000,000 under management for investment disciplines similar to this Policy; (iii.) has liability and fiduciary insurance coverage, (iv.) agrees to the communications requirements herein; (v.) agrees to advise the County in writing of any significant changes in the investment philosophy, management style, ownership, organizational structure, financial condition or senior personnel staffing of the fund manager or manager assigned to the County within 30 days of each change; (vi.) is compensated only on a fee (agent only) basis and does not receive commissions, mark-ups or other compensation on securities purchased for the County; (vii.) agrees to meet personally with the Commission at least annually; and (ix) agrees to be bound by the dictates of this Policy. Such meetings shall address the professional fund manager's views on developments within the national economies, the securities and interest rate markets and the potential effects of these developments on investment strategy, portfolio maturities and other fiscal matters. Manager's rate of return shall be measured against their peer and passive indices and their performance shall be evaluated based on the lesser of a 3–5-year time period or a complete market cycle. A copy of this Policy shall be given to the professional fund manager hired by the County

16) INVESTMENT COMMITTEE:

There is hereby established an Investment Committee (“Investment Committee”) comprised of the Treasurer (as Chair), County Manager, County Finance Director, the Chief Deputy County Treasurer and one (1) member of the public (“Community Member”) who shall be appointed by the Board. The Investment Committee may have two ex-officio members. The ex-officio members shall include the County Attorney and the County’s Financial Advisor. The Board shall determine the minimum qualifying criteria for the Community Members and establish the provisions for appointment, reappointment and replacement. The Investment Committee shall make recommendations regarding amendments to this Policy and related matters to the Treasurer for approval (§ 6.10.10.E NMSA 2018). Meetings shall be determined by the Chair of the Committee.

17) AMENDMENTS:

This Policy may be revised and/or amended by the Board, as appropriate, but shall be reviewed no less than every two (2) years. It shall be the obligation of the Treasurer to bring such amendments, if any, to the Board and obtain the approval of their majority before such changes and amendments take effect.