

## **CHAPTER 3**

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## ARTICLE 1

### Sales Tax

*Resolution No. 9/89*

*September 18, 1989*

WHEREAS, Section 29-2-103, C.R.S., authorizes each county in this State to levy a county sales tax, use tax or both in accordance with the provisions of said statute; and

WHEREAS, said statute provides for the submission of such sales and use tax proposal to the registered electors of the county voting on said proposal pursuant to Section 29-2-104, C.R.S.; and

WHEREAS, said statute further provides that the sales and use tax proposal be submitted at the next general election, if there is one within one hundred twenty (120) days of the filing of the Resolution, and, inasmuch as there is no general election scheduled within such time, the Board of County Commissioners shall submit such proposal at a special election called not less than thirty (30) days nor more than ninety (90) days from the date of filing of the Resolution; and

WHEREAS, upon the adoption of a Resolution by the Board of County Commissioners, as provided in subsection (3) of Section 29-2-104, C.R.S., the County Clerk and Recorder shall publish the text of such proposal for a sales and use tax four (4) separate times, a week apart, in the official newspaper of the county and each city and incorporated town within the county; and

WHEREAS, Section 29-2-105, C.R.S., provides that the proposal shall contain certain provisions concerning the amount, levying and scope of said tax.

NOW, THEREFORE, BE IT RESOLVED that there shall be referred to the qualified electors of the County of Otero at a special election to be held on Tuesday, October 24, 1989, the following proposal:

RESOLVED, that a county-wide one percent (1%) sales and use tax, in accordance with the provisions of Article 2, Title 29, C.R.S., as amended, is hereby imposed on the sale of tangible personal property at retail or the furnishing of services in the County of Otero, as is more fully hereinafter set forth. For the purpose of this sales and use tax proposal, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to a destination outside the limits of the County of Otero, or to common carrier for delivery to a destination outside the limits of the County of Otero. The gross receipts from such sales shall include delivery charges, when such charges are subject to the State sales and use tax imposed by Article 26 of Title 39, C.R.S., as amended, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the County of Otero, or has more than one (1) place of business, the place or places at which the retail sales are consummated for the purpose of a sales or use tax imposed by this proposal shall be determined by the provisions of Article 26 of Title 39, C.R.S., as amended, and by rules and regulations promulgated by the Department of Revenue. The amount subject to tax shall not include the amount of any sales or use tax imposed by Article 26 of Title 39, C.R.S., as amended. The proposal shall be the same as the tangible personal property and services taxable pursuant to Section 39-26-104, C.R.S., as amended. All sales of personal property on which a specific ownership tax has been paid or is payable shall be exempt from sales and use tax of the County of Otero when such sales meet both of the following conditions:

(a) The purchaser is a nonresident of, or has its principal place of business outside of, the County of Otero; and

(b) Such personal property is registered or required to be registered outside the limits of the County of Otero under the laws of the State of Colorado.

The sales and use tax imposed shall be remitted to the Director of Revenue of the State of Colorado as provided in Article 26 of Title 39, C.R.S., and by him shall be distributed to the County Treasurer of the County of Otero, Colorado. The tax imposed by this Resolution and proposal shall be subject to all of the provisions of Article 26 of Title 39, C.R.S., as amended.

BE IT FURTHER RESOLVED, specifically, that no sales or use tax shall be levied on food and all sales and use tax herein imposed shall be subject to the same exemptions as those specified in Section 39-26-114, C.R.S., which is the same exemptions now allowed by the State of Colorado, and such sales and use tax so levied shall be subject to the same exemptions as those exemptions imposed by the State of Colorado pursuant to statute as the same may now be imposed or as may be amended by the State of Colorado in the levy of the State sales and use tax.

All of the provisions of Section 29-2-105, C.R.S., as the same is amended, shall apply to this sales and use tax proposal, and more specifically, no sales of any use tax by the County shall apply to the sale of food purchased with food stamps. For the purposes of this determination, "food" shall have the same meaning as provided in 7 U.S.C. §201(2)(g) as such section exists October 1, 1987, or as thereafter amended. Further, no sales or use tax shall apply to the sale of food purchased with funds provided by the special supplemental food program for women, infants, and children, 42 U.S.C. §1786. For the purposes of this provision, "food" shall have the same meaning as provided in 42 U.S.C. §1786, as such section existed on October 1, 1987, or is thereafter amended. Further, since this proposal exempts taxation for the sale of food, "food" shall be as defined in Section 39-26-102(4.5), C.R.S., or as thereafter amended.

BE IT FURTHER RESOLVED, that the County Clerk shall publish the text of this sales and use tax proposal four (4) separate times, a week apart, in the official newspaper of the County of Otero and each city and incorporated town within this County. Those newspapers are defined as the *La Junta Tribune Democrat*, the *Rocky Ford Daily Gazette* and the *Fowler Tribune*.

BE IT FURTHER RESOLVED, that, if the majority of the qualified electors voting thereon vote for approval of this county-wide one percent (1%) sales and use tax proposal, such county-wide sales and use tax shall become effective commencing January 1, 1990.

BE IT FURTHER RESOLVED, that, if any provision of this Resolution the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provisions or applications, and to that end, the provisions of this Resolution are declared to be severable.

BE IT FURTHER RESOLVED, that the conduct of the election shall conform, so far as practical, to the general election laws of the State of Colorado.

BE IT FURTHER RESOLVED, that all of the net proceeds received by Otero County, Colorado, from the Director of Revenue of the State of Colorado from the aforementioned sales and use tax shall be a part of the General Fund of the County of Otero to be used in its duly authorized expenditures and for the reduction of the Otero County mill levy.

BE IT FURTHER RESOLVED, that the ballot question on the county-wide sales and use tax to be referred to the qualified electors at the special election on Tuesday, the 24th day of October, 1989, shall be:

"Shall a county-wide one percent (1%) sales and use tax be imposed in Otero County, the proceeds of which will become a part of the General Fund of the County of Otero and used in its duly authorized expenditures and for the reduction of the Otero County mill levy?"

YES \_\_\_\_\_

NO \_\_\_\_\_

BE IT FURTHER RESOLVED, that a notice of the adoption of this county-side sales and use tax proposal by the majority of the qualified electors voting thereon shall be submitted by the County Clerk and Recorder to the Director of Revenue at least forty-five (45) days prior to the effective date of such tax, together with a certified copy of this Resolution.

IT IS HEREBY DECLARED by the Board of County Commissioners of the County of Otero and State of Colorado that this Resolution is necessary for the immediate preservation of the public peace, safety, and welfare, and that it shall become effective immediately upon its adoption.

**ARTICLE 2**

**Overall Economic Development Program**

*Resolution No. 92-13  
September 14, 1992*

WHEREAS, Otero County has hosted meetings with the County Commission and representatives of each of the communities within the County for discussion of issues which affect the County, and the communities within the County; and

WHEREAS, the Otero County Commission has been working closely with staff of the Southern Colorado Economic Development District to prepare an Overall Economic Development Program; and

WHEREAS, Otero County is an active member and participant in the Southern Colorado Economic Development District; and

WHEREAS, the Otero County Commission has fully reviewed the Overall Economic Development Program and is satisfied that it truly reflects the goals, objectives, projects, and priorities needed to promote economic development within Otero County;

NOW, THEREFORE, BE IT RESOLVED that the Otero County Commission hereby accepts and adopts the Overall Economic Development Program of the Southern Colorado Economic Development District as the Overall Economic Development Program for the County.

**ARTICLE 3**

**Personal Property Declaration Schedules**

*Resolution No. 95-09  
August 7, 1999*

WHEREAS, the Assessor's Office for Otero County is in the process of reviewing personal property declaration schedules for property owners within Otero County; and

WHEREAS, the Assessor's Office utilizes computer software which maintains lists and schedules of values of personal property based on declaration schedules filed by property owners; and

WHEREAS, the computer software currently utilized by the Assessor's Office automatically assesses a 25% increase in value of personal property for individuals who fail to file a declaration schedule annually as required by the statute; and

WHEREAS, the Assessor's Office has determined that the automatic increase in value of property of 25% is not authorized by statute and should not be applied on Otero County property owners.

NOW, THEREFORE, be it RESOLVED by the Board of County Commissioners of Otero County that for those individual personal property owners within Otero County that have failed to file a declaration schedule on or before April 15, 1995, that the automatic increase in value of property of 25% is hereby set aside and waived.

BE IT FURTHER RESOLVED that the Assessor is authorized and directed to value the personal property of these individual taxholders based on the best information available, and to assess the appropriate fine and penalty of \$50.00 or 15% of the taxes due, whichever is less, and to add an additional penalty of 25% of assessed value for any omitted property discovered and valued later, all as provided by statute.

#### **ARTICLE 4**

#### **Refunding of Revenue Bonds**

*Resolution No. 99-7*

*May 24, 1999*

A RESOLUTION CONCERNING THE REFINANCING OF SINGLE-FAMILY MORTGAGE REVENUE BONDS DELEGATING TO THE COLORADO HOUSING AND FINANCE AUTHORITY THE POWERS TO ISSUE REFUNDING REVENUE BONDS OR OTHER REFUNDING OBLIGATIONS IN ORDER TO EFFECT SUCH REFINANCING, AND AUTHORIZING THE EXECUTION AND DELIVERY OF A DELEGATION AGREEMENT AND FUNDS EXCHANGE AGREEMENTS IN CONNECTION THEREWITH; DIRECTING THE TRUSTEE FOR SUCH BONDS TO EXECUTE AND DELIVER SUCH FUNDS EXCHANGE AGREEMENTS; PROVIDING OTHER DETAILS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Otero County, Colorado (the "Issuer") previously has issued the single-family mortgage revenue bonds identified on Exhibit A hereto (the "Bonds") pursuant to the County and Municipality Development Revenue Bond Act, constituting Article 3 of Title 29, C.R.S. (the "Project Act"), in order to finance, refinance, acquire, own, lease, improve and dispose of properties to the end that more adequate residential housing facilities for low- and middle-income families and persons may be provided, which promote the public health, welfare, safety, convenience and prosperity; and

WHEREAS, the Project Act and Part 2 of Article 1 of Title 29, C.R.S., provide, in effect, that any county or municipality may by resolution or ordinance delegate to any other county, municipal authority or political subdivision its authority under the Project Act to refinance projects or bonds originally financed under the Project Act; and

WHEREAS, the Issuer desires to delegate to the Colorado Housing and Finance Authority (the "Authority"), its powers under the Project Act to issue refunding revenue bonds or other refunding obligations to be

used to pay at maturity and/or redeem prior to maturity the principal of the Bonds as the same becomes due and payable from time to time during the year 1999; and

WHEREAS, the Authority desires to accept such delegation; and

WHEREAS, it is necessary to evidence such delegation and the acceptance of such delegation by the execution and delivery of a Delegation Agreement between the Authority and the Issuer, substantially in the form attached hereto as Exhibit B (the "Delegation Agreement"); and

WHEREAS, in order to increase the availability of adequate affordable housing for low- and moderate-income persons and families within the jurisdiction of the Issuer and elsewhere in the State of Colorado, it is necessary in connection with each refunding of any of the Bonds during the year 1999 to authorize the exchange of certain funds held by the trustee for such Bonds for certain funds to be held by the trustee for such refunding obligations of the Authority, each of which exchanges is to be evidenced by a Funds Exchange Agreement substantially in the form attached hereto as Exhibit C (the "Funds Exchange Agreement") either between the trustee for such Bonds and the Authority or among the trustee for such Bonds, the Authority and the trustee for such refunding obligations of the Authority.

NOW, THEREFORE, BE IT RESOLVED, BY OTERO COUNTY, COLORADO:

Section 1. In order to ensure the refinancing of a portion of the Bonds by the Authority from time to time during the year 1999, it is deemed necessary and advisable that the Delegation Agreement be approved, executed and delivered by and on behalf of the Issuer, and that the form of the Funds Exchange Agreement be approved for completion, execution and delivery in connection with each refunding of any Bonds during the year 1999.

Section 2. The form, terms and provisions of the Delegation Agreement hereby are approved and the officers of the Issuer hereby are authorized and directed to execute and deliver the Delegation Agreement, with such changes therein as are approved by the officers of the Issuer executing the Delegation Agreement. The execution of the Delegation Agreement shall be conclusive evidence of the approval by the Issuer of such document in accordance with the terms hereof.

Section 3. The form, terms and provisions of the Funds Exchange Agreement hereby are approved and the officers of the Issuer hereby are authorized and directed to execute and deliver a Funds Exchange Agreement in connection with each refunding of any Bonds during the year 1999, with such changes therein as are approved by the officers of the Issuer executing such Funds Exchange Agreement. The execution of any Funds Exchange Agreement shall be conclusive evidence of the approval by the Issuer of such document in accordance with the terms hereof.

Section 4. Each trustee for each series of the Bonds is hereby authorized and directed to execute and deliver a Funds Exchange Agreement in connection with each refunding during the year 1999 of any Bonds for which it acts as trustee, to release such information to the Authority and the trustee for the refunding obligations and to take such other steps or actions as may be necessary, useful or convenient to effect the aforesaid exchange of funds in accordance with such Funds Exchange Agreement and this resolution.

Section 5. The officers of the Issuer shall take such other steps or actions necessary or reasonably required to carry out the terms and intent of this Resolution, the Delegation Agreement and each Funds Exchange Agreement.

Section 6. If any section, paragraph, clause or provisions of this Resolution shall 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 Resolution.

Section 7. All action not inconsistent with the provisions of this Resolution heretofore taken by the governing body and the officers of the Issuer directed toward the authorization of the Delegation Agreement and any Funds Exchange Agreement hereby are ratified, approved and confirmed.

Section 8. This Resolution shall be in full force and effect upon its passage and adoption.

#### **EXHIBIT A**

*(List of Single-Family Mortgage  
Revenue Bonds Issued by the Issuer)*

Otero County, Colorado, Single-Family Mortgage Revenue Bonds, 1979 Series A.

#### **ARTICLE 5**

##### **Sales Tax Exemption**

*Resolution No. 99-18  
November 1, 1999*

WHEREAS, the Board of County Commissioners of Otero County previously adopted a sales tax resolution, dated September 18, 1989, whereby the County adopted a county-wide one percent (1%) sales and use tax, in accordance with the provisions of the state statute; and

WHEREAS, the County Sales Tax Resolution specifically incorporated the same exemptions as those exemptions imposed by the State of Colorado pursuant to statute as the same may now be imposed or amended by the State of Colorado from time to time; and

WHEREAS, legislature for the State of Colorado has adopted legislation in creating State sales and use tax exemptions for farm equipment, agricultural compounds and pesticides; and

WHEREAS, the Board of County Commissioners of Otero County has determined that it would be in the best interest of the citizens and residents of Otero County to adopt as part of the Otero County Sales Tax Resolution the additional State exemptions.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Otero County that the Otero County Sales and Use Tax Resolution is hereby amended to specifically incorporate the sales and use tax exemptions for farm equipment, agricultural compounds, and sales and purchases of pesticides as follows:

RESOLVED, effective July 1, 1999, all sales and purchases of farm equipment, including farm equipment under lease or contract are exempt from Otero County sales and use tax, provided the fair market value of the equipment is at least one thousand dollars (\$1,000.00). Otero County specifically incorporates the provisions, conditions, definitions and references contained in House Bill 99-1002, adopted by the Colorado general assembly and incorporates the provisions of that legislation in this Resolution.

BE IT RESOLVED that, effective July 1, 1999, all sales and purchases of agricultural compounds that are consumed by, administered to or otherwise used in caring for livestock are exempt from Otero County sales

and use tax. Otero County specifically incorporates the provisions, conditions, definitions, and references contained in House Bill 99-1016, adopted by the Colorado general assembly and incorporates the provisions of that legislation in this Resolution.

BE IT RESOLVED that, effective July 1, 1999, purchases of pesticides or other substances registered by the Colorado Commissioner of Agriculture, as agricultural use pesticides under the Pesticides Act, Section 39-9-101, et seq., C.R.S., are exempt from sales and use tax when purchased from a dealer licensed and registered under Section 35-9-115, C.R.S. Otero County specifically incorporates the provisions, conditions, definitions and references contained in House Bill 99-1381, adopted by the Colorado general assembly and incorporates the provisions of that legislation in this Resolution.

IT IS HEREBY DECLARED by the Board of County Commissioners of the County of Otero and State of Colorado that this Resolution is necessary for the immediate preservation of the public peace, safety, and welfare, and that it shall become effective immediately upon its adoption.

## **ARTICLE 6**

### **Sales Tax Exemption**

*Resolution No. 2000-25  
September 18, 2000*

A RESOLUTION ADOPTING THE PROVISIONS, DEFINITIONS AND CONDITIONS PROVIDED FOR IN HOUSE BILL 00-1162.

WHEREAS, the Board of County Commissioners of Otero County previously, on November 1, 1999, adopted a resolution exempting certain farm equipment, agricultural compounds and pesticides from the Otero County Sales and Use Tax Ordinance; and

WHEREAS, the Colorado General Assembly has passed additional legislation further defining and providing for further exemption of farm equipment from the State sales and use tax, and further authorizes the Counties to incorporate those same exemptions into the County sales and use tax ordinance; and

WHEREAS, the Board of County Commissioners of Otero County has determined that it would be in the best interest of the citizens and residents of Otero County to adopt as part of the Otero County Sales Tax Resolution the additional State exemptions, definitions and provisions.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF OTERO COUNTY, COLORADO, that the Otero County Sales and Use Tax Resolution is hereby amended to specifically incorporate the additional definitions, provisions, and modifications of House Bill 00-1162 as follows:

RESOLVED, that, effective July 1, 2000, all purchases of farm equipment, including farm equipment under lease or contract are exempt from the Otero County sales and use tax, and Otero County specifically incorporates the provisions, conditions, definitions and references contained in House Bill 00-1162, adopted by the Colorado General Assembly and incorporates the provisions of that legislation into this resolution.

IT IS HEREBY DECLARED by the Board of County Commissioners of Otero County, Colorado, that this Resolution shall be effective July 1, 2000, consistent with the House Bill 00-1162.

IT IS HEREBY DECLARED by the Board of County Commissioners of Otero County that this Resolution is necessary for the immediate preservation of the public peace, safety, and welfare, and that it shall become effective immediately upon its adoption.

## ARTICLE 7

### Insufficient Check Fees

*Resolution No. 2003-016  
September 15, 2003*

A RESOLUTION ALLOWING FOR THE COLLECTION BY OTERO COUNTY OF A \$20.00 FEE PURSUANT TO THE TERMS OF C.R.S. 13-21-109.

WHEREAS, Otero County provides services, property or other things of value for which it receives payment from individuals or entities by check; and

WHEREAS, Otero County has received checks which when presented for payment were not paid by the bank because the payor had insufficient funds in his/her/its account and was unable to make payment; and

WHEREAS, Section 13-21-109, C.R.S., provides in part that if any person who obtains money, merchandise, property or other things of value by means of making any check, draft or order for the payment of money upon any bank, depository, person, firm or corporation which is not paid upon its presentment is liable to the holder of such check, draft or order or any assignee for an amount equal to the face amount of the check, draft or order, and the amount of any reasonable posted or contractual charge not exceeding twenty dollars (\$20.00); and

WHEREAS, Otero County is desirous of collecting a fee pursuant to the terms of Section 13-21-109, C.R.S., when presented with an insufficient funds check;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Otero County, Colorado, as follows:

1. Those Otero County offices which provide services, property, or other things of value for which they receive a check for payment for such services, property or other things of value shall post a sign as follows:

#### NOTICE

OTERO COUNTY WILL CHARGE A \$20.00 FEE FOR EACH CHECK RETURNED  
BY A BANK UPON WHICH IT IS DRAWN BY REASON OF NONPAYMENT DUE  
TO INSUFFICIENT FUNDS. (SEE C.R.S. 13-21-109)

EFFECTIVE DATE: October 1, 2003.

2. In the event Otero County receives an insufficient funds check, Otero County shall be entitled to collect the amount of the check together with a \$20.00 fee, pursuant to the terms of Section 13-21-109, C.R.S.

## ARTICLE 8

### Sales Tax Exemption

*Resolution No. 2003-17*

*September 29, 2003*

WHEREAS, the Board of County Commissioners of Otero County previously adopted a sales and use tax resolution dated September 18, 1989, whereby the County adopted a County-wide one percent (1%) sales and use tax, as more particularly set forth in said resolution, which resolution is commonly known as the "Otero County Sales and Use Tax Resolution"; and

WHEREAS, on November 1, 1999, the Board of County Commissioners of Otero County adopted Resolution No. 99-18, allowing for the amendment of the Otero County Sales and Use Tax Resolution by incorporating the sales and use tax exemptions for farm equipment, agricultural compounds and sales and purchases of pesticides, as more fully set forth in House Bill 99-1002, House Bill 99-1016 and House Bill 99-1381 adopted by the Colorado General Assembly; and

WHEREAS, on September 18, 2000, the Board of County Commissioners of Otero County adopted Resolution No. 00-25 allowing for the amendment of the Otero County Sales and Use Tax Resolution consistent with the provisions of House Bill 00-1162; and

WHEREAS, the Colorado General Assembly passed additional legislation concerning an expansion of the definition of "farm equipment" under the State sales and use tax to include dairy equipment and making certain other changes as set forth in House Bill 01-1256; and

WHEREAS, the Board of County Commissioners of Otero County has determined that it would be in the best interests of the citizens and residents of Otero County to adopt as part of the Otero County Sales and Use Tax Resolution the additional State definitions and provisions as set forth in House Bill 01-1256, and to specifically exempt by resolution sales tax upon all sales of purchases of dairy equipment;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Otero County, Colorado, as follows:

RESOLVED that, effective July 1, 2001, Otero County specifically incorporates the additional definitions, provisions, conditions and references contained in House Bill 01-1256, which is attached hereto and incorporated herein by reference.

FURTHER RESOLVED that, effective July 1, 2001, all sales and purchases of dairy equipment should be exempt from County sales tax as allowed by House Bill 01-1256.

IT IS HEREBY DECLARED by the Board of County Commissioners of Otero County, Colorado, that this Resolution shall be effective July 1, 2001, consistent with House Bill 01-1256.

IT IS HEREBY DECLARED by the Board of County Commissioners of Otero County, Colorado, that this Resolution is necessary for the immediate preservation of the public peace, safety, and welfare, and that it shall become effective immediately upon its adoption.

Motion and second having been made, the above Resolution was unanimously approved.

## ARTICLE 9

### County Investment Policy

*Resolution No. 2009-12*

*June 8, 2009*

#### A RESOLUTION CONCERNING OTERO COUNTY INVESTMENTS POLICY

WHEREAS, it is the policy of Otero County to invest public funds in accordance with all Federal State and local governing statutes; and

WHEREAS, Otero County will invest public funds in a manner that will provide maximum safety of principal, ensure that daily cash flow demands are met and achieve the highest investment return within these parameters; and

WHEREAS, the Board of County Commissioners deems it necessary to establish an investment policy for Otero County in order to achieve the highest investment return, yet provide maximum safety;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the County of Otero, Colorado, that:

#### **Section 1. Scope.**

The investment policy applies to all financial assets of Otero County. These funds are accounted for in Otero County's annual financial report and include, but are not limited to:

General Fund.

Medical Trust Fund.

Contingent Fund.

Internal Services.

Otero County Land Trust Fund.

Small Business Development Fund.

E911 Fund.

Insurance Fund.

Conservation Trust Fund.

Departmental Funds.

In addition, Otero County provides investment services for certain governmental agencies, or taxing districts or units, including school districts, fire districts and water districts, as well as any new fund created by County ordinance or otherwise established by State legislation.

## **Section 2. Prudence.**

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

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 standard of prudence to be used by investment officials shall be the "prudent person" standard and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures and the investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided that deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

## **Section 3. Objectives.**

The primary objectives of Otero County's investment activities, in order of priority shall be:

(a) Safety: Safety of the principal is the foremost objective of the investment policy. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. To obtain this objective, diversification of credit risk and interest rate risk is required in order that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.

(b) Liquidity: The portfolio shall remain sufficiently liquid to enable Otero County and its junior taxing districts to meet all operating requirements that might be reasonably anticipated.

(c) Yield: The investment portfolio shall be designed with the objective of attaining a reasonable market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and the cash flow characteristics of the portfolio.

## **Section 4. Delegation of Authority.**

The Otero County Treasurer is authorized to determine the amounts available for investment in each fund of Otero County and its junior taxing districts and is authorized to invest such moneys. Upon the request of one (1) or several units of local government that invest their money with the County, the Treasurer may combine those units' moneys for the purposes of investment. Whether investing individually "by fund" or by "pooling," the Otero County Treasurer will invest in accordance with this policy and the applicable laws.

The Otero County Treasurer shall be responsible for all investment transactions undertaken and shall establish a system of controls and procedures to regulate the activities of all staff members involved in investment matters to ensure consistency with this investment policy. The Otero County Treasurer shall delegate to appropriately skilled staff, within an established system of controls and procedures, the day-to-day responsibilities of managing the investment activities. No person may initiate investment transactions on behalf of the Otero County Treasurer without the express consent of the County Treasurer.

## **Section 5. Ethics and Conflict of Interest.**

The Otero County Treasurer and employees involved in the investment process shall refrain from personal activity that could conflict with the proper execution of the investment policy, or which could impair their ability to make impartial investment decisions. Employees shall disclose to the County Treasurer any material

financial interests in financial institutions that conduct business within the County, and they shall further disclose any personal financial or investment positions that could be related to the performance of Otero County's portfolio. The Otero County Treasurer and all employees involved in the investment process shall subordinate their personal investment transactions to those of Otero County, particularly with regard to the timing of purchases and sales. Individuals performing the investment function shall maintain the highest standards of conduct. Each person performing the investment function must maintain their independence and not have actual conflicts of interest or lack of independence. The Otero County Treasurer and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment policy or that could affect their ability to make impartial decisions. The Otero County Treasurer and employees shall not accept gifts or gratuities from any bank, broker, dealer or any other person, firm or organization who conducts business with the County Treasurer.

#### **Section 6. Authorized Financial Dealers and Institutions.**

The Otero County Treasurer shall maintain a list of financial institutions that are authorized to provide investment services. The Treasurer's office will evaluate the net worth and credit worthiness of these institutions, which may result in restrictions and/or exclusion of any institution based on the Treasurer's analysis. In addition, a list will be maintained of approved security brokers and dealers selected by credit worthiness, who maintain an office in the State of Colorado.

The Otero County Treasurer's office may accept offers and bids from primary security dealers; that is, those dealers who, as primary government securities dealers, report daily to the New York Federal Reserve Bank. Should concerns of any of these firms' economic viability be raised or should past practices cause concern, these institutions may be restricted from conducting business with the Treasurer.

All financial institutions, brokers and dealers who desire to do business with Otero County must supply the Otero County Treasurer with the following documentation in writing:

- Audited financial statements for the last three (3) years.
- Quarterly financial statements.
- Proof of National Association of Securities Dealers certification.

No public deposit shall be made except in a qualified public depository in the State of Colorado. A current financial statement is required to be on file for each financial institution, broker and dealer with which Otero County invests. Approved brokers and dealers will be evaluated by the Otero County Treasurer annually to assess overall performance for the preceding year, including but not limited to trade execution, responsiveness, quality of market information and analysis and overall contribution to the investment process of the County.

#### **Section 7. Authorized and Suitable Investments.**

Part 6 of Article 75 of Title 24, C.R.S., sets forth legal investments of public funds, and it is incorporated herein by reference as it presently exists and as it may be amended in the future.

Colorado State Statutes also authorize the County to invest in the Colorado Local Government Liquid Asset Trust (COLOTRUST), the Colorado Cooperative Liquid Assets Security System (COLOCLASS) and the Colorado Surplus Asset Fund Trust (CSAFE).

**Section 8. Unsuitable Investments.**

Otero County shall not invest in the following:

- Equities or common or preferred stock of corporations.
- Certificates of deposit (CDs) in out-of-state banks.
- Real estate.
- Commodity futures.
- Collateralized Mortgage Obligations (CMOs), except those issued directly by government agencies.
- Unit investment trusts (UITs).
- Art or other collectibles.
- Other investments not listed in Section 7 of this policy without express permission by the Board of County Commissioners.

Any security with known characteristics which could impair Otero County's ability to sell such security without incurring substantial loss of principal are not permitted investments under this policy. Certain securities or types of securities which otherwise comply with the provisions of this investment policy related to investment of public funds may have high risk characteristics which make them unsuitable as investments. These include, but are not limited to, certain mortgage-backed or mortgage-related securities, such as interest only (IO) or principal only (PO) securities and Collateralized Mortgage Obligations (CMO) classes typically described as "companion" classes.

**Section 9. Safekeeping Requirements.**

All security transactions entered into by the Otero County Treasurer shall be conducted on a delivery-versus-payment (DVP) basis, which ensures that securities are deposited with a third party, such as a safekeeping and custodian bank acting as an agent for the Treasurer, before payment is released. A signed safekeeping and custodial agreement shall be entered into with a federally regulated financial institution. The custodian institution shall hold the securities as evidenced by a safekeeping receipt. Nonnegotiable CDs are not handled on a DVP basis and are therefore exempt from this process. Banker's Acceptances (BAs) and Repurchase Agreements (provided that a signed master repurchase agreement is on file) shall be held in the Trust safekeeping department of the financial institution in the name of Otero County. Certificates of deposit in the Treasurer's name, or a copy thereof, will be delivered to and held by the Treasurer's office.

**Section 10. Diversification.**

It is the policy of the Otero County Treasurer to diversify its investment portfolio within the constraints of the law. Assets held in the common cash fund and other investment funds shall be diversified to eliminate the risk of loss resulting from over-concentration of assets in a specific maturity, a specific issuer or a specific class of securities. Diversification strategies shall be determined and revised periodically by the Treasurer.

Diversification by instrument will be limited to the following maximum percent of the overall portfolio for each category of securities:

<i>Type of Investment</i>	<i>Maximum % of Portfolio</i>
U.S. Treasury Obligations	100%
U.S. Government-Operated Agency & Sponsored Enterprises	75%
Banker's Acceptances (BAs)	25%
Commercial Paper	25%
Certificates of Deposit (CDs)	70%
Deposit Notes of Financial Institutions	10%
Repurchase Agreements	10%
Bonds of the State of Colorado or local governments in the State of Colorado	20%
Bonds of other states or local governments in other states	10%
Otero County Securities, Certificates of Participation or Lease Obligations	10%
Investment Pools	100%
Mutual Funds of U.S. Government Securities	25%
Mutual Funds of State and/or local government	25%

The total dollar amount of Certificates of Deposit and Bankers Acceptances in any one (1) bank's name will not exceed sixty percent (60%) of the Treasurer's portfolio. In addition, quarterly financial statements are required of each institution and will be reviewed by the Treasurer.

No more than five percent (5%) of the portfolio may be invested with any one (1) issuer of commercial paper.

In no case may the Otero County Treasurer invest in any one (1) bank or trust company an amount in excess of fifty percent (50%) of that financial institution's net worth. No more than five percent (5%) of the portfolio may be invested in Collateralized Mortgage Obligations (CMOs) or other mortgage-backed security product. In addition, any mortgage-backed security with a stated financial maturity longer than five (5) years must be approved by the Board of County Commissioners of Otero County.

Maturities should be staggered to avoid concentrations in any one (1) maturity sector, and at least ten percent (10%) of the portfolio shall be invested in overnight investments or in marketable securities which can be sold to raise cash in one (1) day's notice.

#### **Section 11. Maximum Maturities.**

To the extent possible, Otero County will attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, Otero County will not directly invest in securities maturing more than one (1) year from the date of purchase. Reserve funds may be invested in securities that exceed five (5) years if the maturity of such investments is made to coincide as nearly as practicable with the expected use of the funds.

The average days to expected maturity of the portfolio will not exceed two (2) years. In the case of callable securities, expected maturity is the next call date if the bond's market value is at a premium and final maturity if the price is par or at a discount. Note that this calculation excludes the maturities of the underlying securities (collateral) of any repurchase agreements.

**Section 12. Internal Control.**

Day-to-day procedures concerning investment management and accounting are outside the scope of this policy. The Otero County Treasurer is subject to annual independent audit of its internal control by Otero County's independent auditor and will conform to the requirements for change, if any, of those audits. The specific internal controls maintained by the Treasurer are contained in the normal operating procedures of the office.

**Section 13. Performance Standard.**

The investment portfolio shall be designed to obtain a market average rate of return during a market/ economic environment of stable interest rates. Otero County's investment strategy is passive. Given this strategy, the basis used by the Treasurer to determine performance levels will be to regularly exceed the average return on three-month U.S. Treasury Bills or the average rate on federal funds, whichever is higher. These indices are considered benchmarks for riskless investment transactions, and therefore comprise a minimum standard for the portfolio's rate of return. This performance standard shall take into account Otero County's investment risk constraints and cash flow needs.

**Section 14. Competitive Bidding.**

- Selecting investments is usually a matter of selecting the highest yield. Exceptions are safety and liquidity.
- Bids may not be disclosed until after investment closes.
- Providing that there are no material yield differences, brokers and dealers with the best overall evaluations will receive a proportionately greater share of the County's investment activity.

The Otero County Treasurer will be responsible to produce and retain written records of each bid and transaction, including the name of the financial institution solicited, the rate quoted, a description of the security, the investment selected and any special considerations that had an impact on the decision. If the highest yield was not selected for purchase, an explanation describing the rationale will be included in the record.

**Section 15. Reporting.**

On a quarterly basis, or as otherwise requested by the Otero Board of County Commissioners, a report will be submitted which provides an accurate and meaningful representation of the Otero County investment portfolio. The Treasurer shall report current investment strategy being followed and recent economic conditions and market developments that have a bearing on this strategy. This management report will be prepared in a matter allowing the reader to ascertain whether investment activities during the reporting period have conformed with the investment policy. The report shall, at a minimum, include:

- Name of the investment.
- Investment identification (ID).
- Date of investment.
- Initial investment amount.
- Return on investment.
- Interest rate.

- Date of maturity.

**Section 16. Investment Policy Review.**

The Otero County Treasurer's investment policy shall be reviewed on an annual basis, and any amendments or modifications to this policy shall be presented for approval by the Board of County Commissioners of Otero County.

**ARTICLE 10**

**Authorized Depositories for Otero County**

*Resolution No. 2010-003*

*January 4, 2010*

BE IT RESOLVED that the following financial institutions are authorized depositories for Otero County for FY2010:

Colorado Bank & Trust

ColoTrust

First National Bank of Las Animas/La Junta/Fowler

Fowler State Bank

The State Bank - Rocky Ford

U.S. Treasury and Agencies

Colorado East Bank & Trust

Community Bank of Rocky Ford

First National Bank of Ordway

The State Bank - La Junta

U.S. Bank