

# **CIBOLA COUNTY BOARD OF COMMISSIONERS**

T. Walter Jaramillo  
Chairman

Robert Armijo  
1<sup>st</sup> Vice Chairman

Jack Moleres  
2<sup>nd</sup> Vice Chairman

Patrick Simpson  
Commissioner

Lloyd F. Felipe  
Commissioner

**Regular Meeting  
Wednesday, June 22, 2016  
5:00 p.m.  
Cibola County Convention Room**

**1. Public Hearing for Comment on:**

- a. Personnel Policy Ordinance
- b. Off Highway Vehicle Ordinance
- c. Prohibiting Illegal Tire Dumpsites, The Importation of Scrap Tires into Cibola County and Providing for the Abatement of Illegal Tire Dumpsites Ordinance

**2. Call to Order**

**3. Roll Call**

**4. Pledge of Allegiance**

**5. Prayer**

**6. Approval of Agenda**

**7. Approval of Minutes:**

- a. May 25, 2016 Regular Commission Meeting
- b. June 15, 2016 Workshop

**8. Reports**

- a. Monthly Sheriff's Department Activity Report
- b. Monthly Detention Report
  - a) PREA
- c. Monthly Road Department Report
- d. County Complex Remodel Expense Report

**9. Public Comment**

The Public has the opportunity to provide comment at this time regarding any agenda item only. Your Comments will be limited to three minutes unless the Board of County Commissioners requests more information. The time limit is given in an effort to allow public input but also to move the agenda forward in a prompt yet efficient manner.

**10. Presentations**

- a. Future Foundations Highlights for January-March 2016 – Sherri Kachirisky

**11. Unfinished Business – Action May Be Taken**

- a. Consideration of Road Name Change from Garcia Blvd to Bajar

**12. New Business-Action May Be Taken**

- a. Consideration of Quitclaim Deed with Fence Lake Community Association for the Transfer of Ownership of the Fence Lake Community Center from the County to the Association
- b. Consideration of Resolution 16-29, Budget Adjustments



- c. Consideration of Resolution 16-30, Adopting a County Seal
- d. Consideration of Contract
  - a) Global Contract
  - b) Information Technologies, Inc.
  - c) Roberta's Place, Inc.
  - d) Moss Adams
  - e) Spy Glass
  - f) Mainstreet
  - g) Future Foundations Family Center
- e. Consideration of Commissioner Felipe's Request to attend the NACO Annual Conference in Long Beach, California
- f. Consideration of Approval of Off Highway Vehicle Ordinance
- g. Consideration of Approval of Personnel Policy Ordinance
- h. Consideration of Approval of Prohibiting Illegal Tire Dumpsites, The Importation of Scrap Tires into Cibola County and Providing for the Abatement of Illegal Tire Dumpsites Ordinance
- i. Direction to Publish Waste Littering and Refuse Ordinance
- j. Direction to Publish Abatement of Dangerous or Abandoned Buildings, Structures, Mobile or Manufactured Housing, Wreckage and Debris Ordinance
- k. Direction to Publish Countywide Emergency Communications and Emergency Medical and Behavioral Health Services Tax Ordinance
- l. Direction to Publish Public Nuisance Ordinance of Cibola County

### **13. Manager's Report**

### **14. Comments**

- a. Staff
- b. Commissioners

### **15. Executive Closed Session**

Pursuant to Section 10-15-1 (H) (2) (5) (7) & (8) the following matter may be discussed in closed session:

- a) personnel/threatened litigation: Rheganne Vaughn
- c) real property: proceedings: Land East of La Mesa Mall
  - Motion and roll call vote to go into Executive Session for the state reasons
  - Board meets in closed session
  - Motion and vote to go back into regular session
  - Summary of items discussed in closed session
  - Motion and roll call vote that matters discussed in closed session were limited to those

specified in

Motion.

For closure and that no final action was taken, pursuant to the authority in § 10-15-1 NMSA 1978

### **16. Announcements**

The next Regular Commission Meeting will be held on Wednesday, July 27, 2016 at 5:00 p.m. immediately following the Board of Finance Meeting in the County Convention Room.

### **17. Adjournment**



CIBOLA COUNTY  
BOARD OF COUNTY COMMISSIONERS  
ORDINANCE № 16-02

**An Ordinance Relating to Administration, Adopting a Personnel Policy; Setting forth  
Personnel Rules and Regulations Establishing Consistent, Basic Policies and Practices  
Concerning Relations between the County and its Employees**

**PREAMBLE**

**WHEREAS**, NMSA 1978, Section 3-18-1 provides that municipalities, and also counties pursuant to NMSA 1978, Section 4-37-1, have the power to “protect generally the property of its municipality and its inhabitants” and to “preserve peace and order”; and,

**WHEREAS**, NMSA 1978, Section 4-37-1 *et seq.* provides that counties may adopt ordinances, not inconsistent with statutory or constitutional limitations placed on counties, to discharge those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the county and its inhabitants; and,

**WHEREAS**, NMSA 1978, Section 3-13-4 (1965) allows municipalities and counties to establish a personnel merit system for the hiring, promotion, discharge and general regulation of municipal and county employees.

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## **SECTION I: DEFINITIONS**

- 1.1 **ADMINISTRATIVE LEAVE WITH PAY.** Leave with pay granted at the County Manager's discretion after considering the elected official's or department director's recommendation. Bereavement Leave will be considered Administrative Leave with pay. See Section 10.13.
- 1.2 **ADMINISTRATIVE LEAVE WITHOUT PAY.** Leave without pay granted at the County Manager's discretion after considering the elected official's or department director's recommendation.
- 1.3 **ANNIVERSARY DATE.** Anniversary date means the date of appointment or reemployment and is changed as of the date of promotion, demotion, reduction, or change to a different technical occupation group, group role, or manager category in the same pay band or pay opportunity.
- 1.4 **ANNUAL LEAVE.** Leave with pay granted to an employee, after accrual at a specific rate, with approval of the employee's supervisor.
- 1.5 **APPEAL.** Written request that a decision of a formal grievance be reconsidered at a further stage in the grievance procedure.
- 1.6 **APPLICANT.** A person who has made formal application on an official County personnel application form for a position with the County.
- 1.7 **"AT WILL" EMPLOYEE.** See definition of "Unclassified Employee".
- 1.8 **BOARD.** Board means the Board of County Commissioners.
- 1.9 **CASUAL EMPLOYEE.** An employee hired to fill a position paid by the hour that may be called on short notice and/or on an occasional basis. Casual employee may also be one who works less than twenty (20) hours a week. A casual employee is paid only for hours worked and does not receive any employment benefits. A casual employee does not have the right to grieve employment decisions.
- 1.10 **CLASSIFIED EMPLOYEE.** An employee who has served the prescribed probationary period and is eligible for the rights and privileges provided for under these Rules.
- 1.11 **CONTINUOUS LENGTH OF COUNTY SERVICE.** Continuous length of County service means the length of time for which there have been no breaks in employment as an employee spanning from the employee's Date of Hire, other than annual leave, sick leave, military leave authorized pursuant to Section 10.24 below, or authorized leave without pay for less than six (6) months.
- 1.12 **CONTRACT EMPLOYEE.** Contract employees are FLSA exempt and are unclassified employees and have a contract approved by the Board. Contract employees serve at the will and pleasure of the Board. Contract employees are not entitled to grievance procedures or holiday premium pay.
- 1.13 **COUNTY BUSINESS.** The performance of duties of a County employee at an employee's normal workstation or at a location authorized by the County.
- 1.14 **COUNTY MANAGER.** An individual appointed by the Board to conduct the business of the County and to act as the administrative assistant to the Board aiding and assisting the Board in the exercise of their duties and responsibilities. In the event there is no County Manager, the duties and responsibilities specified in these Rules shall be carried out by an appointed Acting County Manager or the chairperson of the Board.
- 1.15 **DATE OF HIRE.** Date of Hire is the date indicated as such on the employee's Personnel Action Form indicating New Hire as a regular employee, from which there is continuous length of County service. Alternatively, the Date of Hire may be from the date of Reinstatement if reinstatement occurs after a lapse of continuous length of County service.



- 1.16 DEMOTION. An employee may be demoted to a position for which the employee is qualified when the employee would otherwise be terminated. The demotion may be a result of funding shortages. An employee who does not possess the necessary ability to render satisfactory performance in the position presently held may be demoted. Employees may voluntarily request such a demotion. Demoted employees may receive a reduction in pay, per County Manager approval and department head recommendation. Only a regular employee demoted due to disciplinary action is entitled to grievance procedures under Section VIII, Grievance Procedures.
- 1.17 DEPARTMENT DIRECTOR. An employee hired to fill a position who has the responsibility of supervising and administering a department of County government as determined and designated by the Board.
- 1.18 DISMISSAL. Dismissal means the involuntary separation or dismissal from employment for disciplinary reasons.
- 1.19 DOMESTIC PARTNER. An individual who has an exclusive and committed relationship with a County employee and the relationship is the same as, or similar to, a marriage relationship in this state. For purposes of these Rules: 1) domestic partners must have shared a common, primary residence for twelve (12) or more consecutive months, 2) must jointly be responsible for each other's common welfare and share financial obligations, 3) neither can be married or a member of another domestic partnership, 4) both must be at least 18 years of age, and 5) are not related by blood to a degree of closeness that would prevent them from being married to each other in this state.
- 1.20 DUE PROCESS. The right granted to a regular employee to pre- and post disciplinary hearings for actions of suspension, demotion or dismissal.
- 1.21 ELECTED OFFICIAL. An individual elected by popular vote or appointed to fill vacancies in elective office, i.e., County Commissioner, County Clerk, County Treasurer, County Sheriff, County Assessor, and Probate Judge.
- 1.22 EXEMPT EMPLOYEES. All executive, administrative and professional employees as those terms are defined in the federal Department of Labor regulations relating to the Fair Labor Standards Act, and whose compensation is based on a fixed salary.
- 1.23 GRANT FUNDED EMPLOYEE. A full or part-time employee hired to fill a position that exists only upon receipt of grant funds. This position is terminable-at-will if funding is not received or upon expiration of the grant agreement.
- 1.24 GRIEVANCE HEARING. A formal hearing conducted at the request of an employee who is grieving a promotion, suspension, demotion, involuntary transfer, or dismissal as set forth in these Personnel Rules and Regulations.
- 1.25 GRIEVANCE. A formal complaint by an employee concerning actions taken by management which result in loss of pay to the employee and/or privileges to the employee including suspension, demotion, involuntary transfer or dismissal.
- 1.26 HEARING OFFICER. The individual who is charged with the responsibility of hearing and deciding allegations of improper promotion, post-disciplinary action matters of demotion, suspension and dismissal.
- 1.27 IMMEDIATE FAMILY. Spouses, domestic partners, children, parents, siblings, grandparents, grandchildren, like in-laws, and like step-relationships and persons with legal custodial relationships.
- 1.28 LAYOFF. The involuntary separation of an employee from County service without fault on the part of the employee, due to the abolition of a position, reorganization, lack of work, or lack of funds.
- 1.29 MEDICAL DISABILITY DISMISSAL. The dismissal of an employee from County employment when the employee is unable to perform the essential functions of the position



with reasonable accommodation(s) that do not impose undue hardship upon the County, due to a medical condition, when there is corroborating documentation of this condition from a licensed health-care professional. Although Medical Disability Dismissal is not disciplinary in nature, employees are nonetheless entitled to participate in the County's pre-determination and grievance procedures if they are subject to dismissal.

- 1.30 NONEXEMPT EMPLOYEES. All employees who are not exempt employees as defined in the federal Department of Labor regulations relating to the Fair Labor Standards Act.
- 1.31 PART-TIME EMPLOYEE. An employee who works more than twenty (20) hours and less than forty (40) hours per week. Employees working twenty (20) hours or more on a consecutive basis are eligible for fringe benefits.
- 1.32 PRE-DISCIPLINARY HEARING. A hearing conducted by the County Manager or his/her designee before the imposition of the disciplinary actions of suspension, demotion or dismissal.
- 1.33 PROBATIONARY EMPLOYEE. A full-time or part-time employee hired to fill a regular position that has not yet completed the nine (9) month probationary period of employment during which time the employee is terminable-at-will. During this probationary period the supervisor is required to evaluate the employee on a monthly basis.
- 1.34 PROMOTION. A promotion is the change of an employee from a position in one classification usually to a position in a classification with a higher salary range.
- 1.35 REGULAR EMPLOYEE, Full-time: An employee who has successfully completed probation with a work schedule of at least forty (40) hours per week. Part-time: An employee who has successfully completed probation with a work schedule of more than twenty but less than forty (40) hours per week.
- 1.36 RESIGNATION. Resignation means the voluntary separation of an employee from County service.
- 1.37 SAFETY-SENSITIVE or SECURITY-SENSITIVE POSITION. A safety-sensitive or security-sensitive position is a position approved as such by the elected official or department director and the County Manager, including a supervisory or managerial position in which impairment by drug or alcohol use would constitute an immediate and direct threat to public health or safety and includes, but is not limited to, law enforcement officers, detention officers, employees who are required to regularly carry a firearm, drivers required to have a CDL license, have access to confidential information and/or receive calls for public service and employees who regularly transport other people as their principal job or otherwise designated so by the County Manager.
- 1.38 SICK LEAVE. Leave with pay granted to employees when personal illness, injury, pre-arranged medical or dental examination, quarantine, therapy, counseling or other necessary treatment keeps the employee from performing the duties of the position or when a member of the immediate family is ill, injured or requires treatment for the described reasons.
- 1.39 SUSPENSION. An involuntary leave of absence, with or without pay, for disciplinary reasons, or pending investigation of allegations made against an employee, or for pending determination of the grievance procedure.
- 1.40 TEMPORARY EMPLOYEE. An employee hired to fill a position that will temporarily fill a position that is vacant due to the absence of an employee or for some other requirement. Temporary employment will not exceed a six (6) month period. All temporary employees are terminable-at-will, do not accrue leave, and do not receive employee benefits.
- 1.41 TERM EMPLOYEE. An employee that is hired to fill a position for a specific time period based on Board funding for a specified period of time, funding source or similar situation, not to exceed two years in duration.

- 1.42 **TRANSFER.** The voluntary or involuntary movement of an employee, from one department or office to another department or office in the County service.
- 1.43 **UNCLASSIFIED EMPLOYEE (or At-Will Employee).** An employee who can be dismissed at any time, with or without cause. The terminable-at-will employees in the County shall be: probationary employees; temporary employees; contract employees; and others designated by the Commission. Terminable-at-will employees are not entitled to the grievance procedures provided for in these Rules.

## **SECTION II: EMPLOYMENT STATUS**

**2.1 Position Specifications.** The County shall establish a set of position specifications for all positions. Position specifications shall include title, tasks, duties, responsibilities and minimum qualifications. They will also specify knowledge, skills, education, and abilities required of applicants. See Definitions for description of employee position. An employee may qualify for one or more of the following position descriptions:

- A. **Probationary Employee.** A full-time or part-time employee hired to fill a regular position that has not yet completed the nine (9) month probationary period of employment during which time the employee is terminable-at-will. During this probationary period, the supervisor is required to evaluate the employee on a monthly basis.
- B. **Temporary Employee.** An employee hired to fill a position that will temporarily fill a position that is vacant due to the absence of an employee or for some other requirement. Temporary employment will not exceed a six (6) month period. All temporary employees are terminable-at-will, do not accrue leave, and do not receive employee benefits.
- C. **Regular Employee. Full-time:** An employee who has successfully completed probation with a work schedule of at least forty (40) hours per week. **Part-time:** An employee who has successfully completed probation with a work schedule of more than twenty but less than forty (40) hours per week.
- D. **Part-time Employee.** An employee who works more than twenty (20) hours and less than forty (40) hours per week. Employees working twenty (20) hours or more on a consecutive basis are eligible for fringe benefits.
- E. **Grant Funded Employee.** A full or part-time employee hired to fill a position that exists only upon receipt of grant funds. This position is terminable-at-will if funding is not received or upon expiration of the grant agreement.
- F. **Casual Employee.** An employee hired to fill a position paid by the hour that may be called on short notice and/or on an occasional basis. Casual employee may also be one who works less than twenty (20) hours a week. A casual employee is paid only for hours worked and does not receive any employment benefits. A casual employee does not have the right to grieve employment decisions.
- G. **Unclassified Employee.** An employee who can be dismissed at any time, with or without cause. The terminable-at-will employees in the County shall be: probationary employees; temporary employees; contract employees; and others designated by the Commission. Terminable-at-will employees are not entitled to the grievance procedures provided for in these Rules.
- H. **Classified Employee.** An employee who has served the prescribed probationary period and is eligible for the rights and privileges provided for under these Rules.
- I. **Contract Employee.** Contract employees are FLSA exempt and are unclassified employees and have a contract approved by the Board. Contract employees serve at the

will and pleasure of the Board. Contract employees are not entitled to grievance procedures or holiday premium pay.

- J. Term Employee. An employee that is hired to fill a position for a specific time period based on Board funding for a specified period of time, funding source or similar situation, not to exceed two years in duration.
- K. Temporary Agency Employees. Individuals who perform work for the County through a contract with an independent third-party, like a temporary placement or employment agency. These individuals are not County employees are therefore not entitled to any benefits or rights detailed in this policy.

## **SECTION III: GENERAL PROVISIONS**

**3.1 Purpose.** The purpose of these Personnel Rules and Regulations (Rules) is to establish consistent, basic policies and practices concerning relations between the County and its employees. These Rules further establish the formal grievance procedure available to regular employees to hear their grievances with respect to promotions, demotions, suspensions, involuntary transfers and dismissal, and provide the method by which a personnel hearing officer is chosen to hear formal grievances. Independent contractors are not subject to the provisions of the Rules.

**3.2 Scope.** Definite rules and regulations cannot be readily formulated for every possible problem and situation. These Rules serves as a general basis and guide for the proper, efficient, and effective management and administration of personnel matters of the employees of the County. The Rules contained herein replace and supersede all previously issued personnel rules regulations and ordinances applicable to employees of the County as the subject matter is covered in the County Code of Conduct and these Rules.

**3.3 Amendment of Rules & Regulations.** There shall be no resolution or other action of the Board or other County officials, which is inconsistent with these Rules, except by amendment of these Rules. The Board reserves the right to amend these Rules at its discretion. The County Manager may issue interpretative memoranda or Administrative Instructions, not inconsistent with these Rules, which further detail the interpretation of these Rules.

**3.4 Employee Knowledge & Information of Rules & Regulations.** The elected official, department director, or Human Resources Manager shall provide a copy of these Rules to present employees and to all new employees with instructions to read and be familiar with all provisions of these Rules. Employees shall sign for a copy upon receipt.

**3.5 Equal Employment Opportunity Rules & Regulations.** Individuals will not be discriminated against on the grounds of race, age, religion, color, national origin, ancestry, sex, marital status, physical or mental handicap, medical condition, sexual orientation or gender identity, in consideration for employment, promotions, transfers, duration of employment, compensation, terms, conditions, or privileges of employment by the County.

**3.6 Administration by County Manager.** The County Manager or designee shall administer and interpret the personnel system and the terms of these Rules and its amendments, and all future approved operating procedures. The County Manager shall recommend to the Board any necessary amendments or revisions to the Rules.

**3.7 Duties of All Employees.** All employees shall adhere to the provisions of these Rules. Elected officials, department directors, division managers, Human Resources Manager and the County Manager further shall be responsible for seeing to the adherence and enforcement of these Rules.

**3.8 Chain of Command & Conflict Resolution.** In order to maintain open communication between County and its employees and to ensure that employees' general working concerns and conflicts are addressed quickly and efficiently, the County will utilize the chain of command protocol. An Organizational Chart, specifying the chain of command should be made available and updated periodically. Employees have the right to present or make known their complaints, free from interference, restraint, discrimination, coercion, or reprisal. This provision does not apply to serious complaints such as harassment, dangerous working conditions, workplace violence and discrimination, which are otherwise addressed by the policy.

It is required that an employee discusses his/her concerns first with his/her immediate supervisor. Departments should utilize alternative methods of dispute resolution, including mediation, wherever appropriate to resolve conflicts in the workplace and encourage positive working relationships between employees and management.

If the concern cannot be handled at this level, the employee may request a meeting with the next level supervisor, up to the elected official or department director of his/her department. If it becomes necessary to pursue the issue beyond the department director or supervisor level, or if the concern cannot be handled or remedied within the department due to supervisory conflict, it may be appealed to the County Manager within ten (10) calendar days of the department's final decision. The County Manager or designee may serve as a hearing officer and the County Manager's decision on the complaint shall be final and binding.

**3.9 Conflict with Collective Bargaining Agreements.** If any provision of this Resolution is in conflict with a written Employee Agreement duly adopted by the Board pursuant to the Public Employee Bargaining Act [NMSA 1978, §§10-7E-1 to 10-7E-26], the terms of the Collective Bargaining Agreement shall control.

### **3.10 Code of Ethics.**

A. The ethical county employee shall:

1. Properly administer the affairs of the county.
2. Promote decisions which only benefit the public interest.
3. Actively promote public confidence in county government.
4. Keep safe all funds and other properties of the county.
5. Conduct and perform the duties of the office diligently and promptly dispose of the business of the county.
6. Maintain a positive image to pass constant public scrutiny.
7. Evaluate all decisions so that the best service or product is obtained at a minimal cost without sacrificing quality and fiscal responsibility.
8. Inject the prestige of the office into everyday dealings with the public employees and associates.
9. Maintain a respectful attitude toward employees, other public officials, colleagues and associates.

10. Effectively and efficiently work with governmental agencies, political subdivisions and other organizations in order to further the interest of the county.
  11. Faithfully comply with all laws and regulations applicable to the county and impartially apply them to everyone.
- B. The ethical county official shall not:
1. Engage in outside interests that are not compatible with the impartial and objective performance of his or her duties.
  2. Improperly influence or attempt to influence other officials to act in his or her benefit.
  3. Accept anything of value from any source which is offered to influence his or her action as a public official.
  4. The ethical county official accepts the responsibility that his or her mission is that of servant and steward to the public.

## SECTION IV: RECRUITMENT AND SELECTION

**4.1 Purpose.** It is the policy of the County to select and recruit the best qualified and the best-suited persons for all positions in an open and competitive manner, to ensure no discrimination and to ensure equal employment opportunity for all applicants and employees. The County will comply with all applicable federal and state laws and regulations.

**4.2 Recruitment of Applicants.** The elected official or department director shall notify the County Manager and the Human Resources Manager of the position to be filled. The Human Resources Manager shall issue job announcements through such media deemed appropriate to ensure open and competitive recruitment of individuals with sufficient time to ensure reasonable opportunity for persons to apply. The Human Resources Manager shall submit announcements and receive all applications through the Administrative Office. All publications for job announcements shall include reference to Cibola County as *“An Equal Opportunity Employer”*.

**4.3 Temporarily Filling Vacant Positions.** Vacant positions may be filled without public announcement by temporary employees on a temporary basis to replace regular employees on leave and pending the selection of a regular employee for a position or otherwise for a period not to exceed six months.

**4.4 Best Qualified & Best-Suited Applicant Determination.** The best qualified and best-suited applicant is determined by the elected official or department director, in conjunction with the Human Resources Director, based on minimum qualifications of education, experience, abilities, skills and past work experience as specified in written position specifications for each position. Personal interviews shall be conducted with at least three (3) applicants, or if less than three applications are received, all applicants shall be interviewed.

**4.5 Promotion and Transfer Policy.** If a regular full-time or part-time employee is substantially equally best qualified and suited in accordance with Section 4.4 with another applicant or applicants, the employee should be given preference in hiring.

**4.6 Selection.** The elected official, department director or designated representative shall review all applications for positions in their departments, in conjunction with the Human Resources Director, and make their recommendation to the County Manager. Final appointment shall be made by the elected official/department director, in conjunction with the Human Resources



Director, with approval of the County Manager based on the best qualified and the best-suited applicant for the position and the status of the County budget.

**4.7 Pre-Selection Prohibited.** Posted and advertised positions shall not be promised to any person prior to recruitment and selection to ensure the integrity and fairness of the selection process.

**4.8 Ineligibility for Hire and Rehire.** Applicants shall be considered ineligible for hire or rehire by the county if the applicant has:

- A. knowingly made any false statement or omission on the employment application;
- B. not met the requirements of the position;
- C. failed to complete pre-employment drug and alcohol screening or physical examinations or other requirements as directed by the County, except that an applicant not meeting drug and alcohol screening testing may reapply after a one-year period. An applicant who has failed a physical exam due to a pre-existing correctable medical condition may reapply at any time after the condition is corrected;
- D. not met the criteria for insurance or bonding as required by County or state law;
- E. been dismissed from County service as a disciplinary measure in five (5) years prior to the date of application;
- F. not been certified by a physician that the applicant can perform the physical requirements or the essential requirements of the position;
- G. been convicted for driving while under the influence of alcohol or drugs in the three years prior to the date of the application, if a valid New Mexico driver's license and class is required for the position; or
- H. been convicted of a felony as described in NMSA 1978, §28-2-1, et seq. or convicted of a felony or infamous crime as defined in NMSA 1978, §10-1-3 and by its nature conflicts with the duties and responsibilities of the position;
- I. not meeting the requirements of state or federal funding agreements; and
- J. the above list is not necessarily exhaustive and may not include all of the reasons that would make an applicant ineligible for hire or rehire.
- K. resigned with pending employment charges pursuant to section 7 and 8 in five (5) years prior to the date of application.

**4.9 Testing.** The County may require an applicant to submit to testing for certain bona fide occupational qualifications to determine employment eligibility. This may include, without limitation pre-employment physical and drug and alcohol screening examinations for all but elected officials.

**4.10 Commencement of Work.** No applicant for employment shall commence work or be considered employed by the County until an approval of the selection is made in writing by the County Manager, Finance Director and Human Resources Director on a Personnel Action Form (PAF) and all pre-employment testing and relevant backgrounds checks have been completed. Payroll shall not enter the applicant into the County's system prior to receipt of a completed and signed PAF.

## SECTION V: CHANGES IN EMPLOYMENT STATUS

**5.1 Promotion.** The County encourages the professional growth of its employees and rewards the initiative, creativity, effort, commitment, and diligence of its employees through the promotional process. County employees are encouraged to take advantage of promotional opportunities and apply for higher paying positions for which they qualify.

**5.2 Evaluation Period.** Regular employees that are promoted or voluntarily transferred between Departments to a vacant position will be placed in an evaluation period. This is a period of evaluation and training of the employee in the new position. An evaluation period is for ninety (90) days. If performance while on the evaluation period is deemed unsatisfactory, in writing, by the department director or elected official, the employee may be returned to his/her previous position or that position, if available, placed in another vacant position for which the employee is qualified, if available, or dismissed at the discretion of the County Manager if no such positions are available. Employees being transferred back to previous positions receive the same pay received before their promotion.

**5.3 Demotion.** An employee may be, but is not required to be, demoted to a position for which the employee is qualified when the employee would otherwise be dismissed because the employee's position is being abolished due to lack of funds or lack of work and there are no appropriate vacancies at the same level; when the employee's job is being reclassified; when the employee does not demonstrate the necessary ability to render satisfactory performance in the position presently held; or when the employee voluntarily requests such a demotion, provided there is a position available.

### 5.4 Transfers

- A. General Transfer. Employees may be moved from one position to another of the same grade and pay range either voluntarily or involuntarily. An employee may be transferred if it is in the best interest of the County. Voluntary transfers are not grievable. Shifting department or office needs may require that an employee be temporarily or permanently transferred from one geographic location to another within a department or office. An employee may be transferred from one position to another position at the same salary range within a department or office. If such a transfer involves a probationary employee, time served in the former position shall be credited toward achievement of regular full-time status and salary increases, accumulated annual leave and sick leave shall be retained. The County Manager must approve all transfers.
- B. Voluntary Transfers between Departments. An employee who voluntarily transfers from one department to a vacant position in another department may be required to accept the new position at its entry level salary depending on his/her experience and qualifications required for the new position. The transferred employee will be subject to an evaluation period of ninety (90) days, as specified in Section 5.2.
- C. Medical Transfer. An employee who has been certified by a licensed physician as being physically unable to perform the duties of the employee's current position may be transferred as reasonable accommodation to an available position in which the physician certifies the employee is able to work, and for which the employee is qualified to perform. If no such position is available, the employee is subject to the leave without pay provisions of these Rules.

**5.5 Resignation.** An employee voluntarily resigning shall submit in writing to the department director or elected official and the Human Resources Manager, a two-week minimum notice of resignation. An employee's final paycheck may be withheld pending submission of a written notice of resignation. Unless unique circumstances exist, failure to provide timely written notice may be grounds for refusal of future employment with the County. Unauthorized absence from work for a period of three (3) consecutive regularly scheduled working days shall be considered a voluntary resignation.

**5.6 Layoff Procedure.** Upon directive of the Board, the County Manager shall make the determination for layoffs after consulting with elected officials and department directors. When layoffs of more than one employee are required, layoffs shall be determined using the following criteria:

- A. Position in order of priority:
  - 1. Temporary employees,
  - 2. Probationary employees,
  - 3. Casual employees,
  - 4. Part-time employees;
- B. Performance of the employee compared to other employees being laid off in the same or similar positions;
- C. Value of the employee's position to the critical operation of the County or department, such as safety-sensitive or security-sensitive positions;
- D. Length of continuous service with the County; and
- E. Funding source.

**5.7 Layoff Return Privileges.** Any full-time or part-time regular employee who is laid off and returns within twelve (12) months of layoff shall not have to serve a probationary period if the employee return to his/her previous position and the probationary period has been served. A laid off-returning employee will be credited for all unused sick leave remaining and not compensated for at the time of layoff if the employee returns within the twelve (12) month period. Layoff privileges end:

- A. Twelve (12) months after the effective layoff date;
- B. After an employee has refused employment in a position for which the employee is qualified and/or for which the pay rate is the same or higher than the position previously held; or
- C. When a laid off employee accepts another position with the County. A laid off employee accepting another position with the County shall serve the required evaluation period.

**5.8 Medical Disability Dismissal.** Employees shall be involuntarily terminated upon completion of the twelve week family/medical leave if the employee is physically unable to perform the essential duties of the employee's position with reasonable accommodation(s) that do not impose undue hardship upon the County, as certified by a qualified, licensed physician. The provisions of this subsection are subject to the provisions regarding Workers' Compensation laws and "On the Job Injury Leave" found in Sections 10.16 and 10.17 of these Rules.

**5.9 Reinstatement.** Individuals that are reinstated as regular employees to the same or like position are not entitled to any previous benefits such as sick leave which may have been accrued during previous employment with the County except as provided in Section 5.7. Officials who



were County employees prior to being elected to an office, with no discontinuance of service to the County, shall retain all accrued benefits prior to being elected and their years of service as elected officials shall be included for all other applicable benefits afforded under these Rules.

## **SECTION VI: CONDITIONS OF EMPLOYMENT**

**6.1 Probationary Period for New Hires.** An employee hired to fill a position shall serve a probationary period of nine (9) months, beginning on the first day of work, during which time the employee is terminable-at-will.

- A. Law enforcement officers in the Sheriff's Department and detention officers shall serve a one (1) year probationary period, beginning on the first day of work, during which time the employees are terminable-at-will. If a law enforcement officer is not certified prior to hiring, the law enforcement officer must obtain law enforcement certification within one year of employment. Uncertified law enforcement officers shall be terminated on the six-month anniversary of hire if they are not accepted or enrolled in a basic police officer training program certified by the Law Enforcement Academy Board.
- B. The probationary period is an integral part of the evaluation process and is utilized for observing the employee's performance and obtaining the most effective adjustment of a new employee to the position. Employees will be evaluated one-month prior to the completion of their probationary period. The employee must achieve a satisfactory performance or better by the end of the probationary period before the employee can become a regular employee entitled to all of the rights and benefits of that status.
- C. If the employee satisfactorily completes the probationary period, the employee will become a regular employee. If the employee does not satisfactorily complete the probationary period, the employee may be dismissed, or upon the recommendation of the department head or elected official and with final approval of the County Manager, the probationary period may be extended for a period of ninety (90) days.
- D. In the event a probationary employee is on extended leave for any reason, the probationary period will be extended in an amount equal to that leave period.
- E. Probationary employee provisions. A probationary employee:
  - 1. can be dismissed, without cause, at any point during the probationary period;
  - 2. is not eligible for personal holiday leave;
  - 3. cannot grieve disciplinary actions;
  - 4. is allowed to use sick and annual leave as soon as it is accrued with approval of supervisor;
  - 5. shall accrue annual leave and sick leave, consistent with provisions of these Rules upon being hired. Employees terminated during their probationary period are only entitled to payment of annual leave.
  - 6. is eligible for health insurance and other optional benefits, as provided in Section 9.6.

**6.2 Temporary Employee Hired to a Regular Position.** An employee who fills a temporary position and is subsequently hired to fill a regular position shall serve the required probationary period. The beginning date of the probationary period is the date the employee changes from temporary to regular status.

**6.3 Former County Employees Hired to a Position.** A former County employee re-hired in the same or like position, or re-hired at any time to fill a new position, shall serve the required probationary period.

**6.4 Permitted Political Activities.** All employees:

- A. may engage in political activity on their own time;
- B. are encouraged to register to vote, and to exercise the right to vote;
- C. have a right to express their opinion on all political subjects and candidates;
- D. may serve as convention delegates;
- E. may sign nominating petitions and make voluntary contributions to political organizations and candidates; and
- F. may serve as an election or poll official.

**6.5 Prohibited Political Activities.** All employees, department directors and elected officials are prohibited from:

- A. Using official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office, or for any other political purpose.
- B. Directly or indirectly coercing, attempting to coerce, commanding or advising a state or local official or employee to pay, lend, or contribute anything of value to a party, committee or organization, agency, or person for a political purpose.
- C. Threatening to deny promotions to or retaliating in any way any employee who does not vote for or support certain candidates, requiring employees to contribute to a political fund or candidate, influencing subordinate employees to buy tickets to political fund-raisers and similar events, advising employees to take part in political activity and matters of a similar nature.
- D. Engaging in political activity while on duty.
- E. Using any County-owned equipment, supplies, vehicles, space or property for political purposes.

**6.6 Public/Political Office**

- A. Employees covered by the provisions of the Hatch Act [5 U.S.C. Sections 1501 to 1508] may not be candidates for partisan political office elections.
- B. Being a local school board member or a member of any post-secondary educational institution's governing body shall not be construed as holding political office.
- C. Employees may not hold a County political office and be a regular full-time, or at-will full-time, employee with the County.

**6.7 Nepotism.** In order to avoid the practice or appearance of nepotism in employment, near-relatives shall not work in the same department when there is a supervisory relationship between them.

- A. Near-relatives, as used in this ordinance, includes father/mother and spouse, son/daughter and spouse, grandparents, grandchildren and spouse, uncle/aunt and spouse, first cousin and spouse, nephew/niece and spouse, brother/sister and spouse. This also includes unrelated persons sharing a spousal/domestic partner relationship as well as adopted, step relatives in the relationships listed above.

- B. When there is a change in assignment or relationships among County employees, which lead to the supervision of or by other near-relatives, the employee must inform the elected official or department director in writing within five (5) working days. The elected official and department director, subject to the approval of the County Manager, will remove the employee from the supervision of a near relative within five (5) working days (excepted in Section 6.7 D). Such action may include involuntary transfer of the employee to another position, demotion of the supervisor or termination of the employee.
- C. Any problem arising from such a situation should be referred to the County Manager by the elected official or department director for review.
- D. Removal of a supervisory relationship is excepted in the event a first cousin (or spouse of a first cousin) of a current county employee with over one-year employment with the department, is duly elected to a County Office over that employee's department.

**6.8 Conflict Ban.** No employee shall engage in any business or transaction or accept private employment or other public employment which is incompatible with the proper discharge of the employee's responsibilities, or which gives the appearance of impropriety, or is prohibited by federal, state or county law or county policy.

**6.9 Outside Employment.** Employees may not, directly or indirectly, engage in any outside employment or financial interest which may conflict, in the County's opinion, with the best interests of the County or interfere with the employee's ability to perform his/her assigned County job. Examples include, but are not limited to, outside employment which:

- A. Prevents the employee from being available for work beyond normal working hours, such as emergencies or peak work periods, when such availability is a regular part of the employee's job;
- B. Is conducted during the employee's work hours;
- C. Utilizes County telephones, computers, supplies, or any other resources, facilities or equipment;
- D. Constitutes employment, contractual commitment or self-employment which conflicts with Section 15.14, below; or
- E. May reasonably be perceived as a conflict of interest, gives the appearance of impropriety or otherwise discredits public service.

An employee who chooses to have an additional job, contractual commitment or self-employment, may do so provided he/she provides prior notification, on the prescribed form, to his/her elected official/department director and the County Manager, and obtains prior approval from his/her elected official/department director and the County Manager. Any outside employment that could potentially interfere with emergency call-out situations must be reported to the employee's department elected official/director. If, after accepting outside employment, situations arise which could interfere with the employee's job, the employee needs to immediately report these situations to his/her elected official or department director.

**6.10 Workplace & Sexual Harassment.** The County will not tolerate harassment or sexual harassment.

- A. Cibola County is committed to taking reasonable steps to provide a professional working environment free from all forms of harassment, whether based on sex, sexual orientation,

gender identity, race, color, religion, national origin, age, disability or any other protected classification. Although this policy focuses on sexual harassment, it applies equally to all forms of harassment based on a protected classification and the procedures described in this policy shall be followed for all such harassment. This policy also applies when a County employee is subject to harassment in the workplace by someone outside the County.

- B. All County employees and members of the public have a right to be free from harassment from employees on official duty for the County. County employees are forbidden from engaging in harassing conduct in the workplace. Employees are also forbidden from engaging in conduct outside of work that creates a hostile work environment at work. Any act of harassment based upon a protected classification is a violation of county policy.
- C. Harassment Definition: verbal or physical conduct by any employee that, bullies, torments, persecutes, disrupts or interferes with another employee's work performance or that creates an intimidating, offensive or hostile environment.
- D. Sexual Harassment Definition: According to the EEOC, sexual harassment is any unwelcome sexually oriented behavior, demand, comment or physical contact initiated by any individual at the work place when:
  - 1. Submission to such conduct is made either explicitly or implicitly, a term or condition of an individual's employment;
  - 2. Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions/opportunities affecting such individual, or
  - 3. Such conduct has the purpose or effect of substantially interfering with an individual's work performance, or creating an intimidating, hostile or offensive working environment.
- E. Examples. Sexual harassment can occur in a variety of forms. Harassing conduct based on gender often is sexual in nature but sometimes is not. This policy forbids harassment based on gender regardless of whether the offensive conduct is sexual in nature. Sexual harassment is unacceptable in the workplace itself and in other work-related settings such as business trips and business-related social events. The following are some common examples of behaviors or situations that constitute sexual harassment:
  - 1. Oral or written sexual statements, comments, jokes, questions or innuendoes;
  - 2. Display of sexually oriented visual items such as calendars, cartoons, photos or posters;
  - 3. Assault, molestation or unwelcome physical contact such as kissing, touching, patting, pinching, brushing against or hugging;
  - 4. Requests, demands or subtle pressure for sexual activity;
  - 5. Threats or retaliation against an employee who refuses unwelcome sexual attention or sexual behavior;
  - 6. Overt promises or practices that imply preferential treatment for any employee in exchange for dates, sexual attention or sexual behavior;
  - 7. Sexual insults and suggestions including, but not limited to, lewd remarks, obscene gestures and sexually suggestive materials;
  - 8. Any conduct that ridicules, or is malicious or abusive to, an individual because of the individual's gender;
  - 9. Pressuring an employee to go out on a date;

10. Consensual "romantic" or sexual relationships between a supervisor/manager and an employee; or
  11. Asking employee questions of a sexual nature.
- F. Responsibility to Report Harassment. Any employee, who believes they are a victim of harassment because of their protected classification, should first confront the person or persons responsible for the offensive behavior and indicate that it is unwelcome and should be stopped. The employee also has an obligation to promptly report the matter to the Human Resources Director or the County Manager. These are the individuals who are authorized by this policy to receive and act upon complaints of harassment or discrimination on behalf of the County. All employees who observe, or become aware of harassment, also have an obligation to bring the matter to the attention of the Human Resources Director or County Manager, even if they are not the victim of harassment.
- G. Investigation of Complaints. It is the County's intent to provide a fair process for investigating and resolving complaints of harassment. The County will investigate all reports of alleged harassment. Information associated with the investigation will be kept confidential, to the extent possible, and consistent with the County's obligation to investigate promptly and thoroughly. All employees are required to cooperate with any investigation by the County in response to an allegation of harassment. Refusal to cooperate in an investigation may result in disciplinary action, up to and including termination.
- H. Appeal. Any affected employee dissatisfied with the conclusion or results of an investigation, or with any corrective measures taken, may appeal the decision to the County Manager. Any such appeal should be in writing and must include the nature of the employee's dissatisfaction with the conclusions or results of the investigation. Any qualifying disciplinary appeal must follow the grievance process.
- I. Protection against Retaliation. The County will not retaliate against an individual who reports sexual harassment in good faith and such retaliation in and of itself is grounds for disciplinary action, up to and including termination without prior progressive discipline. Retaliation is a serious violation of this policy and should be reported immediately.
- J. Discipline. Anyone violating this section will be subject to corrective or disciplinary action up to, and including dismissal.
- K. Unlawful harassment, including sexual harassment, of employees, or members of the public, may be cause for dismissal. If the County determines that harassment has occurred or that counseling, training, disciplinary measures or termination are appropriate, it will take appropriate measures to correct the problem following County disciplinary procedures. Serious cases of harassment constitute cause for termination without prior progressive discipline. Employees who knowingly make false allegations of sexual harassment may be subject to disciplinary action.
- L. Mandatory Training. Periodic mandatory training for all employees, including supervisors, managers and elected officials, will be provided by the County to increase knowledge of the workplace harassment policy, state and federal laws and the process for enforcing the policy.
- M. Vendors and Customers. Employees should report sexual harassment from vendors, customers, other county employees and the general public utilizing this Policy.

## **6.11 Performance Evaluations.**

- A. Employees other than probationary employees shall be evaluated at least annually, and may be evaluated upon the following conditions:
  - 1. A change of status.
  - 2. Along with a recommendation of any type of salary increase, including step increases if available.
  - 3. Demotion, suspension or corrective action.
  - 4. Any other time that a department director or immediate supervisor wishes to make the performance of an employee a matter of record.
- B. **Contents of Evaluation.** A performance evaluation shall contain an overall appraisal of the employee's performance. Forms may be provided or approved by the Human Resources Manager. All evaluations will be signed by the employee, supervisor submitting the evaluation and the Human Resources Manager.
- C. **Employee Rebuttal.** The employee may submit a written rebuttal statement to the performance evaluation that will be attached to and become a part of the performance evaluation. The rebuttal shall be submitted within ten (10) days of the evaluation.
- D. **Unsatisfactory Evaluation.** In the event a regular employee receives an overall evaluation of unsatisfactory performance, the employee shall be warned that the failure to meet reasonable performance standards of the position within a set time period, not to exceed ninety (90) days, shall result in dismissal. This process does not apply to probationary evaluation.

## 6.12 Fitness for Duty.

The County endeavors to provide a safe and productive work environment for the benefit of its employees and the public they serve. Employees are expected to manage their health in such a way that they can safely and effectively perform their essential job functions and to discuss with their supervisor any circumstance that may impact their ability to do so. The County may require professional evaluation of an employee's physical or mental capabilities to determine his or her ability to perform essential job functions. Such evaluations are conducted by an independent third-party, licensed health care professional and are undertaken only after careful review by Human Resources. To the extent possible, the County will protect the confidentiality of the evaluation and results.

This evaluation process is for only those situation where reliable observation indicates that the employee may not be physically or mental able to perform the essential functions of his or her position due to a physical or mental condition. It is not intended to be a substitute for sick or medical leave request, workers' compensation claims, allegations of violence in the workplace, situations where there is an immediate threat of harm or for performance management disciplinary process.

- A. Procedures. If, by observation of an employee's behavior or by receipt of reliable information, the County has reason to believe that an employee may lack the ability to perform the essential functions of his or her position due to a physical or mental condition, the following steps will be taken:
  - 1. The department head or elected official will provide Human Resources with detailed information regarding the reason for and circumstances leading up to the fitness-for-



- duty referral, including information on essential job functions, evidence of the employee's inability to perform those functions effectively, and any attempts at resolving the matter.
2. The Human Resources Director will review the information provided in the referral, along with a current job description of the essential functions of the employee's position. If it is determined that a fitness-for-duty evaluation is necessary, the Human Resources Director or designee will notify the employee in writing.
  3. Human Resources will determine the independent, third-party, licensed health care professional who will perform the evaluation, send a written request for an evaluation to him or her, and will schedule the evaluation at the earliest opportunity.
  4. Failure on the employee's part to comply with a scheduled fitness-for-duty evaluation constitutes insubordination and will be cause for disciplinary action, including termination.
  5. All costs of the health care services performed by the health care professional as part of the evaluation will be paid by the County.
  6. If the County Manager deems it necessary, the employee may be placed on temporary, paid administrative leave until the evaluation is completed.
  7. The employee will be requested to sign a voluntary written authorization allowing the health care professional to provide certain information obtained through the evaluation to the County. If no authorization is executed, the County may nevertheless obtain a description of the functional limitations of the employee that may limit the employee's ability to perform the essential function of his or her job, but no statement of medical cause may be disclosed.
  8. Insofar as feasible, the results of the evaluation will be treated as confidential, kept in a separate file within Human Resources, and the minimum necessary information will be shared only with those who need to know the results for legitimate county business purposes.
  9. If it is determined that the employee is not able to perform the essential functions of his or her position, Human Resources will attempt to determine if there is a reasonable accommodation that will allow the employee to continue working. If an appropriate accommodation cannot be made other options will be identified and communicated to the employee as available.
  10. If it appears that any functional limitations on the employee's ability to perform the essential functions of his or her position are the result of a work-related injury, the matter will be referred to Workers Compensation for the processing of a worker's compensation claim.
  11. All actions taken in carrying out this policy will comply with state and federal laws, as well as County policies and procedures and applicable contractual provisions.
- B. Evaluation and Results. The fitness-for-duty evaluation will not be conducted for the purpose of diagnosis or treatment, but rather for the purposes of determining and evaluating the employee's ability to perform the essential functions of the job. Human Resources will provide the evaluator with a description of the essential function of the employee's position prior to the evaluation. The evaluator will be asked by Human Resources to release only that information as permitted under this policy or otherwise permitted or required by law. The evaluator will be asked to complete a written report containing only the following information.
1. A conclusion regarding the determination of fitness for duty;

2. A description of the nature and extent of any functional limitation on the employee's ability to perform his or her job;
  3. A description of the expected duration of each such functional limitation; and
  4. An opinion as to whether or not the functional limitation may be the result of a work-related injury as related by the employee; further medical examination or investigation may be necessary to determine if the functional limitation arises out of, or has been caused by, the employee's occupation.
- C. Insofar as feasible, the results of the evaluation will be treated as confidential, and will be shared only with those who need to know the results for legitimate county business purposes. However, where the employee has placed at issue his or her medical history, mental or physical condition, or treatment, the relevant information may be used and disclosed by the County in connection with such proceedings.
- D. The County Manager will make a decision regarding the employee's status, including but not limited to the employee's return to duty or removal of the employee from any duties pending treatment and re-evaluation, depending on the results of the evaluation and the recommendation of the evaluator. In certain circumstances the employee may be subject to medical disability termination pursuant to Section 5.8 of this Ordinance.

## **SECTION VII: BASIS FOR EMPLOYEE DISCIPLINE**

**7.1 Discipline.** Disciplinary actions for employees are based on just cause, in order to promote the efficiency of the services rendered by the County and the operation of its respective departments and offices. Disciplinary actions will be consistent with governing laws and regulations and will be taken without regard to race, age, religion, color, national origin, ancestry, sex, sexual orientation, physical or mental handicap or medical condition. No employee will be disciplined for refusing to perform an unlawful act.

**7.2 Definition of Just Cause.** Just cause is defined as any conduct, action or inaction arising from or directly connected with the employee's work, which is inconsistent with the employee's obligation to the County and reflects the employee's disregard of the County's interest. Just cause includes, but is not limited to, inefficiency, incompetence, misconduct, negligence, insubordination, performance which continues to be inadequate after reasonable efforts have been made to correct the performance problems, or conviction of a felony or misdemeanor involving moral turpitude and the misdemeanor conviction directly relates to the employee's particular job, trade, or profession.

**7.3 Disciplinary Action.** The County Manager, elected officials, department directors and supervisors have the authority to discipline an employee under their supervision. However, only the County Manager has the final authority to demote, suspend or terminate an employee for disciplinary reasons. Copies of any written disciplinary action must be furnished to the County Manager's office for placement in the employee's file, with evidence of the employee's receipt of the action.

**7.4 Consultation with County Attorney.** Dismissal, demotion, and suspension require consultation with the County Attorney before taking disciplinary action. Whenever such



consultation is not practical because of urgency, necessary action may be taken and the situations/ circumstances reviewed with the County Attorney as soon as practical.

**7.5 Progressive Discipline.** An employee shall be progressively disciplined whenever warranted. All actions involving substandard work performance, leading up to and including dismissal, require documented progressive discipline. The step of corrective action used depends on the severity of the infraction and the employee's previous work record. Because of the serious nature of some infractions, the first disciplinary action may be suspension or dismissal.

**7.6 Verbal Reprimand.** A verbal reprimand is used for minor infractions to inform the employee that his/her actions, behavior or conduct needs to change. Supervisors will keep written notations of verbal reprimands, and will place the written notation of the verbal reprimand in the employee's personnel file. Causes for verbal reprimands include, but are not limited to:

- A. substandard or unsatisfactory work performance;
- B. repeated absence or tardiness;
- C. misconduct on the job;
- D. failure to meet and/or maintain job requirements as set forth in the job description;
- E. violation any personnel Rules, other County rules, policies, regulations or supplemental rules;
- F. violation of a professional code of ethics accepted by those in the same profession as an employee and as stated in this policy;
- G. non-cooperation by an employee with fellow employees or other personal conduct which substantially interferes with the performance of his/her or another employee's work;
- H. failure to adhere to an established work schedule;
- I. excessive personal cell phone usage; and
- J. failure to obtain authorization for overtime.

**7.7 Written Reprimand.** An employee shall receive a written reprimand because the deficiency or infraction is of a greater degree than that for which a verbal reprimand may be used, or if a verbal reprimand was not effective. Causes for written reprimands include, but are not limited to:

- A. the causes listed for verbal reprimands;
- B. excessive absence or tardiness;
- C. sleeping on the job;
- D. negligence in the performance of duty including negligence in the operation of County vehicles or equipment;
- E. negligence or failure to adhere to established safety rules or regulations as well as willful unsafe conduct;
- F. insubordination and failure to comply with the lawful orders of a supervisor including the refusal to accept after hours assignments;
- G. refusal to perform tasks or duties assigned or detailed in an employee's job description;
- H. unauthorized absence from work;
- I. failure to report duty injuries, accidents or vehicle collisions;
- J. failure to follow the chain of command within a department;
- K. unauthorized use or abuse of County property (e.g. phones, cell phones, computers, vehicles, equipment, etc.).

- L. being untruthful when asked about any work related activities by a supervisor;
- M. abuse of sick leave, including use of sick leave on a day for which vacation or other leave has been denied;
- N. failure to follow a departmental SOP; and
- O. violation of the Code of Ethics (Section 3.10).

Written reprimands for an employee's work performance or conduct shall be placed in the employee's personnel file after providing the employee with a copy of the statement. The employee will be asked to acknowledge having read the comments by signing the statement. If the employee refuses to sign, said refusal to sign shall be noted on the document by the employee's elected official or department director, and a witness shall attest in writing that the statement was presented for signature to the employee, who refused to sign. The elected official or department director's signature, witness' signature, or employee's signature indicates that the employee received the statement, but does not necessarily indicate concurrence with its content. In addition, the elected official or department director may read the letter of reprimand to the employee. The employee may respond with a written rebuttal within ten (10) days after the document was entered into the personnel file, which shall also be placed in the employee's personnel file. The placement of a written reprimand in an employee's file is not grievable.

**7.8 Suspension.** An employee may be suspended without pay for a single serious offense or for continued inadequate job performance or misconduct after previous attempt(s) to correct the conduct have failed. Such suspension will not exceed two-hundred forty (240) hours. Suspension of an employee is subject to the formal grievance procedures. Causes for suspension include but are not limited to:

- A. the causes listed for verbal and written reprimands;
- B. continuous documented instances of poor performance;
- C. negligent damage to property and/or person(s);
- D. physical or mental unfitness for duty;
- E. consumption or possession of alcohol or controlled substances on-duty or on County property or in County vehicles;
- F. fighting while on-duty or on County property;
- G. harassment;
- H. sexual harassment;
- I. failure to report confiscation or loss of driver's license when required as condition of employment;
- J. operation of a County vehicle or a private vehicle while on County business without a valid driver's license; and
- K. unlawful carrying or possession of a firearm unless authorized by state law or county policy.
- L. being under the influence of alcohol or controlled substance including illegal drugs as well as abuse of prescription drugs. See Section 11.
- M. Knowingly making any false statement or omission to a supervisor regarding work-related activities.

**7.9 Demotion.** An employee may be demoted for continued inadequate job performance after previous attempt(s) to correct the conduct have failed, provided that there exists a lower job position in the County and the employee is capable of performing such a job. The demotion of an

eligible employee is subject to the formal grievance procedures. A demotion may require a decrease in salary, with approval of the County Manager.

**7.10 Dismissal.** Dismissal is the final consequence when progressive discipline has failed to change unacceptable behavior or performance, or when the employee has engaged in other behavior that is of a serious nature that is unacceptable for County employees. The dismissal of an employee is subject to the formal grievance procedures. Causes for dismissal include, but are not limited to:

- A. all causes listed for the previous disciplinary actions, if such causes continue after attempts or correction have failed;
- B. acceptance of a bribe, gratuity, gift, or kick-back;
- C. abuse of official position or authority for personal profit or advantage;
- D. theft, abuse or intentional destruction of County property, including electronic media or data;
- E. unauthorized disclosure of confidential information from County records or documents as set forth by applicable state law; falsification, destruction or unauthorized use of County records, reports, or other County data, including electronic media or data;
- F. being convicted of a felony or a misdemeanor involving moral turpitude and the criminal conviction directly relates to the particular job, trade, or profession;
- G. being convicted of a felony or a misdemeanor involving moral turpitude and the criminal conviction does not directly relate to the particular job, trade, or profession, if the County determines after investigation that the person so convicted has not been sufficiently rehabilitated to warrant the public trust.
- H. falsification of County employment application, health history forms or any other document used in the employment process;
- I. serious acts of negligence causing damage to County property, public or private property or injury to an employee or member of the public;
- J. intentional acts causing damage to County property, public or private property or injuring an employee or member of the public;
- K. conduct unbecoming an employee of the County;
- L. engaging in conduct prohibited under the County's Drug-Free Workplace Policy as provided in Section 11.4, below;
- M. insubordination or refusal to carry out reasonable directives;
- N. failure to meet standards of substance abuse rehabilitation programs;
- O. loss of license or certification necessary to legally perform the duties of the employee's position.
- P. determination of Hatch Act violation by Office of Special Counsel;
- Q. Behavior that demonstrates deliberate violations of policy, wrongful intent, evil design, or so as to reveal intentional and substantial disregard of the County's interests, or of employee's duties and obligations to the County of Cibola
- R. willful falsification of, or misrepresentation on, any work records; falsifying data or information requested by the County; forgery or inappropriate alteration of County records or other County documents (including written or audio or audio-visual media); and
- S. action or inaction that subjects the County to civil liability.

**7.11 Examples Not Inclusive.** The above examples are typical of the types of infractions sometimes encountered but are not inclusive of all situations that may arise. The County reserves

the right to exercise judgment and render disciplinary action or dismissal as deemed appropriate based on the circumstances of each case.

**7.12 Pre-Determination (Loudermill) Hearing.** Regular employees shall receive a pre-determination hearing prior to possible disciplinary action for cause or other action that may result in suspension without pay, demotion, and loss of pay, or involuntary transfer or dismissal. Prior to delivery of the written notice to the employee, the County Human Resources Director shall review the cause for such action and may require the proposed level of discipline be increased or decreased based on policy and past action. The hearing shall be held by the County Manager or his/her designee, for employees of each respective department.

**7.13 Written Notice.** The employee's supervisor, department director or elected official shall present the employee with written notification of their intent to conduct a pre-determination hearing at least five (5) working days in advance of the hearing date. The written notification shall explain the reasons for the hearing, the proposed discipline, the employee's right to attend the pre-determination hearing, a list of all evidence and/or witness to be introduced by the Department supporting the Department's position, the time, place and date of the pre-determination hearing and the employee's right to respond to the proposed action. The time, place and date of the pre-determination hearing can be revised upon the written agreement of the parties.

**7.14 Immediate Suspension with Pay.** In cases where County property, other employees or citizens or their property are at risk because of the employee's actions, the County Manager or in his/her absence, an appointed designee shall put the employee on administrative leave with pay until the pre-determination hearing is held and a decision is rendered. Any employee, who is placed on administrative leave pending disciplinary action, will be required to be away from their place of employment and will not be allowed to perform any job related duties or retain any County property during that time. Administrative leave pending disciplinary action shall not exceed thirty (30) calendar days, unless an extension of time is approved by the County Manager. Administrative leave with pay may also be granted by the elected official or department director, subject to the approval of the County Manager whenever circumstances warrant such leave.

**7.15 Pre-Determination Hearing Procedure.** The County Manager or his/her designee shall meet with the appropriate elected official or department director, and the employee if he or she chooses to participate, at the appointed time. The County Attorney may be present to assist the Hearing Officer/ County Manager but shall not advocate on behalf a County Department. Legal counsel for the employee and the department, if any, may also be present. At this hearing the employee will have an opportunity to respond to the reasons for the proposed action. Witnesses are permitted as determined relevant to the case by the County Manager or his/her designee. If an employee does not attend the pre-determination hearing and no good cause is shown for his/her absence, the hearing shall proceed as scheduled and a determination may be made.

**7.16 Pre-Determination Hearing Decision.** The County Manager or his/her designee will issue a decision in writing within ten (10) working days of the hearing. The decision will include the time, date and location of the meeting, persons present, and the determination. The written decision shall be either delivered to the employee (obtaining elected official or department director and witness', or employee's, signature of receipt of the decision) or be sent to the employee by certified mail, return receipt requested.

**7.17 Notice of Grievance.** Within five (5) working days of receipt of the written decision, the employee must notify the Human Resources Manager or his/her designee in writing of his/her intent to pursue a grievance hearing before a Personnel Appeals Hearing Officer.

## **SECTION VIII: GRIEVANCE PROCEDURES**

The formal grievance procedure is applicable for promotion, suspension, demotion, involuntary transfer or dismissal. A grievance shall not stay the implementation of the pre-determination hearing decision.

**8.1 Conditions or Actions Not Grievable.** The following matters are not grievable:

- A. disputes as to whether or not an established County practice or Rules are valid;
- B. matters in which a method of review is mandated by law;
- C. matters where the County is without authority to act or does not have the ability to provide a remedy;
- D. dismissal of temporary, casual or contract employees dismissed at any point during their employment with the County;
- E. preferences for employment, promotions, voluntary transfers, temporary assignments, and removal from temporary assignments, and layoffs;
- F. dismissal of a probationary employee prior to the expiration of the probationary period;
- G. letters of complaint when the employee's elected official or department director determines the letters are justified and appropriate to be placed in the employee's personnel file, so long as the procedure for written reprimands are followed including the employee's right to submit a rebuttal;
- H. written reprimands in the employee's file, although within ten (10) days the employee is allowed a rebuttal of the information contained in the reprimand which will be attached to the written reprimand;
- I. denial of permission for outside employment;
- J. performance evaluations;
- K. Suspension from employment for three days or less.
- L. Denial of educational rewards or tuition reimbursement funding.

**8.2 Employees Not Eligible for Grievance Procedure.** Unclassified, temporary, casual, probationary or contract employees are not eligible to request a grievance hearing. Additionally the following employees are not entitled to the grievance procedure: County Manager, the Assessor's Chief Deputy, the County Clerk's Chief Deputy, the County Treasurer's Chief Deputy, the Under-Sheriff, the Sheriff's Administrative Secretary and the County Fire Marshal.

**8.3 Grievance Procedure.** A regular employee may request, in writing, a hearing before a personnel Hearing Officer within five (5) working days of receiving the County Manager's decision resulting from the pre-disciplinary process or from other action as may be grievable under this Policy. The request will state with specificity the reason for the grievance and the remedy requested.

**8.4 Appointment of Personnel Hearing Officer.** Within fifteen (15) working days of the grievant's notification of intent to pursue a disciplinary hearing, the County Manager will provide the grievant with the name of the Hearing Officer.

**8.5 Hearing Officer Qualifications.** Hearing Officers shall be personnel professionals, be familiar with public or private personnel systems, or have pertinent experience in the fields of management, education or law. The Hearing Officer shall be disinterested in the subject matter of the hearing. The County Manager shall verify the qualifications of the hearing officer. The hearing officer is not required to reside in the County.

**8.6 Grievance Hearing Schedule.** The County Manager will schedule a hearing to be held within thirty (30) days of the notification that the employee wants to pursue a grievance hearing. In the event no qualified Hearing Officer is available within the thirty (30) day limit, the hearing will be held at the first opportunity. At this hearing, the grievant shall have an opportunity to present witnesses and physical evidence and cross-examine the County's witnesses before a neutral hearing officer. The grievant and the County may be represented by legal counsel.

**8.7 Grievance Hearing Procedures - Rules of Procedure.**

- A. The hearing will not be open to the public.
- B. The hearing officer shall:
  - 1. make rulings on procedural and substantial issues of the hearing;
  - 2. determine the admissibility of evidence and testimony, all of which must have a direct bearing on the issue before the hearing officer; and
  - 3. issue a written ruling, including findings of fact, which form the basis of the hearing officer's conclusions of law.
- C. The grievant, the grievant's legal representative, if any, and the County Attorney are required to be present at the hearing unless otherwise excused by the hearing officer or by agreement of the parties.
- D. At least five (5) working days prior to the hearing, the parties or their representatives shall prepare and provide copies of all exhibits and evidence for the hearing officer as well as the opposing party. Exhibits and evidence not supplied in the manner detailed above shall be excluded from consideration by the hearing officer.
- E. At least five (5) working days prior to the hearing, all parties must submit to the hearing officer a confidential statement identifying the issues to be heard, a witness list, and a complete list of documents to be admitted as evidence. Further, at least five (5) working days prior to the hearing, witness lists and exhibits shall be exchanged between the parties.
- F. Each party will be responsible for ensuring that their witnesses are present for the hearing.
- G. Witnesses in grievance hearings are not permitted in the hearing room until called upon to testify, unless the witness is a party (i.e., the grievant, the grievant's Elected Official or department director, the County Manager, Human Resources Manager, or County Attorney).
- H. An audio or audio-video record of all grievance hearings will be made.

**8.8 Conduct of Hearing.** The Grievant shall present an opening statement of issues involved in the case, followed by the County. Opening statements are limited to the pertinent issues of fact and law and shall not exceed ten minutes without the permission of the hearing officer.

**8.9 Order of Presentation.**



- A. The County will present first. Witnesses for the County may be called and questioned concerning their involvement in or knowledge of the case. Following each witness's testimony, the Grievant will have the opportunity to cross-examine the witness. The hearing officer will then have an opportunity to question the witness. The hearing officer shall restrict all questions to those necessary to clarify the testimony previously given. Follow up or redirect questioning will be allowed at the discretion of the hearing officer.
- B. Witnesses for the Grievant may be called and questioned concerning their involvement in or knowledge of the case. Following each witness's testimony, the County will have the opportunity to cross-examine the witness. The hearing officer will then have an opportunity to question the witness. The hearing officer shall restrict all questions to those necessary to clarify the testimony previously given. Follow up or redirect questioning will be allowed at the discretion of the hearing officer.
- C. Following the presentation of the County's and the Grievant's positions, rebuttals may be offered. Such testimony shall be brief and shall address only the issues brought forth in the County's or Grievant's presentation.
- D. The County's closing statement shall be presented followed by the Grievant's closing statement. These statements shall not exceed ten (10) minutes without the permission of the hearing officer and shall contain a request for the desired outcome.

**8.10 Communication of Hearing Officer's Decision.** The hearing officer's decision will be issued within thirty (30) working days of the hearing and will be signed by the hearing officer, and transmitted to the grievant, the County Manager and elected official/department director. The hearing officer may uphold, modify or reverse the decision of the County Manager, and may reinstate the employee and award back pay and benefits. No attorney's fees, costs or other damages may be awarded. The standard of proof in a grievance hearing is a preponderance of the evidence. The record of the proceedings will be retained by the County Manager's office for a period of not less than five (5) years from the hearing date along with all of the physical evidence admitted by the hearing officer. The verbal record may be transcribed only in the case of appeal to the District Court by one of the parties. The party requesting the transcription shall pay for the transcription.

**8.11 Appeal of Hearing Officer's Decision.** Either party may appeal the hearing officer's decision to the District Court by filing with the District Court and the Human Resources Manager a Notice of Appeal within thirty (30) calendar days of the Hearing Officer's decision. A party may cross-appeal within thirty (30) days of the date another party files a Notice of Appeal. Both parties shall be forever estopped from appealing the Hearing Officer's decision after thirty (30) calendar days from the Hearing Officer's decision if no Notice of Appeal is timely-filed.

- A. These Rules, if certified to be complete by the County Clerk, and in effect at the material times, may be included in the record on appeal at the request of any one of the respective parties at any time before forwarding the record to the District Court.
- B. The appeal shall be one of review of the record (transcript) along with all the exhibits as admitted. No trial de novo will be accorded.

## **SECTION IX: COMPENSATION & BENEFIT PROGRAM**

**9.1 Purpose.** The purpose of the compensation plan is to establish equitable compensation for all positions in the County. Such a plan may establish a salary schedule containing a minimum and

maximum wage or salary for each position. Pay ranges are intended to furnish administrative flexibility. However, all wages and salaries are approved by the Board during the budget process or otherwise. The Board has sole authority to budget and authorize wage and salary increases. The Board acknowledges all changes in compensation and may set pay schedules and Rules regarding any raises and promotional increases for the entire fiscal year for all County employees.

**9.2 Hours of Work.** Employees will work their scheduled hours pursuant to work schedules established by their department director or elected official. Full-time employees will work a minimum of forty (40) hours per week. Actual work periods may fluctuate at the discretion of the department director or elected official, with approval of the County Manager. Part-time employees are scheduled to work pursuant to scheduling set forth by their supervisors, the department director or elected official.

**9.3 Overtime Pay.** Only FLSA non-exempt employees shall be compensated for all time actually worked, whether or not the time is authorized. Failure to obtain authorization for overtime shall result in disciplinary action, up to and including dismissal. The rate shall be one and one-half (1½) times regular pay for each hour of overtime. Only actual time worked will be used to calculate overtime; holiday, annual, sick and other leave hours shall not be considered actual working hours. Holiday, annual, sick and other leave hours shall not be considered actual working hours.

- A. Regular employees: such payment shall be made only in cases when an FLSA non-exempt employee works over forty (40) “actual hours” in a normal work week.
- B. Law Enforcement and Detention Personnel: An FLSA non-exempt, law enforcement or detention employee shall be paid overtime according to FLSA regulations in excess of eighty-six (86) hours per pay period permitted by 29 U.S.C. Section 207(k).

**9.4 Consistency with Fair Labor Standards Act.** The provisions of Section 9.3 are subject to change or revision by the Fair Labor Standards Act and any federal regulation or revision thereof.

**9.5 P.E.R.A. Benefits.** All County employees, with the exception of those employees, who are subject to exclusion under P.E.R.A. rules, are required to join the Public Employees Retirement Association of New Mexico (P.E.R.A.).

**9.6 Insurance Benefits.** The County offers group insurance benefits to all employees as long as the employee is scheduled to work at least 30 hours per week and whose term of employment when hired is for six or more months. Independent contractors are not eligible under the County benefit plan. Insurance plans may be changed at the discretion of the Board or the insurance carrier.

**9.7 Fringe Benefits.** The County will follow the Internal Revenue Service’s rules with regard to fringe benefits. Taxable fringe benefits will be included on the employee’s W-2 form. (Examples of fringe benefits are: uniforms, uniform allowances, vehicle usage, County cell phones, etc.) If an employee has a question regarding what constitutes a fringe benefit and how that may affect him/her, the employee should contact the Human Resources Manager. Vehicles assigned as take-home vehicles must be properly identified with a logo as Cibola County vehicles.



**9.8 Compensatory Time.** The use of Compensatory Time is strongly discouraged and may only be awarded in accordance with the County's Compensatory Time policy.

- C. Compensatory time in lieu of cash compensation may only be given if there is no remaining overtime in the County Department's budget and shall be authorized only under emergency circumstances which call for immediate action or in special situations required by the nature of the operation or the status of the activity.
- D. Compensatory time in lieu of cash compensation may be given only if there is a current agreement entered into voluntarily between the employee, department head/elected official and the County Manager.
- E. The employee must have entered into this agreement before compensatory overtime work is performed. *(All requests must be made on the official county form attached to this policy and all lines must be completed)*
- F. Compensatory time off for FLSA non-exempt employees shall be at a rate equal to one and one-half (1.5) hours for each hour of employment for which overtime compensation is required. However, if the additional hours worked would not qualify as overtime (i.e. leave was taken during the work week), but the employee takes time off in lieu of payment such compensatory time would be accrued at the straight time rate.
- G. If compensatory time is authorized under this policy, it is the responsibility of that employee's department head to make every reasonable effort to schedule that employee time off during the same pay period so the employee does not work over a forty (40) hour work week so that compensatory time will accrue as straight time pursuant to section 5 above.
- H. The FLSA-covered employee who has accrued compensatory time off, and who has requested the use of compensatory time, shall be permitted to use the time within a reasonable period after making the request, if the use of compensatory time does not unduly disrupt the operations of the County as determined by the employee's supervisor.
- I. After accrual of 80 hours of compensatory time, any overtime worked must be paid. If compensation is paid to an employee for accrued compensatory time, such compensation shall be paid at the regular rate earned by the employee at the time the employee receives such a payment.
- J. A department head shall make every reasonable effort to schedule time off, for an employee to use accrued compensatory time, before June 30 of each year. Any accrued compensatory time off not used by an employee by June 30 shall be paid, to the employee two (2) weeks from the date the County's next fiscal year budget is approved by the New Mexico Department of Finance Administration, at the regular rate earned by the employee at the time the employee receives such a payment.

**9.9 Training & Certification Rewards Program.** Cibola County recognizes the benefit to the County and constituents when our employees work to obtain more knowledge in their field. Therefore, the County maintains a rewards program for those employees who do work toward certification. Only regular full-time employees are eligible for this program.

- A. Application for reward funds must:
  - 1. Be approved by the department head or elected office;
  - 2. Must be made prior to entering a program; and
  - 3. May be denied for non-availability of funds.
- B. Employees are not eligible for to receive reward money until all required coursework, testing, and completion of the any required project is approved and designated as

complete. The Human Resources Manager must also receive an official certificate for the employee's personnel file

- C. Rewards, not to exceed \$250 may be made for various training that meets the following criteria:
  - 1. The training is recognized nationally and testing is required, and
  - 2. It must be directly related to the employee's job or job series, and
  - 3. The training is not a part of the Minimum Qualification Requirements for the job or job series, and
  - 4. It cannot be post-secondary higher education, e.g., college hours and/or degrees and courses at secretarial or technical colleges (formerly called vocational-technical schools).
- D. Rewards not to exceed \$500 may be made to employees for attainment of a New Mexico Edge County College Core Certification or County College Affiliate Certification Program. However, employees are eligible for no more than two certifications within one fiscal year period. The maximum total reward amount an employee may be given for earning all NM Edge County College certifications is \$3000.00.
- E. Rewards of up to \$1000 may be made for attainment of a certification that
  - 1. Meets all the criteria listed in B.1 above
  - 2. If it is nationally recognized and a baccalaureate degree is required to apply for the certification.
  - 3. This certification requires a substantial amount of study and a comprehensive exam.
  - 4. This type of reward may be given only once to an employee.
- F. Payment of the reward will be made through the County's payroll system and may be subject to state or federal withholding taxes.

**9.10 Tuition Reimbursement Program.** It is the policy of Cibola County to assist employees wishing to improve their job knowledge by attending classes at an accredited academic institution. In keeping with such policy, the following tuition reimbursement program is available for all regular fulltime employees.

- A. Department heads/elected office must ensure the availability of financial resources within their department budgets to execute this program for an employee. Therefore, applications for reimbursement may be denied for non-availability of funds.
- B. Upon recommendation of the department head or elected official, the Human Resources manager may grant approval for tuition reimbursement if all the following requirements are met:
  - 1. The department head or elected official must certify the availability of funds in the department's budget;
  - 2. Approval for tuition reimbursement must be received by the Department Head and County Manager prior to the beginning of the any class;
  - 3. Tuition reimbursement shall be granted for courses taken that are job-related or degree-related in the field the employee is employed in and that will improve the employee's ability to perform at Cibola County;
  - 4. Employees must receive a final grade of "B" or better in order to be eligible to receive reimbursement and must present a certified final grade to the Human Resources Manager;
  - 5. Employees may receive reimbursement for required textbooks, if such textbooks are donated to the county at the completion of the course and the donation is approved by the department head or elected official; and

6. No employee shall receive more than \$800 in a fiscal year for tuition or book reimbursement.
- G. Upon the recommendation of the Human Resources Manager, tuition reimbursement will be made to the employee through the County's payroll system on the next pay period cycle. As a fringe benefit, this reimbursement may be subject to state or federal taxes.

## SECTION X: LEAVE AND HOLIDAYS

### 10.1 Holidays

- A. The County Commission shall approve holidays at their discretion during the first meeting in January of each year, for the calendar year. All employees, except temporary and casual employees, are eligible for holiday pay. Holiday pay is equal to an employee's basic hourly rate of pay.
- B. Holiday Pay. A paid holiday means up to eight (8) hours paid compensation for time off in recognition of each designated County Holiday. Under no circumstances shall holiday pay exceed 8 hours. Part time employees are eligible to receive an amount of holiday pay in direct correlation to their standard or average hours of work compared to a 40-hour work week.
- C. Holiday Premium Pay. FLSA non-exempt employees authorized and required to work on the day a holiday is observed, shall be compensated one and one half (1 ½) times their hourly rate of pay for all hours actually worked on the employee's first shift. Contract employees, chief deputies, unclassified employees, FLSA exempt employees and temporary and casual employees are not eligible for holiday premium pay.
- D. Employees taking authorized leave with pay during a holiday shall not be charged for leave time during that holiday. Employees scheduled to work on a holiday who call in sick will not be paid holiday pay and the time will be charged against their sick leave accrual. An employee who is on leave without pay or absent without leave shall not be paid for the holiday.

**10.2 Personal Holiday Leave.** All regular employees who have completed the probationary period will have an eight (8) hour personal holiday each calendar year in addition to the regular holiday schedule. The personal holiday may be taken at any time, upon approval by the employee's supervisor. The entire eight (8) hours must be taken when requesting personal holiday leave. Personal holiday time may not be taken in hourly increments. Personal holiday leave shall not carry over beyond the current calendar year.

**10.3 Annual Leave with Pay.** Annual leave may not be used before it is accrued and must be approved with at least seven (7) days or more notice by the employee's supervisor prior to being taken. Employees accrue annual leave with pay in accordance with the following schedule, based upon continuous length of County service:

*Table 10.1*

Full Years of Service	Annual Days Accrued	Annual Hours Accrued and Per Pay Period
Less than ten (10) years	16.25	130 / 5.0

Ten (10) years or more	19.50	156 / 6.0
Twenty (20) years or more	26	208/8.0

**10.4 Accrual Limitation.** Total number of accrued annual leave hours shall not exceed a maximum of 280 hours.

**10.5 Separation from Service or Change in Service Pay.** Employees shall be paid for all accrued annual leave upon separation from county service. Upon change from FLSA non-exempt to FLSA exempt status, employees shall be paid a lump sum for the unused portion of their accrued annual leave at their non-exempt rate of pay.

**10.6 Annual Leave Conversion.** Employees taking a minimum of forty (40) consecutive hours of annual leave (not to include any holidays) are entitled to convert eight (8) hours of sick leave to annual leave per year. Annual leave conversions are processed at the end of the fiscal year.

Employees may convert a maximum of 24 hours accrued vacation leave for cash payment each fiscal year. Payment will be made on the basis of seventy-five cents (\$.75) for each one dollar's (\$1.00) value of leave for the employee.

**10.7 Shared Leave Policy.** Cibola County employees are permitted to donate or receive annual or personal leave for county employees with severe or extraordinary illnesses, or to provide care for relatives or household members with severe or extraordinary illnesses. Requests to receive shared leave require County Manager approval. A certificate of illness or injury will be required from a physician in order to qualify to use donated hours. Under no circumstances, including termination, can these donated hours be converted into cash.

**10.8 Annual Sick Leave with Pay.** Employees shall accrue a maximum of eighty (80) hours of sick leave with pay annually. Part-time employees accrue sick leave at the rate of 2.0 hours per pay-period. Casual and temporary employees do not accrue sick leave.

- K. Sick leave shall be authorized by the employee's supervisor, when such leave is requested, when an employee is unable to perform normal job duties due to medical considerations such as, but not limited to, the following: illness, injury, prearranged medical or dental examination, quarantine, therapy, counseling, treatment, or when a member of the employee's immediate family is ill and requires the personal attention of the employee.
- L. A maximum of six hundred (600) hours of sick leave shall be accrued and any sick leave above and beyond the six hundred (600) hours will be forfeited. Upon separation or retirement of an employee who has served five (5) or more years, the County shall pay the employee a sum equal to twenty-five percent (25%) of the value of his accumulated and unused sick leave, based on his/her average rate of pay for the preceding twelve (12) months.

**10.9 Sick Leave Authorization.** Sick leave may not be used before it is accrued and must be authorized or denied according to County policy. Unless otherwise prescribed by separate department policy, the following procedures shall apply:

- A. Reporting Sick Leave. For shift scheduled employees: sick leave shall be reported as soon as possible but no later than one (1) hour prior to the employee's work shift unless

the nature of the illness or injury requires extended leave, certified by the employee's physician, and of which the employee's supervisor is notified. For all other employees: sick leave shall be reported as soon as possible, but no later than thirty (30) minutes following the start of their normal work day.

- B. Sick leave shall be requested on the prescribed form and the approval or disapproval must be in writing. If an employee uses any falsehood to support a request for leave, any leave authorized may be rescinded and the employee may be subject to disciplinary action. Leave may be granted contingent upon the employee presenting sufficient justification.

**10.10 Use of Sick Leave During Probationary Period.** Probationary employees accrue sick leave as set forth in 6.1 D and may use sick leave if accrued.

**10.11 Certification of Illness for Sick Leave.** A physician's written certification may be required prior to receipt of sick leave pay at the discretion of the elected official or department director.

**10.12 Sick Leave Incentive.** A Cibola County employee who uses twenty (20) hours or less of sick leave per fiscal year will be able to convert eight (8) hours of sick leave to annual vacation leave. Exempt employees are not entitled to participate in this sick leave incentive.

**10.13 Bereavement Leave.** In the event of a death in the employee's immediate family, he or she will be entitled to bereavement leave. Up to three (3) days may be granted for an employee to attend the funeral of a member of his/her immediate family. These days will be charged against an employee's accrued sick leave. An additional two (2) days of sick leave may be authorized by the Elected Official or Department Head for extenuating circumstances.

#### **10.14 Family Medical Leave**

- A. The County provides family medical leave of absence without pay to eligible employees who wish to take time off from work duties to fulfill family obligations relating directly to the birth or adoption of a child or the illness of a child, spouse, domestic partner, parent or the employee themselves. Regular full-time and part-time employees are eligible to request family leave as described in these Rules.
- B. Eligible employees are allowed family/medical leave according to provisions of the Family Medical Leave Act (FMLA). As soon as an eligible employee becomes aware of the need for a family medical leave of absence, the employee shall request leave from their supervisor. Employees requesting family medical leave related to the illness of a child, spouse, domestic partner, parent or the employee themselves shall be required to provide a healthcare provider's certification of employee/family member's serious health condition. Eligible employees who do not request family medical leave in advance of a qualifying event will automatically be placed on family medical leave as soon as it is determined by the Human Resources Director that their leave qualifies for protections under FMLA.
- C. The County may require an employee to submit to a fitness for duty return to work exam when the need for FMLA leave is based on the employee's own serious health condition that may affect the essential functions of the employee's job. The County must notify the employee of this requirement at the beginning of the leave.
- D. Eligible employees are allowed up to twelve (12) weeks of family medical leave or up to twenty-six (26) weeks of leave, in a single 12-month period, to care for a covered service



member recovering from a serious injury or illness incurred in the line of duty on active duty. Eligibility for leave will be determined on a twelve (12) month rolling-back calendar. The employee will be required to take any available annual or sick leave as part of the approved period of leave. If the family medical leave is unpaid, the employee is subject to all rules pertaining to leave without pay, section 10.20.

- E. Subject to the terms, conditions and limitations of the applicable plans, the County will continue to provide health insurance benefits for the full period of the approved family/medical leave, subject to all rules pertaining to leave without pay, Section 10.20.
- F. When family medical leave ends, every reasonable effort will be made to return the employee to the same position, if it is available, or to a similar available position for which the employee qualifies. The County guarantees reinstatement to all eligible employees who are not key employees. If the employee fails to return to work or contact their supervisor on or before their expected date of return, the County will assume that the employee has abandoned their job. The following appointed positions as listed in the Personnel Policy ordinance are key employees within the County and may or may not be eligible to take family medical leave:
  - 1. County Manager
  - 2. Under-Sheriff
  - 3. Deputy Assessor
  - 4. Deputy Clerk
  - 5. Deputy Treasurer
  - 6. Sheriff's Administrative Secretary
- G. According to FMLA, key employees are not guaranteed reinstatement; however, the Board (for contract and unclassified employees), and a department director or elected official may authorize reinstatement, as appropriate subject to approval by the County Manager.

**10.15 Administrative Leave.** Administrative leave with pay may be granted by the elected officials or department director pending an investigation or disciplinary action, subject to the approval of the County Manager as subject to all rules pertaining to Immediate Suspension with Pay, Section 7.14.

**10.16 Workers' Compensation Program.** [§§52-5-1 et. seq., NMSA 1978]

- A. The County provides a comprehensive worker's compensation insurance program at no cost to employees. This program covers any injury or anyone suffering from occupational diseases sustained in the course of employment as approved by the insurance carrier. Subject to applicable legal requirements, Workers' Compensation insurance provides benefits after a short waiting period, or if the employee is hospitalized immediately.
- B. Employees who sustain work-related injuries or occupational diseases must inform their supervisor immediately. No matter how minor an on-the-job injury may appear, it is important that it be reported immediately. This will enable an eligible employee to qualify for coverage as quickly as possible. A "First Report of Injury" shall be filed with the Human Resources Manager following the work-related injury. The report shall be signed by the employee and the employee's supervisor. In addition, the supervisor's "Accident Investigating Report" will be filed on the following work day. All accidents shall be reported, however minor.
- C. Neither the County nor the insurance carrier will be liable for the payment of workers' compensation benefits for injuries that occur during an employee's voluntary



participation in any off-duty recreational, social, athletic activity, or similar events off-duty.

- D. Subject to the terms, conditions and limitations of the applicable plans, the County will continue to provide health insurance benefits while the employee is receiving worker's compensation benefits, subject to the provisions of Section 10.16 C. Eligible employees will automatically be placed on family/medical leave as soon as the Human Resources Manager determines that their leave qualifies for protection under the Act.

**10.17 On-The-Job Injury Leave.** An employee injured on the job may use accrued sick leave until exhausted and then the use of annual leave is permissible for each regularly scheduled working day after the injury occurs for all such days that are not paid by Workers' Compensation Insurance. If the employee is on worker's compensation time for more than four (4) weeks, and is entitled to compensation for the first seven (7) days and has used accrued leave for the first seven (7) days of injury, the workers' compensation payments received for all such days shall be paid directly to the County by the workers' compensation carrier. In the event an employee uses accrued leave, in lieu of workers' compensation, the leave used shall be re-credited to the employee upon the County's receipt of the reimbursement by the Workers' Compensation carrier after the expiration of the statutory waiting period.

**10.18 Voting Leave.** For purposes of national, state or local election, an employee who is registered to vote will be granted up to two (2) hours paid leave for voting, between the time of opening and the time of closing of polls. The employee's supervisor may specify the hours for the leave. This leave will not be granted to any employee whose work day begins more than two (2) hours subsequent to the time of the opening of the polls, or ends more than three (3) hours before the closing of the polls.

**10.19 Court Service Leave with Pay.** Pay for jury duty shall be authorized only for those days that the employee is scheduled to work. If excused by the court during a working day, the employee shall return to work. Employees serving as jurors shall file for jury pay and turn in any pay received to the County. Any jury duty worked beyond their regular work hours shall be refunded back to the employee.

A. Procedures for Jury Duty Time:

1. Juror Service Verification form from the Court must be attached to the Leave Request Form.
2. Reconciliation of time by Payroll will include matching Jury Hours Summary Sheet received by the Court to time sheet, leave form and Juror Service Verification form.

- B. Court Appearance Time. When required by County duties and subpoenaed to appear before a Court, personnel Hearing Officer, public body or the Board for the purpose of testifying in regard to County matters, the employee will be compensated as regular work time.

**10.20 Leave Without Pay.** The department director or elected official, with the approval of the County Manager, may grant an employee leave without pay for a period not to exceed six (6) months, when the department director or elected official deems that such leave without pay is in the best interest of the County. Reasons for such leave may include, but are not limited to, medical disability, pregnancy, birth or adoption of a child, and the need to care for a family member. Leave without pay is subject to the following conditions:

- A. Re-employment upon Return. If an employee returns to work within three (3) months, the employee will be returned to the same position. If the employee is on leave without pay for more than three (3) months but less than six (6) months, the County will attempt to return an employee to the same or similar position for which the employee is qualified. The position of an employee on leave without pay for more than three (3) months shall not be guaranteed. If there is not a position for the employee at the end of six (6) months, the employee shall be dismissed.
- B. Physician's Certificate. Leave without pay requested due to medical reasons or pregnancy-related purposes must be accompanied by a physician's written statement indicating the estimated time disability or recommended time for post-natal leave. An employee returning to work from leave without pay due to medical or pregnancy-related reasons must be released by the employee's physician to return to work.
- C. Temporary Filling of Position. Temporary employees may be hired to fill vacancies created by an employee who is on leave without pay.
- D. Benefits at Employee's Expense. An employee on leave without pay does not accrue leave or County benefits. The employee wishing to continue receiving insurance benefits may do so at the employee's expense by submitting the employee's and the county's share of the premium to the Human Resources Manager on or before the regular pay day.
- E. Failure to Report Timely. Failure on the part of the employee to report to work immediately to the assigned shift following the last day of the request, upon the expiration of approved leave without pay, shall be subject to disciplinary action.

**10.21 Life Threatening Illnesses in the Workplace.** Employees with life-threatening illnesses, such as cancer, heart disease, and AIDS, often wish to continue their normal pursuits, including work, to the extent allowed by their condition. The County supports these endeavors as long as employees are able to meet acceptable performance standards. As in the case of other disabilities, the County will make reasonable accommodations in accordance with all legal requirements, to allow qualified employees with life-threatening illnesses to perform the essential functions of their jobs.

- A. Medical information on individual employees is treated confidentially. The County will take reasonable precautions to protect such information from inappropriate disclosure. Management, as well as other employees, has a responsibility to respect and maintain the confidentiality of employee medical information. Anyone inappropriately disclosing such information is subject to corrective or disciplinary action up to and including dismissal of employment.
- B. The Health Insurance Probability and Accountability Act (HIPAA) and the Americans with Disabilities Act (ADA) require the County to maintain the privacy of protected health information. A copy of the County's HIPAA Notice of Privacy Practices can be obtained from the Human Resources Manager's office.

**10.22 Inclement Weather.** The County Manager may close offices, authorize late reporting or early release due to inclement weather, and all employees will be compensated for normal work hours as administrative leave with pay and shown on a Leave Report Form. Inclement weather leave with pay will not exceed eight (8) hours in one work day.

**10.23 Leave For Unforeseen Circumstances.** The County Manager may close individual offices, authorize late reporting or early release due to unforeseen conditions beyond the

County's control that prevent the employees from performing their duties as administrative leave with pay and shown on a Leave Report Form.

#### **10.24 Military Leave.**

- A. The Uniformed Services Employment and Reemployment Rights Act (USERRA) protects the job and benefits, for up to five years (or more in some cases), of a service member who must leave his or her civilian job because of military orders to report for training or active duty, voluntary or involuntary, in peacetime or wartime.
- B. Military Leave for Reserve or National Guard Activities (§ 20-1-1 NMSA 1978). USERRA requires service members, or a responsible representative of the military unit, to provide advance written or verbal notice to their employers for all military duty unless giving notice is impossible, unreasonable, or precluded by military necessity. Paid Military leave is granted for authorized reserve or National Guard activities for a maximum of fifteen (15) working days with pay during a one (1) year period based on the federal government's fiscal year from October 1 to September 30. Military leave must be requested twenty (20) working days in advance, unless a national or state emergency exists and an immediate call-up is initiated in which case notice as soon as possible is required. The employee must furnish proof of duty orders or other documentation prior to leave being granted unless the leave is for emergency purposes.
- C. Extended Unpaid Military Leave. Employees voluntarily or involuntarily serving on active duty for more than fifteen (15) working days may use accrued annual leave. When military leave has been exhausted, employees have the option of being placed on leave without pay (LWOP) or using accrued leave. Employees may use all of their annual leave on consecutive days or use up to twenty-seven (27) hours per pay period in order to maintain their group insurance benefits. Employees who exhaust their annual leave shall then be placed on LWOP for the remainder of time they are on active duty. Employees shall not receive pay or accrue leave while on LWOP. Employees wanting to maintain insurance benefits while on military duty will be required to pay the employee's share of their premium.
- D. Service members are entitled to return to their County job and receive pay raises, promotions, pension credit and other seniority benefits as if you had been continually employed, provided certain eligibility criteria are met. Protection under the USERRA applies if:
  - 1. The job the employee left was for more than a brief, non-recurrent period, with no reasonable expectation that such employment would continue indefinitely or for a significant period.
  - 2. The employee left this job for the purpose of entering active duty.
  - 3. The employee is discharged under honorable conditions.

AND

- 4. The employee applied for reemployment within the applicable time limit.
- E. If these criteria are met, the USERRA provides the following protections:
  - 1. The employee is entitled to return to the prior position with the same seniority, benefits, pay, and, additionally, any promotion or raise which could have been

reasonably expected if the employee had remained continuously on the civilian job.

2. The County is required to offer disabled veterans the "nearest approximation" of the job the service member could have reasonably expected with continuous employment.
  3. Service members are protected from being discharged for the protected time period allotted by USERRA according to the time served on active duty, unless the County proves misconduct or violation of policies.
  4. To be re-employed in the same position, the employee's return to work must occur within the following guidelines:
    - i. For a service period of 1-30 days, the employee must report to work immediately by the first regularly scheduled work day;
    - ii. For a service period of 31-180 days, the employee must make application for re-employment within 14 calendar days after he/she is relieved from training or duty;
    - iii. For a service period of 181 days or more, the employee must make application for re-employment ninety (90) calendar days after he/she is relieved from training or duty;
    - iv. An employee who is released from hospitalization of a service-related injury, continuing after discharge for a period of not more than one (1) year, must make application for re-employment ninety (90) calendar days after he/she is relieved from training or duty.
- F. Employees may qualify for up to twelve (12) weeks of leave for certain qualifying exigencies arising out of a covered military member's active duty status, or notification of an impending call or order to active duty status, in support of a contingency operation under the FMLA.

**10.25 Light Duty Return-To-Work.** Employees who are on leave due to an injury or illness may be eligible to return to work on light duty status after their physician certifies their fitness to do so. The department director or elected official and the Human Resources Manager will determine if there is a position or duties suitable for an employee to perform light duty work. The County retains full discretion as to whether or not an employee is eligible for light duty status.

- A. **Coordination with Attending Physician.** An employee on leave due to a work-related disability can return to work only when the County receives the attending physician's written medical release authorizing such return. The Human Resources Manager is responsible for providing the physician with a copy of the employee's job description, copies of job descriptions for potential restricted duty assignments, and written information explaining the County's return-to-work program.
- B. **Return-to-Work Options.** Arrangements to facilitate an employee's early return to work are made in consultation with the employee's attending physician and/or other qualified medical professionals retained by the County or its insurance carrier. The following options will be explored:
  1. **Return to prior position.** An employee is offered the opportunity to return to his or her prior position if the attending physician certifies that the employee can perform the essential functions of the job with or without reasonable accommodations. The Human Resources Manager or his/her designee is responsible for working with the employee's supervisor and attending physician

(and third-party consultants, as necessary) to provide any reasonable accommodations.

2. Restricted duty. Any employees who are not yet able to return to their former duties are offered, subject to the restrictions set out in Section 5.2 of these Rules, a temporary restricted duty assignment that has been approved by the employee's attending physician. The Human Resources Manager is responsible for working with the employee's supervisor, and the employee's attending physician to develop and implement the restricted duty assignment. The assignment can consist of the employee's regular job, with reduced working hours or reduced activities, or an alternative restricted duty position.

C. Limitations on Restricted-Duty Assignments. The following limitations apply to restricted duty assignments:

1. No guarantee of work. As provided in Section 5.9 of these Rules, the County will endeavor to return employees to gainful employment as soon as possible by exploring possible restricted duty assignments. However, the County does not guarantee the availability of restricted duty work.
2. Pay rates and Workers' Compensation benefits. Employees on restricted duty are not guaranteed the rate of pay they received for the position they held at the time they sustained their work-related injury or illness. The pay rate for a restricted-duty assignment is based on the knowledge, skills, and abilities required for the job as well as general market conditions. Employees who return to work before they have reached maximum medical improvement (MMI) may be eligible for temporary partial disability benefits under the state Workers' Compensation program, if they earn less than they earned in the position held at the time they sustained the work-related accident or illness. Employees in restricted duty positions are not permitted to supplement their workers' compensation benefits by using their accrued annual, personal, or medical/sick leave.
3. Four (4) week limit. Restricted duty assignments are temporary arrangements intended to complement and facilitate the healing process. Restricted-duty assignments cannot exceed four (4) weeks without approval from the department director or elected official and approved by the County Manager.

D. Employee Refusal of Work/Training. In the event that an employee refuses to return to regular or restricted duties in response to a written, bona fide offer of employment by the County sent via certified mail, the employee is separated from the County and his/her position will be filled permanently (NOTE: An exception to this rule applies in the case of employees who have not yet exhausted their FMLA leave entitlement, refer to subsection F.).

A written offer of employment shall be on a form promulgated by the County Manager and must clearly state:

1. The position offered and the duties of the position;
2. The County's agreement to any limitations or conditions set out in the attending physician's certification of the employee's fitness to return to work;
3. The job's essential functions; and
4. The job's start date, wage, working hours, supervisor and location;
5. Length of assignment and required training.

E. Coordination with FMLA. Nothing in these Rules should be construed as denying employees their rights under the FMLA or any other federal or state law.



- F. It is the County's policy to designate an employee's absence from work due to a work-related injury or illness as FMLA leave to the extent allowed by federal law. Employees entitled to FMLA leave can voluntarily accept restricted duty assignments while they are recuperating, but they cannot be required to do so. Employees who lose their workers' compensation benefits as a result of declining a restricted duty assignment are required to substitute any available paid leave, such as accrued annual, personal, or medical/sick leave, for unpaid FMLA leave.
- G. Until employees have exhausted their twelve (12) week FMLA entitlement, they have the right to be reinstated to their original job or an equivalent job providing they are able to perform the job's essential functions.

#### **10.26 Change in FLSA Status**

- A. Upon change from FLSA non-exempt to FLSA exempt status, employees shall be paid a lump sum for the unused portion of their accrued compensatory leave, overtime, sick leave and vacation leave.
- B. The lump sum payment shall be calculated based on the non-exempt salary rate.
- C. Upon change from non-exempt to exempt status and transfer to a new department, employees shall be paid the lump sum for the unused portion of their accrued compensatory leave by their previous department.
- D. If an employee's change in status is contingent upon a 90 day trial period, pursuant to section 5.2 of this Ordinance, the lump sum payment shall not be made until successful completion of the trial period.

### **SECTION XI: SUBSTANCE ABUSE POLICY**

#### **11.0 Purpose**

- A. The Cibola County Commission has adopted this employee substance abuse policy and a drug and alcohol testing policy for the County of Cibola, Sheriff's Department, Road Department, Detention Center Department, Solid Waste Department and all other safety sensitive employees. A safety sensitive employee is an employee who performs duties for the County of Cibola which have safety ramifications for themselves, fellow employees and the general public. These positions may include but are not limited to employees who operate equipment/vehicles, have access to confidential information and/or receive calls for public service.
- B. The purpose of this policy is to assure worker fitness for duty and to protect our employees and the public from the risks posed by the misuse of alcohol, the use of prohibited drugs and the misuse of legal drugs. The County is concerned only with those situations where use of alcohol and other drugs seriously interferes with any employee's health, his job performance and adversely affects the job performance of other employees or is considered to be so serious as to be detrimental to the County's operations and the safety of himself/herself and others. There is no intent to intrude upon the private lives of employees.

**11.1 Safety Sensitive Employees.** This policy applies to all safety-sensitive positions within the County of Cibola. All safety sensitive employees for the County of Cibola are covered by this policy. Adherence to this testing policy is a condition of employment for all safety-sensitive positions. Safety-sensitive functions refer to any functions contained within an employee's realm



of responsibilities that have an impact upon the safety and general welfare of the public. It has been determined by the County of Cibola that there are positions within the County of Cibola, which are of a safety sensitive nature and as such, create the need for compliance with this policy.

**11.2 Policy.** The County of Cibola is dedicated to providing safe, dependable and economical services to our public. County of Cibola employees are our most valuable resource and it is our goal to provide a healthy, satisfying working environment, which promotes personal opportunities for growth. In meeting these goals, it is our policy to (1) assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) create a workplace environment free from the adverse effects of drug abuse and alcohol misuse; (3) prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and (4) to encourage employees to seek professional assistance anytime personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.

- A. All safety-sensitive employees will receive training on the effects and consequences of prohibited drug or alcohol use on personal health, safety and the work environment, and the signs and symptoms which may indicate prohibited drug or alcohol use. The County will schedule mandatory classes but it is ultimately the responsibility of the employee to attend a class provided for by the County.
- B. All department heads and supervisors designated to determine whether reasonable suspicion exists to require a covered employee to undergo alcohol/drug testing will receive training on the physical, behavioral, speech and performance indicators of probable prohibited drug or alcohol misuse.

**11.3 Prohibited Substances.** “Prohibited substances” addressed by this policy include the following:

- A. Illegally used controlled substances or drugs. Includes, but is not limited to: marijuana, amphetamines, methamphetamines, opiates, phencyclidine (PCP), and cocaine, as well as drugs not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. The collection agency shall adhere to all requirements outlined in 49 CFR, Part 40 DOT Guidelines in determining what constitutes a positive test.
- B. Legal Drugs. The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected shall be reported by the employee to supervisory personnel and medical advice shall be sought by both the employee and supervisor, as appropriate, before performing safety-sensitive functions. A legally prescribed drug means that an individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient’s name, the name of the substance, quantity/amount to be taken, frequency and the period of authorization. The misuse or abuse of legal drugs while performing official business is prohibited.
- C. Alcohol. The use of beverages or medications containing alcohol, subject to Paragraph 11.3(B) above.

## 11.4 Prohibited Conduct

- A. **Manufacture, Trafficking, Possession, and Use.** Employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or sale of prohibited substances while on duty on County premises, or in County vehicles. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.
- B. **Intoxication/Under the Influence.** Any safety-sensitive employee who fails a drug test or has a breath alcohol concentration of 0.04 or greater shall be removed from their safety-sensitive position and referred to an SAP (substance abuse professional). A safety-sensitive employee with a breath alcohol concentration of 0.02 or greater, but less than 0.04 shall be immediately removed from their safety-sensitive position for a minimum of 8 hours or until they can pass an alcohol test with a BAC of less than 0.02. If a breath analyzer is unavailable, testing will be conducted via blood test.
- C. **Alcohol Use.** No safety-sensitive employee should report for duty or remain on duty when his/her ability to perform assigned safety-sensitive functions is adversely affected by alcohol or when his/her breath alcohol concentration is 0.04 or greater. No safety-sensitive employee shall use alcohol while on duty, or while performing a safety-sensitive function. No safety-sensitive employee shall use alcohol within four hours of reporting for duty; or during the hours that they are scheduled on call; or up to eight hours following an accident or until tested; or anytime during a period when that employee may have to perform safety-sensitive functions. Employees, who are not scheduled on call, shall upon being notified to report to duty, acknowledge alcohol use and their inability to perform his/her safety-sensitive function and shall be excused from doing so without further consequences. No County employee under the age of 21 shall have a breath alcohol concentration of .02 or greater at any time while performing duties for the County. Violation of these provisions is prohibited and punishable by termination.
- D. **Compliance with Testing Requirements.** All safety-sensitive employees shall be subject to urine drug testing and breath alcohol testing. Refusal to comply with a request for testing, refusal to sign the drug testing chain of custody form, refusal to sign Step #2 on the alcohol breath testing form, inability to provide sufficient quantities of breath or urine to be tested without a valid medical explanation, tampering with or attempting to adulterate the specimen or collection procedure or not reporting to the collection site in the time allotted, shall constitute a verified positive test result.

## 11.5 Testing Which Results In a Dilute Specimen

### A. Definitions:

Dilute Drug Screen – A drug screen which is identified by the testing lab as an irregular specimen pertaining to the specimen's specific gravity and creatinine concentration. (The irregularity in specific gravity minimizes the reliability of the testing procedure and therefore reduces the reliability in the results.)

Primary Test – A test which is conducted under Sections 11.10, 11.11 or 11.12.

Monitored Tests – The County of Cibola will offer all employees who are required to take a second level test the opportunity to have the test monitored by a supervisor.

B. Dilute Drug Screen Procedure:

A dilute drug screen for Sheriff Department, Road Department, Detention Center Department and all other safety sensitive County employees who are covered by this policy will be handled as follows:

1. Primary Test:

Identified as Dilute

- a. The employee shall enter into a re-entry contract as defined in Section 11.17 and 11.18 or
  - b. If the employee's physician certifies in writing that there is a valid medical cause for the dilute result, unrelated to illegal drug use or prescription drug abuse, the employee may submit to a hair sample test, at the County's expense, to contest the results.
  - c. The employee without a physician's certification, may submit to a hair sample test to contest the results if the employee pays, in advance, for the cost of the test.
2. Second Level Test (test for re-entry purposes or follow-up tests defined within a re-entry contract):
- a. Monitored Dilute – The County will accept the test results as provided by the lab (a test will be monitored only at the request of the employee)
  - b. Unmonitored Dilute – Shall result in termination as stated in the re-entry contract.

C. Dilute Specimen Test for Employment Applicants: Any applicant for employment with Cibola County whose pre-employment drug and alcohol screen test is identified as dilute, shall not be eligible for employment and is precluded from re-application for employment for:

1. a period of six (6) months from the date of the test or
2. The applicant may submit to a hair sample test to contest the results if the applicant pays, in advance, for the cost of the test. In the event the hair sample test results are negative, the applicant will be eligible for immediate hire.
3. If the employee's physician certifies in writing that there is a valid medical cause for the dilute result, unrelated to illegal drug use or prescription drug abuse, the employee may submit to a hair sample test to contest the results.

**11.6 Treatment Requirements.** All employees are encouraged to make use of the available resources for treatment for alcohol misuse and illegal drug use problems. Under certain circumstances, employees may be required to undergo treatment for substance abuse or alcohol misuse. Any employee who refuses or fails to comply with County of Cibola requirements for treatment, after care, or return to duty will be subject to termination. The cost of any treatment or rehabilitation services will be paid for directly by the employee or their insurance provider. Employees will be allowed to take accumulated sick leave and vacation leave to participate in the prescribed rehabilitation program.

**11.7 Proper Application of the Policy.** The County of Cibola is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, department heads/supervisors are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any department head/supervisor who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, will be subject to disciplinary action, up to and including termination.

#### **11.8 Testing Procedures.**

- A. All safety-sensitive employees of the County of Cibola shall be subject to drug (urine) and alcohol testing for reasonable suspicion, return to duty, follow-up or random and may be subjected to testing following an accident. Follow-up testing will be conducted for a period of one to five years, with up to six tests performed during the first year and as many as four in subsequent years. The Substance Abuse Professional (SAP) may determine the frequency and duration of follow-up testing.
- B. Testing shall be conducted using techniques, equipment and certified laboratory facilities to ensure a high degree of accuracy and reliability. Alcohol testing may only occur during or immediately before/after performing safety sensitive duties and up to eight hours following an accident. Drug testing may occur any time while performing duties for the County of Cibola and up to 32 hours following an accident.

**11.9 Pre-Employment Drug & Alcohol Screening.** All applicants for employment with Cibola County shall be required to take a drug and alcohol screening test when they report for their pre-employment medical examination or when otherwise directed by the County Manager or his/her designee. Any applicant for employment with Cibola County who's pre-employment drug and alcohol screen test is identified as positive, shall not be eligible for employment and is precluded from re-application for a period of one (1) year from the date of the test.

**11.10 Employee Requested Testing.** Any safety-sensitive employee who questions the result of a required drug test under paragraphs 11.10 through 11-15 of this policy may request that an additional test be conducted. This test will be conducted at a different certified laboratory. The test will be conducted on the split sample that was provided by the employee at the same time as the original sample. The method of collecting, storing, and testing the split sample will be consistent with acceptable testing standards. The employee's request for a split sample test must be made to the Medical Review Officer\* within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee. An employee requested test will be at the expense of the employee.

**11.11 Reasonable Suspicion Testing.** All employees shall be subject to urine and/or breath testing when there is reasonable suspicion to believe the employee is under the influence of prohibited substances. A reasonable suspicion referral for testing will be made on the basis of articulatable objective facts and circumstances, which are consistent with the short-term effects of substance abuse. Examples of reasonable suspicion include, but are not limited to the following:

- A. Physical signs and symptoms consistent with prohibited substance use.
- B. Evidence of the manufacture, distribution, dispensing, possession, or use of controlled substances, drugs, alcohol, or other prohibited substances.

- C. Occurrence of an accident that may have been caused by use of a prohibited substance or alcohol misuse.
- D. Fights (to mean physical contact), assaults, and flagrant disregard or violations of established safety, security, or other operating procedures.

**11.12 Post-Accident Testing.** Any County employee involved in an accident occurring on County property or involving County equipment/vehicle may be subject to a drug or alcohol test at the request of the Department Head and approval of the County Manager.

\* Medical Review Officer – See DEFINITIONS Section 11.21.

### **11.13 Random Testing**

- A. Employees in safety-sensitive positions shall be subjected to random, unannounced drug testing. The selection of safety-sensitive employees for random drug testing will be made using a scientifically valid method that ensures each covered employee that they will have an equal chance of being selected each time selections are made. The random tests will be unannounced and spread throughout the year on all days and during all hours of operation.
- B. When a safety-sensitive employee is informed of a random drug test they must be tested as soon as is practicably possible but in a time not to exceed 3 hours. All employees who have been randomly selected or are testing in conjunction with Rule 11.11 will be notified, in writing, by the County Manager a department head or supervisor. All tests will be collected as a split sample giving the employee the opportunity to exercise his/her right to an additional test (Section 11.10) on the sample which was collected. Should the County's agent not collect a split sample, the results of the test, for which a split sample was not collected, will be disregarded by management and the employee will not be required to re-test for this specific testing period.
- C. All safety sensitive employees shall be placed in a selection pool and random drug testing shall come from this predetermined pool. The individual pools shall be defined as follows:
  - 1. Sheriff's Department
  - 2. Road Department
  - 3. Detention Center
  - 4. Waste Management Department
  - 5. All other safety-sensitive employees
- D. Shift employees, or employees who are not at work on the day of the scheduled test (random or otherwise), and who have been selected for testing, will be required to test immediately upon their return to work/duty and will be notified and expected to adhere to the rules as described above.

**11.14 Return-To-Duty Testing\*.** A return-to-duty test is required of an employee who has had a positive drug or alcohol test and must be passed (negative non-dilute) before they can return to a safety-sensitive position. The SAP must first clear the employee to return-to-regular-duty after the evaluation and insure the employee has consented to treatment. The return-to-duty test may be for drugs and/or alcohol as required. Any work missed due to a positive drug/alcohol test or



due to treatment shall be charged to the employee's sick leave and/or annual leave (employee's choice) or leave without pay if the employee has no leave balances.

**11.15 Follow-Up Testing\*.** Once allowed to return to duty, safety-sensitive employees shall be subject to unannounced follow-up testing for at least 12 but not to exceed 60 months. The frequency and duration of the follow-up testing may be recommended by the SAP as long as not more than six tests are preformed during the first 12 months after the employee returns to duty. Follow-up testing is separate from and in addition to the random testing program.

**11.16 Employment Assessment.** An SAP may refer any safety-sensitive employee who tests positive for the presence of illegal drugs or alcohol above the minimum thresholds for evaluation. An SAP is a licensed or certified physician, psychologist, social worker, employee assistance professional, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related and drug-related disorders. The SAP may evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited drug use or alcohol misuse. Employees may select the SAP of their choice as long as the criteria above is met.

**11.17 Departmental Rule for Positive Drug/Alcohol Test.**

- A. Any probationary employee who, as a result of this policy tests positive for drugs and/or alcohol, will be terminated immediately.
- B. Any employee who has been placed on time for improvement and who tests positive for drugs/alcohol as defined by this policy will be terminated from employment.
- C. Sheriff's Department & Detention Center (includes certified law enforcement officer, dispatchers, administrative personnel, detention center officers and animal control officers).
  - 1. A positive prohibited substance/alcohol test for an officer or dispatcher shall be reported to the New Mexico Law Enforcement Academy Director as outlined in the NMLEA Handbook Subsection B4 of 10.29.1.11 NMAC.
  - 2. Any certified or uncertified law enforcement officer, dispatcher, administrative personnel, detention center officer or animal control officer who tests positive for prohibited substances and/or alcohol under this policy shall be terminated from employment with the County of Cibola, Section 7.10.
  - 3. Any County of Cibola Deputy, Dispatcher, Animal Control Officer, Detention Center Officer or Sheriff Administrative Personnel whose primary test is determined to be a dilute test will be subject to the terms and conditions as defined below (this does not include tests taken as a result of a re-entry contract which are monitored tests and are determined to be dilute):
- D. Road Department and Solid Waste Department covered employees (any employee who operates machinery, heavy equipment or has a CDL)
  - 1. Any Road Department and Solid Waste Department covered employee who tests positive for prohibited substances and/or alcohol under this policy shall be terminated from employment with the County of Cibola, Section 7.10.
  - 2. Any Road Department and Solid Waste Department covered employee whose primary test is determined to be a dilute test will be subject to the terms and conditions as defined below (this does not include tests taken as a result of a re-entry contract which are monitored tests and are determined to be dilute):



- E. Any County of Cibola Sheriff Department, Detention Center, Road Department and Solid Waste Department employees (as defined above) who are covered by this policy and whose primary test is determined to be dilute as herein defined, shall be subject to the terms and conditions of:
  - 1. The re-entry contracts defined below;
  - 2. Rule 11.13 of this policy, and;
  - 3. Rule 11.14 of this policy.
  - 4. If applicable, any CDL provisions that may apply.
- F. County of Cibola safety sensitive employees shall be terminated upon violation of any of the terms and conditions of the individual's re-entry contract (defined below). An unmonitored dilute, second level test for Sheriff Department, Detention Center, Road Department and Solid Waste Department employees (subject to a re-entry contract) shall result in termination of employment

#### **11.18 Re-Entry Contracts** (general safety sensitive employees).

- A. Employees who re-enter the workforce must agree to a re-entry contract. That contract may include, but is not limited to:
  - 1. A release to work statement from the Substance Abuse Professional.
  - 2. A negative test for drugs and/or alcohol. (Section 11.14)
  - 3. An agreement to unannounced frequent follow-up testing for a period of one to five years with up to six tests performed the first year (Section 11.15).
  - 4. A statement of expected work-related behaviors.
  - 5. An agreement to follow specified after care requirements with the understanding that violation of the re-entry contract is grounds for termination.
  - 6. County of Cibola safety sensitive employees shall be terminated upon violation of any of the terms and conditions of the individual's re-entry contract (defined below). An unmonitored dilute, second level test for Sheriff Department, Detention Center Department Road Department or Solid Waste Department employees (subject to a re-entry contract) shall result in termination of employment.
- B. Any safety sensitive employees not covered above shall be terminated upon violation of any of the terms and conditions of the individual's re-entry contract (defined below).

**11.19 Detection.** The County reserves the right to inspect, at any time, all County property and all County vehicles and equipment for the presence of prohibited substances or alcohol. All inspections will be scheduled as deemed necessary by the County Manager or his/her designee and conducted by the Cibola Sheriff's Department.

#### **11.20 Voluntary Request for Assistance.**

- A. The County of Cibola intends to give the same consideration to persons who voluntarily request assistance (prior to being randomly selected or selected for cause) with chemical dependencies as it does to employees having other diseases.
- B. Early recognition and treatment of chemical (drug and alcohol) dependency problems is important for successful rehabilitation and reduced personal, family and social disruption. The County supports sound treatment efforts and an employee's job will not be jeopardized for conscientiously seeking assistance prior to random selection or selection

for cause. Normal County benefits, such as sick leave and the group medical plan, are available to give help in the rehabilitation process to any employee who voluntarily requests assistance for chemical dependencies.

### **11.21 Definitions**

Medical Review Officer (MRO) – The MRO is a licensed physician who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate positive drug test results. The List of primary responsibilities below is followed by standard operating procedures necessary to carry out those responsibilities:

- A. Receive test results from the laboratory
- B. Review all drug testing results prior to reporting
- C. Verify that the laboratory report and assessment are correct
- D. Review and interpret each confirmed lab tested positive result
- E. Conduct a medical interview, providing an opportunity for the employee to discuss a positive test result
- F. Notify employer of verified positive test
- G. Process employee request for re-test
- H. If necessary, re-analyze the original specimen to determine the accuracy of the test result

### **11.22 Records**

- A. All records of the controlled substance abuse prevention program must be kept in a secure location with controlled access in the County Manager's Office. Regulation requires that certain records according to their importance be maintained for varying lengths of time, from one (1) to five (5) years.
- B. Records must be kept confidential and be made available for inspections by the County Manager within two (2) business days following a request by an authorized representative of the Federal Highway Administration. These records should not be made a part of a driver's personnel file.
- C. The following are entitled access to these records through approval of the County Manager:
  - 1. CDL Issuer or his/her representative;
  - 2. The Secretary of Transportation;
  - 3. Any Department of Transportation Agency;
  - 4. Any State or Local Official with regulatory authority over the employee;
  - 5. Any prospective employer with the employee's written permission.

**11.23 Confidentially.** No laboratory reports or test results shall appear in the employment personnel file unless they are a part of a disciplinary action, but shall be placed in a special locked file.

## **SECTION XII: EMAIL & INTERNET USE**

**12.0 Access.** Access to the Internet through the Cibola County is a privilege. Users granted this privilege must adhere to strict guidelines concerning the appropriate use of this information resource. Users who violate the provisions outlined in this document are subject to disciplinary action up to and including termination. In addition, any inappropriate use that involves a criminal

offense will result in legal action. All users are required to acknowledge receipt and understanding of guidelines contained in this document.

**12.1 Purpose & Scope.** To define policies and procedures for access to the Internet through the Cibola County network infrastructure. This policy applies to all personnel with access to Internet and related services through the Cibola County network infrastructure. Internet Related services include all services provided with the TCP/IP protocol, including but not limited to Electronic Mail (e-mail), File Transfer Protocol (FTP), and World Wide Web (WWW) access. Internet access includes connections via DSL subscriptions, phone modem access, server-to-Internet access or T1 line access.

**12.2 Acceptable Use.** Access to the Internet is specifically limited to activities in direct support of official Cibola County business.

- A. In addition to access in support of specific work related duties, the Cibola County Internet connection may be used for educational and research purposes.
- B. If any user has a question of what constitutes acceptable use he/she should check with their supervisor for additional guidance. Management or supervisory personnel shall consult with the County Manager for clarification of these guidelines.

**12.3 Inappropriate Use.** Cibola County Internet access shall not be used for any illegal or unlawful purposes. Examples of this would be the transmission of violent, threatening, defrauding, pornographic, obscene or otherwise illegal or unlawful materials

- A. Use of Cibola County electronic mail or messaging services shall be used for the conduct of Cibola County, business only. These services shall not be used to harass, intimidate or otherwise annoy another person.
- B. The Cibola County, Internet access shall not be used for private, recreational or other non-Cibola County related activity.
- C. The Cibola County Internet connection shall not be used for commercial or political purposes.
- D. Use of the Cibola County, Internet access shall not be used for personal gain such as selling access of a Cibola County user login. Internet access shall not be used for or by performing work for profit with Cibola County resources in a manner not authorized by Cibola County.
- E. Users shall not attempt to circumvent or subvert security measures on Cibola County's network resources or any other system connected to or accessible through the Internet.
- F. Cibola County users shall not use Internet access for interception of network traffic for any purpose unless engaged in authorized network administration.
- G. Cibola County users shall not make or use illegal copies of copyrighted material, store such copies on Cibola County equipment, or transmit these copies over the Cibola County network.

**12.4 Internet & E-Mail Etiquette.** Cibola County employees shall ensure all communication through Cibola County email or messaging services is conducted in a professional manner. The use vulgar or obscene language is prohibited.

- A. Cibola County users shall not reveal private or personal information without specific approval from management.

- B. Users should ensure that e-mail messages are sent to only those users with a specific need to know. The transmission of e-mail to large groups or messages with large file attachments should be avoided.
- C. Electronic Mail is not guaranteed to be private. Messages transmitted through the Cibola County e-mail system or network infrastructure are the property of Cibola County and are therefore subject to inspection.

## **12.5 Security**

- A. Cibola County users who identify or perceive an actual or suspected security problem shall immediately contact the Cibola County Information Systems Security Manager.
- B. Users shall not reveal account passwords or allow another person to use their account. Similarly, users shall not use the account of another user.
- C. Access to the Cibola County network resources shall be revoked for any user identified as a security risk or a demonstrated history of security problems.

**12.6 Penalties.** Any user violating these policies is subject to the loss of network privileges and any other Cibola County disciplinary actions as detailed in Section 7 of this ordinance.

**12.7 No Expectation of Privacy.** Users should not expect any information transmitted via Cibola County's systems to remain private or confidential.

- A. Cibola County may monitor use of any part of County Systems at any time, without notice, at its discretion. Such monitoring may include, but is not limited to limiting size, accessing, listening to, reading, or retrieving voice mail messages, e-mail, Internet communications, or local files.
- B. Users should be aware that deleted files or other communications may be retrieved and review by Cibola County Management.
- C. Users are prohibited from, among other things, accessing, listening to, reading or retrieving other team members' e-mail, voice mail, or Internet communications unless specifically authorized to do so by Management.

**12.8 User Compliance.** All terms and conditions as stated in this document are applicable to all users of the network and the Internet connection.

**12.9 Protection & Handling of Sensitive Information.** It is the responsibility of every County employee to ensure the protection of sensitive information and comply with all information technology policies. This includes but is not limited to ensuring such information does not leave the County network, making a reasonable effort to redact sensitive information when sharing records and protecting security account information.

## **SECTION XIII: PAY POLICY**

**13.1 Purpose.** This Section outlines the provisions for the County's system of comparing and classifying positions according to their relative equivalence for the purpose of establishing fair and equitable promotion and pay compensation for employees. The Board approves all positions and salaries as part of the fiscal year budget process.

**13.2 Applicability.** The provisions of this section shall apply to all employees except that Contract Employees and unclassified employees are subject to wage increases as negotiated and approved by the Board.

- A. Elected officials who include Commissioners, Clerk, Treasurer, Assessor, Sheriff, and Probate Judge are subject only to the statutory provisions of law subject to budget availability and determination by the Board as to the amount to be paid annual to any elected official as determined in the budget process.
- B. Chief deputies shall receive 85% of the related elected official's salary as their fixed salary and shall serve at the pleasure of the elected official. The Sheriff's Administrator serves at the pleasure of the Sheriff and shall receive a fixed salary of 70% of the Sheriff's fixed salary. In addition to their fixed salary Chief Deputies and the Sheriff's Administrator shall be eligible to receive longevity pay as appropriated by the Board of County Commissioners.

**13.3 Pay Compensation Process Overview.** The pay compensation system includes provisions for:

- A. entry level wages;
- B. transfers;
- C. demotions;
- D. cost of living wage increases;
- E. promotion wage increases;
- F. performance merit increases.

The Board may at their discretion amend the general wage and classification plan and the general wage schedule by resolution or motion of the Board when deemed appropriate.

**13.4 Entry Level Wages.** All new employees are normally hired at the Entry level position for the level of position that has been vacated or otherwise approved for hire by the elected official or department director, subject to budgetary constraints and the approval of the County Manager.

**13.5 Cost of Living Wage Increases.** The Board may consider an across the board cost of living wage increase concurrent with approval of the budget each fiscal year or as otherwise approved by the Board. Cost of living increases will normally become effective the first pay period proceeding July 1 of each fiscal year or as otherwise approved by the Board.

**13.6 Position Specifications Requirements.** Each position has a written Position Specification which includes specifications for minimum qualifications, education, experience, abilities, skills, license, or certification requirements, and a description of duties and responsibilities required for the position.

**13.7 Grandfather Clause.** Any employee whose position specification is revised is subject to the experience, education, or certification requirements of the new position specification shall show satisfactory progress to meet the new standards within six (6) months or may be subject to reclassification, transfer or dismissal.

**13.8 Contents of Personnel File.** Subsequent to hiring, a separate record file shall be prepared and maintained for each employee. These records shall be kept in the Human Resources

Manager's office. It is the responsibility of each elected official or department director to ensure that the records of the employees are complete and up-to-date. The file shall contain a minimum of the following records:

- A. the original application form;
- B. the originating personnel action showing occupation, position classification, date of beginning employment and salary and a signed receipt, evidence of receiving these Rules;
- C. copies of personnel action forms.
- D. copies of all performance evaluations, if applicable;
- E. copies of all favorable or unfavorable letters or memorandums such as letters or certificates of appreciation or records of other outstanding achievements regardless of origination, so long as the procedure applicable to written reprimands is followed;
- F. records or certificates of educational training or orientation achievement completion;
- G. records of disciplinary actions such as reprimands, suspensions, demotions or dismissal; and
- H. application for retirement program.

**13.9 Access to Personnel Files.** Personnel files are the property of the County and access to the information they contain is restricted. Generally, only immediate supervisors and management personnel of the County who have a legitimate reason to review information in a file are allowed to do so. Employees who wish to review their own file should contact the Human Resources Manager's office. With reasonable advance notice, employees may review their own personnel files in County's offices and in the presence of an individual appointed by the County to maintain the files.

## **SECTION XIV: EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PLAN**

**14.1 Purpose.** The purpose of this section is to recruit, employ and promote the most qualified applicants or employees to work in County employment. Employment and promotional opportunities shall be based solely upon ability and demonstrated competence, not upon extraneous factors. Age, sex, marital status, national origin, religion, race, sexual preference, political affiliation and handicaps not related to ability to perform the job sought, are declared extraneous factors that shall have no bearing on employment or promotional opportunities within County service.

**14.2 Statement of Policy.** It is the policy of the County to comply with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, amended by the Equal Employment Opportunity Act of 1972 and Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990, in all employment and programs administered by the County. The County affirms that individuals will be considered for employment or promotion on the basis of bona-fide occupational qualification only. Each employee or prospective employee will be advised of this policy. All announcements or notices regarding position openings or opportunities will contain the words "An Equal Opportunity Employer".

**14.3 Management Responsibility.** The Human Resources Director will counsel elected officials and department directors as they investigate and resolve internal complaints of employment



discrimination filed by County employees or employment applicants. The Human Resources Director shall be the referral officer for the County to receive notice of alleged unlawful employment practices from the Equal Employment Opportunity Commission (EEOC) as provided for in Public Law 88-352, Title VII, Section 706(C); 78 Stat. 241 (42 USC 2000e-5).

**14.4 Complaint Procedures.** Any employee or person refused employment or who believes he/she has been subjected to a discriminatory employment act or practice prohibited by federal or state law shall file with the Human Resources Director a written and signed statement of facts setting out the basis of the complaint.

- A. Upon receiving a written and signed complaint or upon receiving notice of an alleged unlawful employment practice from an individual, the Human Resources Director shall immediately conduct an investigation and attempt to resolve such complaint informally and forward copies of the investigation and results to the elected official/department director and County Manager.
- B. If the complaint is not resolved informally by the process set forth in subsection A above, it will go before a Hearing Officer appointed by the County Manager. The Hearing Officer shall conduct a hearing not more than forty-five (45) days after the complaint has been received by the Human Resources Manager. The complainant, complainant's attorney (if any), the County Manager, Human Resources Director, County Attorney, elected official or department director, and the employee allegedly responsible for the discriminatory act or practice, shall be given five (5) days written notice of the hearing, together with a copy of the complaint filed with the Human Resources Director.
- C. At the hearing, the complainant and respondent shall have the right to be represented by counsel; all testimony shall be received under oath, and the Hearing Officer shall have the authority to issue administrative subpoenas for the attendance of any County employee as a witness.
- D. The Hearing Officer shall report findings and recommendations in writing to the County Manager and elected official or department director not more than twenty (20) days after hearing the complaint. A full record of the proceedings shall be kept either by audio media or in writing by the Human Resources Director in a confidential file.

**14.5 Remedies.** In the event the County Hearing Officer determines that a discriminatory act or practice has occurred, the County Manager may take appropriate action including, but not limited to, reinstatement, hiring or promotion of the aggrieved individual, with or without back pay, or any other equitable administrative relief necessary to correct and rectify the discriminatory act or practice. Nothing in this policy prohibits any aggrieved party from seeking remedy through the state or federal agency responsible for such actions.

## **SECTION XV - MISCELLANEOUS**

**15.1 Designated Work Areas.** All employees are to be at their designated work areas on time and ready to work. They shall work until the scheduled quitting time, unless permission of the supervisor has been obtained for different work hours. Employees shall not litter work areas and will keep such areas neat and clean.

**15.2 Personal Business.** Personal business shall not be conducted during work hours.

**15.3 Safety.** The County is committed to having all work conducted in a safe manner. All safety precautions shall be followed in accordance with federal, state, or county policies.

**15.4 County Property.** Employees shall not misuse or destroy County property, records, or other material in their care, control, or custody; nor shall any County property, records, or other material be removed from the premises of the County offices unless written permission by the department director or elected official has been given. Employees shall not use County property, records or equipment for personal use.

**15.5 County Vehicles.** No County vehicle will be taken out of the County without permission of the elected official or department director and employees shall notify the elected official or department director of their destinations and itineraries. County vehicles shall be used for County business only. County vehicles may not be taken home unless designated permissible as defined in the Accident Prevention Program Policy and adheres to Section 9.7 Fringe Benefits. The Cibola County Vehicle Accident Prevention Policy Program adopted by the Board of County Commissioners June 27, 2006 as may be amended from time to time is hereby adopted and incorporated into this Ordinance by reference.

- A. County vehicles shall not be used for personal business, except as is incidental in commuting. Employee family members or passengers not on official County business are not allowed to ride in a County vehicle and strict adherence to this policy is directed to all employees operating a County vehicle.
- B. No Smoking in Vehicles or Motorized Equipment. Smoking in all county vehicles or motorized equipment is prohibited.

**15.6 Personal Appearance.** Dress, grooming, and personal cleanliness standards contribute to the morale of all employees and affect the business image the County presents to customers and visitors.

- A. During business hours, employees are expected to present a clean and neat appearance and to dress according to the requirements of their positions. Employees who meet the public, both internal and external, must dress in appropriate business attire at all times. Employees may observe casual dress on Friday if the above stipulation does not apply. Examples of questionable work attire are sun dresses with bare backs and/or shoulders, men's undershirts, excessively baggy, short, or tight clothing, sweatpants and shorts, for men or women, bare midriffs or excessively sheer fabrics unless adequate cover-up (jacket, sweater, etc.) is worn throughout the work day, and low-cut tops/blouses/shirts/dresses (e.g., if they expose "cleavage" when the employee is standing or sitting in a normal manner). Employees who appear for work inappropriately dressed will be sent home and directed to return to work in proper attire. Under such circumstances, employees will not be compensated for the time away from work.
- B. Employees are required to maintain personal cleanliness by bathing daily; maintaining daily oral hygiene (brushing of teeth); using deodorant/antiperspirant to minimize body odor; refraining from the use of heavily scented perfumes, colognes and lotions; maintaining clean and trimmed fingernails; and washing hands after eating or using the restrooms.
- C. An employee should consult their elected official or department director if they have questions as to what constitutes appropriate attire.

**15.7 Weapons in the Work Place.** It is the policy of the County that employees are strictly prohibited from introducing, possessing, using, buying, or selling weapons, firearms, ammunition, explosives, or other items constituting deadly weapons pursuant to NMSA 1978, § 30-1-12 (B) (1963), as amended, said weapons are prohibited on any premises controlled by the County.

- A. The aforementioned policy statement regarding the possession of firearms or other dangerous items does not pertain to deputies commissioned by and for the Sheriff's Department, Animal Control officers or those Detention officers authorized to carry firearms by the director of the Detention Center, when said employees are in the lawful performance and discharge of their duties.
- B. The aforementioned policy statement regarding the possession of firearms does not prohibit an employee who lawfully possesses a firearm and/or ammunition from transporting or storing a firearm or ammunition in a locked privately owned motor vehicle in a county parking lot or parking area.
- C. The aforementioned policy statement regarding the possession of firearms does not prohibit an employee with a valid concealed handgun license to carry a handgun consistent with the limitations imposed by NMSA 1978, Section 29-19-1 *et seq.*
- D. If an employee has questions about this policy, or becomes aware of anyone acting in violation of this policy, the employee shall contact the elected official or department director immediately.
- E. Failure to abide by the terms of this policy may result in discipline up to and including dismissal.

**15.8 Searches & Surveillance.** The County's employees should not expect privacy in their personal effects while on County property or on County time. Employee workplaces may be subject to video surveillance. The County may search lockers, desks, toolboxes, lunch sacks, clothing, County internet, County e-mail or County computer accounts and County electronic media/storage, a County vehicle, and any other item in which an unauthorized weapon or other contraband may be hidden. To the extent that an employee refuses to permit a search, such refusal may constitute grounds for disciplinary action.

**15.9 Workplace Violence.** The County provides a safe work place for all employees. To ensure a safe workplace and to reduce the risk of violence, all employees should review and understand all provisions of this Workplace Violence policy. All employees, including managers and supervisors, are responsible for using safe work practices, for following all directives, policies and procedures, and for assisting in maintaining a safe and secure work environment.

- A. **Prohibited Conduct.** The County does not tolerate any type of workplace violence committed by or against employees. Employees are prohibited from making threats or engaging in violent activities. This list of behaviors, while not inclusive, provides examples of conduct that is prohibited.
  - 1. Causing physical injury to another person;
  - 2. Making threatening remarks;
  - 3. Aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress;
  - 4. Intentionally damaging County property or property of another employee;
  - 5. Possession of a weapon (refer to Section 15.7) while on County property or while on County business;

6. Committing acts motivated by, or related to, sexual harassment, harassment or domestic violence.
- B. Reporting Procedures. Any potentially dangerous situations must be reported immediately in writing to a supervisor or the County Manager's office. All reported incidents will be investigated. Reports or incidents warranting confidentiality will be handled appropriately and information will be disclosed to others only on a need-to-know basis. All parties involved in a situation will be counseled and the results of investigations will be discussed with them. The County will actively intervene at any indication of a possibly hostile or violent situation.
- C. Risk Reduction Measures. Hiring: The County takes reasonable measures to conduct background investigations to review candidate's backgrounds and reduce the risk of hiring individuals with a history of violent behavior.
- D. Safety: The risk management carrier conducts annual inspections of the premises to evaluate and determine any vulnerability to workplace violence or hazards. Any necessary corrective action will be taken to reduce all identified risk areas.
- E. Individual Situations: While the County does not expect employees to be skilled at identifying potentially dangerous persons, employees are expected to exercise good judgment and to inform their supervisor or department director if any employee exhibits behavior which could be a sign of a potentially dangerous situation. Such behavior includes:
  1. Discussing the use of weapons in a threatening manner related to the workplace, or bringing them to the workplace;
  2. Displaying overt signs of extreme stress, resentment, hostility, or anger;
  3. Making threatening remarks;
  4. Sudden or significant deterioration of performance;
  5. Displaying irrational or inappropriate behavior.
- F. Dangerous/Emergency Situations. Employees who are confronted by or encounter an armed or dangerous person should not attempt to challenge or disarm the individual.
- G. Enforcement. Threats, threatening conduct, or any other acts of aggression or violence in the workplace will not be tolerated. Any employee determined to have committed such acts will be subject to corrective or disciplinary action, up to and including dismissal. Non-employees engaged in violent acts on the County's premises will be reported to the proper authorities.

**15.10 Final Paycheck.** An employee who resigns shall receive a final paycheck on the first regularly scheduled payday following the employee's effective date of resignation. Any employee who is dismissed shall receive a full paycheck by 5:00 p.m. on the fifth (5<sup>th</sup>) working day following dismissal or on the next payday, whichever occurs first, or as required by law. In the case of death, final salary and compensation for unused annual leave shall be paid to the employee's named beneficiary or, if unnamed, to the employee's estate, on the next regularly scheduled payday.

**15.11 Uniforms.** An employee in a designated job with the County may be required to wear special clothing to perform the job function with patches, badges or other distinctive items as approved by the elected official, department director or the County Manager.

- A. Employees whose job calls for a uniform and who receive a uniform allowance or a uniform must wear the uniform whenever they are on duty. Uniforms are to be worn in the manner that they were intended to be worn and are not to be modified to satisfy

personal desires. For example, you cannot cut off sleeves or collars or remove patches, etc. Section supervisors or foremen are responsible for insuring that each employee wears the uniform in a neat and clean condition.

- B. The selected top wear of the uniform must be a shirt and **must** have the appropriate patches sewn on. At the time uniforms are selected, field employees and mechanics may select a pair of coveralls in lieu of a set of regular uniforms, unless the job prohibits wearing coveralls. Management may choose to provide insulated coveralls where warranted by working conditions.
- C. Safety Shoe/Boot Program. Drivers, mechanics, and other employees designated by the department to participate in the safety shoe/boot program will be required to wear this safety footwear while on duty. Shoes or boots purchased as safety shoes/boots shall be ANSI-approved (ANSI Z41-1991 standards) and shall be steel-toed in order to qualify for departmental reimbursement. Prior approval from the department director or his designee must be obtained before purchase of another type of safety shoe/boots.
- D. Other Safety-Related Attire. The County emphasizes safety as a primary focus of our activities and will provide necessary safety attire when needed or requested by the employee and approved by the department director or elected official. Safety attire, such as gloves, safety vests, hearing protection devices, safety glasses, disposable coveralls for spraying, and respirators, are important work items and are to be used and maintained by the employee once issued. These items should be maintained as required and turned in for replacement or when no longer needed for the intended activity.
  - 1. *Gloves*: Employees who need gloves (canvas, leather, palm, or all leather) to perform their assigned work shall be furnished gloves by the department at no charge to the employee, providing they turn in their old worn out gloves.
  - 2. *Badges*, if issued to security service employees, will be provided by the department at the department's expense. Any misuse of the badge may lead to corrective/disciplinary action being taken against the individual who misused his/her badge.
- E. Caps or Hats. Employees who work outdoors are encouraged to wear a cap or hat to protect them from the elements, including sun rays. Departments are granted authority, if for safety or security purposes, to promulgate additional policies regarding the wearing of caps or hats in specific work environments. It is encouraged that caps with the County and Department emblem be worn whenever possible, but this is not a mandatory requirement unless for safety or security purposes.

**15.12 Return of Uniforms, Equipment & County Property.** Upon severance from County service, all County issued uniforms, equipment, keys, cellular phones, laptop computers, etc. shall be returned to the County. Failure to do so shall result in a deduction for cost of replacement of the items from the employee's final paycheck and possible legal action to recover return of security sensitive items.

**15.13 Gifts, Gratuities or Kickbacks.** All employees are prohibited from accepting gifts or other considerations from anyone given with intent of modifying the employee's performance of duties or encouraging the employees to make purchases from the individual or business involved. Employees will maintain the highest moral standards and any attempt to influence employee's performance by a vendor or other person will be reported to the department director or elected official and to the County Manager.



- A. It is unlawful for any County employee, as defined in §13-1-28 NMSA 1978, to participate directly or indirectly in a procurement when the employee knows that the employee or any member of the employee's immediate family has a financial interest in the business seeking or obtaining a contract. An employee or any member of an employee's immediate family who holds a financial interest in a disclosed blind trust shall not be deemed to have a financial interest with regard to matters pertaining to that trust. (§13-1-190 NMSA 1978)
- B. Contingent fees prohibited. It is unlawful for a person or business to be retained or for a business to retain a person or business to solicit or secure a contract upon an agreement or understanding that the compensation is contingent upon the award of the contract, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business and persons or businesses employed by the County which are providing professional services to the County in anticipation of the receipt of federal or state grants or loans (§13-1-192 NMSA 1978).
- C. Contemporaneous employment prohibited. It is unlawful for a County employee who is participating directly or indirectly in the procurement process to become or to be, while such an employee, the employee of any person or business contracting with the County by whom the employee is employed (§13-1-193 NMSA 1978).
- D. Use of confidential information prohibited. It is unlawful for any County employee or former employee knowingly to use confidential information for actual or anticipated personal gain or for the actual or anticipated personal gain of any other person (§13-1-194 NMSA 1978).

**15.14 Normal Work Hours.** Normal work hours will be based on a forty (40) hour work week. All County offices shall be open from 8:00 a.m. to 5:00 p.m. Monday through Friday; unless a different forty (40) hour work schedule is approved by the elected official/department director and the County Manager. During a normal work day, the department director or elected official may authorize an unpaid full one-hour lunch breaks in accordance with departmental scheduling needs.

**15.15 Reduced Work Hours.** The Board may reduce the number of work hours by resolution if the Board determines that the County budget will not sustain the normal work hours. Reduced work hours will apply to all full time employees of the County, with the possible exception of those employees in safety-sensitive or security-sensitive positions.

**15.16 Separation from Service with the County.** Upon an employee's termination or resignation from the County, he or she will be entitled to an exit interview process with the Human Resources Director, and the elected official and/or the department director.

## **SECTION XVI: AUTHORITY**

**16.1 Rules.** These rules are promulgated on the authority granted in state and federal law and the Ordinance providing for these Rules.

**16.2 Savings Clause.** If any article, section, paragraph, clause, word or phrase of this Ordinance is held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance.



## SECTION XVII: REPEAL OF FORMER PERSONNEL POLICY

Cibola County Ordinance 2006-02 is repealed, as well as all other Cibola County Ordinances or Resolutions relating to personnel which are in conflict with the above provisions, by the adoption of this Ordinance.

APPROVED, ADOPTED, AND PASSED on this 22nd day of June, 2016.

EFFECTIVE: \_\_\_\_\_, 2016

### BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Robert Armijo  
Commissioner, District I

\_\_\_\_\_  
T. Walter Jaramillo  
Commissioner, District II

\_\_\_\_\_  
Jack Moleres  
Commissioner, District III

\_\_\_\_\_  
Patrick Simpson  
Commissioner, District IV

\_\_\_\_\_  
Lloyd F. Felipe  
Commissioner, District V

Attest:

\_\_\_\_\_  
Elisa Bro  
Cibola County Clerk



# EMPLOYEE ACKNOWLEDGEMENT FORM

CIBOLA COUNTY EMPLOYEE RECEIPT OF PERSONNEL POLICY ORDINANCE 16-02.

I \_\_\_\_\_ acknowledge that on \_\_\_\_\_  
(print name of employee) (date)

I received an electronic/hard copy of the Cibola County Personnel Policy Ordinance 16-02. I understand that the Personnel Policy is the law that controls, explains and provides the terms of and conditions of my employment with the County of Cibola. I further understand that I am responsible for compliance with all Cibola County Policies, which can be found on the County's website at <http://cibolacountynm.com/>. I further understand that this receipt will be placed in my employment file as evidence of my having been given a copy the policy.

\_\_\_\_\_  
(Signature of Employee)

# **CIBOLA COUNTY**

## **ORDINANCE NO: 16-01**

### **ORDINANCE AUTHORIZING THE OPERATION OF RECREATIONAL OFF-HIGHWAY VEHICLES AND ALL-TERRAIN VEHICLES ON PAVED STREETS OWNED AND CONTROLLED BY THE COUNTY OF CIBOLA AS SET FORTH IN THIS ORDINANCE.**

**WHEREAS**, the New Mexico Legislature amended Section 66-3-1011 NMSA 1978 to allow the operation of recreational off-highway and all-terrain vehicles on a paved street owned and controlled by the authorizing entity, subject to certain conditions;

**WHEREAS**, the Governing Body of the County of Cibola has adopted by reference the 2016 Compilation of the New Mexico Uniform Traffic Code, which rewrote section 66-1-1 through 67-7-11 to allow the operation of recreational off-highway and all-terrain vehicles on a paved street owned and controlled by the authorizing authority, subject to certain conditions;

**WHEREAS**, the Governing Body of the County of Cibola now deems it desirable to allow the operation of recreational off-highway and all-terrain vehicles on paved streets owned and controlled by the County of Cibola, subject to certain conditions;

### **NOW THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE COUNTY OF CIBOLA, NEW MEXICO:**

**SECTION 1: PURPOSE.** The purpose of this Ordinance is to allow the operation of recreational off-highway and all-terrain vehicles on a paved street or highway owned and controlled by the County of Cibola, as authorized in this Ordinance.

### **SECTION 2: DEFINITIONS.** As used in this Ordinance:

- A. "All-Terrain Vehicle" is a type of off-highway motor. An all-terrain vehicle means a vehicle fifty inches or less in width, having an unladen dry weight of one thousand pounds or less, traveling on three or more low-pressure tires and having a seat designed to be straddled by the operator and handlebar-type steering control, or as otherwise defined in Section 66-3-1001.1(E)(1) of the Off-Highway Motor Vehicle Act.
- B. "Recreational Off-Highway Vehicle" is a type of off-highway motor vehicle. A recreational off-highway vehicle means:

- (1) A recreational off-highway vehicle is a motor vehicle designed for travel on four or more non-highway tires, for recreational use by one or more persons, and having:
  - (a) a steering wheel for steering control;
  - (b) non-straddle seating;
  - (c) maximum speed capability greater than thirty-five miles per hour;
  - (d) gross vehicle weight rating no greater than one thousand seven hundred fifty pounds;
  - (e) less than eighty inches in overall width, exclusive of accessories;
  - (f) engine displacement of less than one thousand cubic centimeters; and
  - (g) identification by means of a seventeen-character vehicle identification number; or
- (2) By rule of the Department of Game and Fish, any other vehicles that may enter the market that fit the general profile of vehicles operated off the highway for recreational purposes.

**SECTION 3: OPERATION OF RECREATIONAL OFF-HIGHWAY VEHICLE OR ALL-TERRAIN VEHICLE ON PAVED STREETS OWNED AND CONTROLLED BY THE COUNTY OF CIBOLA.**

- A. A person shall not operate an off-highway motor vehicle on any
  - (1) limited access highway or freeway at any time; or
  - (2) paved street except as provided in Subsections B, C, D, E, F, and G below.
- B. A recreational off-highway vehicle or all-terrain vehicle may be operated on a paved street owned and controlled by the County of Cibola, if:
  - (1) the vehicle has one or more headlights and one or more tail-lights that comply with the Off-Highways Motor Vehicle Act, Chapter 66, Article 3, NMSA 1978;
  - (2) the vehicle has brakes, mirror, and mufflers;
  - (3) the operator has a valid driver's license, instruction permit or provisional license and an off-highway motor vehicle safety permit;

- (4) the operator is insured in compliance with provisions of the Mandatory Financial Responsibility Act, Chapter 55, Article 5, NMSA 1978; and
  - (5) the operator of the vehicle is wearing eye protection and a safety helmet that comply with the Off-Highway Motor Vehicle Act; Chapter 66, Article 3, NMSA 1978.
- C. Off-highway motor vehicles may cross streets or highways, except limited access highways or freeways, if the crossing are made after coming to a complete stop prior to entering the street. Off-highway motor vehicle shall yield the right of way to oncoming traffic and shall begin a crossing only when it can be executed safely and then crossing in the most direct manner, as close to a perpendicular angle as possible.
- D. A person shall not operate an off-highway motor vehicle on state game commission-owned, state game commission-controlled or state game commission-administered land, except as specifically allowed pursuant to the Habitat Protection Act, Chapter 17, Article 1, NMSA 1978.
- E. A person shall not operate an off-highway motor vehicle on land owed, controlled or administered by the state parks division of the energy, minerals and natural resources department, pursuant to the State Parks Division statute, Chapter 16, Article 2, NMSA 1978, except in areas designated by and permitted by rules adopted by the secretary of energy, minerals and natural resources.
- F. Unless authorized, a person shall not:
  - (1) Remove, deface or destroy any official sign installed by a state, federal, local or private land management agency; or
  - (2) Install any off-highway motor vehicle-related sign.

**SECTION 4: SPEED LIMIT.** The statute allows the County to establish separate speed limits and operating restrictions for off-highway vehicles. The speed limits shall be as defined below:

- (1) The speed limit for all-terrain vehicles operated within the county shall be 35 miles per hour or the posted speed limit, whichever is less. If the posted speed limit is higher than 35 miles per hour, the operator shall operate the all-terrain vehicle on the extreme right hand side of the roadway.



- (2) The speed limit for recreational off-highway vehicles, UTV's, operated within the county shall be 45 miles per hour or the posted speed limit, whichever is less.

## **SECTION 5: PASSENGERS**

- A. A person operating a recreational off-highway vehicle shall ride only upon the permanent and regular seat attached thereto and such operator shall not carry any other person nor shall any other person ride on a recreational off-highway vehicle unless such vehicle is designed to carry more than one person, if designed for two persons, or upon another seat firmly attached to the recreational off-highway vehicle at the rear of the operator.
- B. A person under the age of eighteen shall not operate an all-terrain vehicle while carrying a passenger.
- C. A person shall ride an all-terrain vehicle only while sitting astride the seat, facing forward, with one leg on either side of the off-highway motor vehicle.
- D. No person shall ride upon an all-terrain vehicle while carrying any package, bundle, or other article which prevents him from keeping both hands on the handlebars.
- E. No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation of the all-terrain vehicle or the view of the operator.

**SECTION 6: OBEDIENCE TO TRAFFIC LAWS REQUIRED.** Any person operating an off-highway motor vehicle shall obey all traffic laws, rules and regulations and shall be subject to the provisions of Articles 1 through 8 of Chapter 66 NMSA 1968 [except 66-7-102.1 NMSA 1978].

**SECTION 7: SEVERABILITY.** In the event that any clause, sentence, paragraph, section, or other portion of this Ordinance is found by any Court of competent jurisdiction to be invalid, it is the intent of the Governing Body that the remaining portions of the ordinance be given full force

and effect. It is the expressed intent of the City Council to adopt each section, phrase, paragraph, and word of this Ordinance separately.

**SECTION 8 REPEAL.** All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent they conflict with this Ordinance.

Effective Date. This Ordinance shall become effective on the \_\_\_\_ day of \_\_\_\_\_, 2016.

PASSED, APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
T. Walter Jaramillo, Chairman

\_\_\_\_\_  
Robert Armijo, 1<sup>st</sup> Vice-Chairman

\_\_\_\_\_  
Jack Moleres, 2<sup>nd</sup> Vice Chairman

\_\_\_\_\_  
Patrick Simpson, Commissioner

\_\_\_\_\_  
Lloyd F. Felipe, Commissioner

Attest:

\_\_\_\_\_  
Elisa Bro, County Clerk

**CIBOLA COUNTY  
ORDINANCE 16-03**

**AN ORDINANCE PROHIBITING ILLEGAL TIRE DUMPSITES, THE  
IMPORTATION OF SCRAP TIRES INTO CIBOLA COUNTY AND PROVIDING  
FOR THE ABATEMENT OF ILLEGAL TIRE DUMPSITES**

**PREAMBLE**

**WHEREAS**, NMSA 1978, Section 3-18-1 (1972) provides that municipalities, and also counties pursuant to NMSA 1978, Section 4-37-1 (1995), have the power to “protect generally the property of its municipality and its inhabitants” and to “preserve peace and order”; and,

**WHEREAS**, Section 4-37-1 et seq. NMSA 1978 provides that counties may adopt ordinances, not inconsistent with statutory or constitutional limitations placed on counties, to discharge those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the county and its inhabitants; and,

**WHEREAS**, the Board of County Commissioners has found that the illegal dumping and disposal of scrap tires has become an environmental, public safety, and health threat as well as blight on the landscape and that illegal tire dumping poses a substantial present or potential hazard to human health and/or the environment; and,

**WHEREAS**, the Board of County Commissioners has found that the greatest danger posed by illegal tire dumpsites is the possibility of a catastrophic fire occurring due to the large quantities of petroleum and other chemicals in tires since a burning tire pile creates thick, black, toxic smoke as well as large discharges of contaminated oil. The contaminated oil can enter surface water or groundwater, causing serious pollution problems. Once a tire pile is burning, the fire is extremely difficult to extinguish. Furthermore, the shape of a tire allows for easy entrance and containment of rainwater. This creates an ideal breeding habitat for mosquitoes. In addition to the nuisance caused by clouds of mosquitoes generated by scrap tire piles, mosquitoes can carry serious diseases such as eastern equine encephalitis; and,

**WHEREAS**, the Cibola County Board of Commissioners has determined that the health, safety and general welfare of the residents of Cibola County would best be served by the adoption of this ordinance;

**NOW THEREFORE BE IT ORDAINED** that the Cibola County Board of Commissioners does hereby establish a Tire Importation and Illegal Tire Dumping Ordinance, as follows:

## **GENERAL PROVISIONS**

### **SECTION I. TITLE.**

This Ordinance and any amendment hereto shall be known and may be cited as the Cibola County Tire Importation and Illegal Tire Dumping Ordinance.

### **SECTION II. AUTHORIZATION AND SCOPE.**

This Ordinance is hereby enacted pursuant to NMSA 1978, Sections 4-37-1 et seq. and NMSA 1978, Section 3-18-1 (1972) and applies to the unincorporated areas of Cibola County.

### **SECTION III. GENERAL PURPOSE.**

This Ordinance is designed to protect the health and welfare of current and future residents of Cibola County by providing for the prevention and abatement of illegal tire dumpsites and prohibiting the importation of scrap tires into Cibola County.

### **SECTION IV. DEFINITIONS**

- A. "abatement" means to reduce in amount, degree or intensity or to eliminate;
- B. "agricultural use" means the beneficial use of scrap tires in conjunction with the operations of a farm or ranch that includes construction projects and aids in the storage of feed;
- C. "board" means the Board of County Commissioners of Cibola County;
- D. "civil engineering application" means the use of scrap tires or other recycled material in conjunction with other aggregate materials in engineering applications;
- E. "county manager" means the person appointed by the Board pursuant to NMSA 1978, Section 4-38-19 (B) (1973);
- F. "composting" means the process by which biological decomposition of organic material is carried out under controlled conditions and the process stabilizes the organic fraction into a material that can be easily and safely stored, handled and used in an environmentally acceptable manner;
- G. "department" means the New Mexico Department of Environment;
- H. "dispose" means to deposit scrap tires into or on any land or water;
- I. "hazardous waste" means the storage and/or dumping of scrap tires in a quantity and concentration that may cause or significantly contribute to an increase in mortality or an



increase in serious irreversible or incapacitating reversible illness or that may pose a substantial present or potential hazard to human health or the environment, or as otherwise defined by the Hazardous Waste Act;

J. "hazardous waste act" means NMSA 1978 Section 74-4-1 *et seq.*;

K. "household" means any single and multiple residence, hotel or motel, bunkhouse, ranger station, crew quarters, campground, picnic ground or day-use recreation area;

L. "illegal dumping" means disposal of scrap tires in a manner that violates Recycling and Illegal Dumping Act and/or this Ordinance;

M. "illegal dumpsite" means a place where illegal dumping has occurred except as stated in Subsection A of Section V of this Ordinance;

N. "import" means to carry, transport or bring scrap tires, for the purpose of disposal, from outside of the jurisdictional boundaries of Cibola County into the jurisdictional boundaries of Cibola County.

O. "motor vehicle" means a vehicle or device that is propelled by an internal combustion engine or electric motor power that is used or may be used on the public highways for the purpose of transporting persons or property and includes any connected trailer or semitrailer;

P. "processing" means techniques to change physical, chemical or biological character or composition of solid waste but does not include composting, transformation or open burning;

Q. "recycling" means any process by which recyclable materials are collected, separated or processed and reused or returned to use in the form of raw materials or products;

R. "Recycling and Illegal Dumping Act" means NMSA 1978 74-13-1 *Et Seq.*;

S. "scrap tire" means a tire that is no longer suitable for its originally intended purpose because of wear, damage or defect;

T. "scrap tire baling" means the process by which scrap tires are mechanically compressed and bound into block form;

U. "scrap tire generator" means a person who generates scrap tires, including retail tire dealers, retreaders, scrap tire processors, automobile dealers, automobile salvage yards, private company vehicle maintenance shops, garages, service stations and city, county and state government, but does not include persons who generate scrap tires in a household or in agricultural operations;

V. “scrap tire hauler” means a person who transports scrap tires for hire for the purpose of recycling, disposal, transformation or use in a civil engineering application;

W. “secretary” means the secretary of environment;

X. “tire” means a continuous solid or pneumatic rubber covering that encircles the wheel of a motor vehicle;

Y. “tire-derived fuel” means whole or chipped tires that produce a low sulfur, high-heating-value fuel;

Z. “tire-derived product” means a usable product produced from the processing of a scrap tire but does not include baled tires;

AA. “tire recycling” means a process in which scrap tires are collected, stored, separated or reprocessed for reuse as a different product or shredded into a form suitable for use in rubberized asphalt or as raw material for the manufacture of other products; and

BB. “tire recycling facility” means a place operated or maintained for tire recycling but does not include:

(1) retail business premises where tires are sold, if no more than five hundred loose scrap tires or two thousand scrap tires, if left in a closed conveyance or enclosure, are kept on the premises at one time;

(2) the premises of a tire retreading business, if no more than one thousand scrap tires are kept on the premises at one time;

(3) premises where tires are removed from motor vehicles in the ordinary course of business, if no more than five hundred scrap tires are kept on the premises at one time;

(4) a solid waste facility having a valid permit or registration issued pursuant to the provisions of the Solid Waste Act or regulations adopted pursuant to that act or registration issued pursuant to the Environmental Improvement Act; or

(5) a site where tires are stored or used for agricultural uses.

## SECTION V. PROHIBITED ACTS

A. A person shall not store or use in a civil engineering application, except for agricultural use, more than one hundred scrap tires anywhere in Cibola County, unless the person has a valid permit or registration from the department.

B. A person shall not operate or maintain a tire recycling facility unless the facility has a valid permit issued pursuant to the provisions of the Recycling and Illegal Dumping Act



or is a facility where tires are stored and used for agricultural uses and complies with rules enacted pursuant to the Recycling and Illegal Dumping Act.

C. A person shall not transport scrap tires for hire to a place other than a tire recycling facility unless the place is specifically excluded from the definition of a "tire recycling facility".

D. A person shall not transport scrap tires for hire either for disposal or recycling purposes without being registered as a scrap tire hauler by the department pursuant to rules adopted in accordance with the Recycling and Illegal Dumping Act.

E. A person shall not import scrap tires into the County of Cibola for any reason.

F. A scrap tire generator shall not release scrap tires to a person other than a registered scrap tire hauler pursuant to the Recycling and Illegal Dumping Act.

G. A person shall not engage in the open burning of scrap tires.

H. A person shall not store or dispose of scrap tires or tire-derived products in a manner that creates a public nuisance, promotes the breeding or harboring of disease vectors, creates a hazardous waste or creates a potential for fire or other health or environmental hazards.

G. Except for agricultural uses, a person shall not store scrap tires or tire-derived products for a period exceeding twelve months unless specifically authorized by the Secretary.

H. A scrap tire hauler shall not transport scrap tires without possessing a New Mexico scrap tire manifest approved by the Department.

I. A person shall not engage in, maintain or allow illegal dumping.

## SECTION VI. DECLARATION OF PUBLIC NUISANCE

Illegal dumpsites are declared to be public nuisances as defined by NMSA 1978, Section 30-8-1 (1963).

## SECTION VII. ABATEMENT OF ILLEGAL DUMPSITE

The Board or the County Manager on behalf of the Board may bring an abatement action pursuant to the provisions of NMSA 1978 Section 30-8-8 (1963) to eliminate an illegal dumpsite.

## SECTION IX. CONTINUED FAILURE TO ABATE

Each day an offending condition remains unabated beyond the time allowed for abatement by an appropriate court shall constitute a separate violation of this Ordinance.

SECTION X. PENALTIES

A. Persons violating this Ordinance shall, upon conviction, be subject to a fine not to exceed THREE HUNDRED DOLLARS (\$300.00) and/or NINETY (90) days in jail for.

B. Persons violating this Ordinance by illegally dumping scrap tires on public or private property shall upon conviction, be subject to a fine not to exceed ONE THOUSAND DOLLARS (\$1,000.00) and/or NINETY (90) days in jail for each separate offense.

C. Persons violating this Ordinance by illegally disposing of scrap tires in a quantity or manner that violates the Hazardous Waste Act, NMSA 1978 Section 74-4-1 *et seq.* shall upon conviction be subject to a fine not to exceed; FIVE THOUSAND DOLLARS (\$5,000.00) and/or NINETY (90) days in jail for each separate offense.

SECTION XI. ENFORCEMENT

The County Manager, or his/her designee and the County Sheriff shall enforce the provisions of this Ordinance.

SECTION XII. SAVINGS CLAUSE

If any article, section, paragraph, clause, word or phrase of this Ordinance is held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance.

APPROVED, ADOPTED, AND PASSED on this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

EFFECTIVE: \_\_\_\_\_, 2016

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Robert Armijo  
Commissioner, District I

\_\_\_\_\_  
T. Walter Jaramillo  
Commissioner, District II

\_\_\_\_\_  
Jack Moleres  
Commissioner, District III

\_\_\_\_\_  
Patrick Simpson  
Commissioner, District IV

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Lloyd F. Felipe  
Commissioner, District V

Attest:

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Elisa Bro  
Cibola County Clerk

***Cibola County Commission***  
**Regular Meeting**  
**Wednesday, May 25, 2016**

The Cibola County Commission held a Regular Meeting on Wednesday May 25, 2016 at 5:31pm in the Cibola County Commission Center

**Elected Officials Present Staff**

T. Walter Jaramillo Chairman  
Robert Armijo, 1<sup>st</sup> Vice Chairman  
Jack Moleres, 2<sup>nd</sup> Vice Chairman  
Patrick Simpson, Commissioner  
Lloyd F. Felipe, Commissioner

Tony Boyd, County Manager  
Joseph Sanders, Financial Analyst  
Julie Quintana, Administrative Assistant  
Elisa Bro, County Clerk  
Doreen Esparza, Recording/Filing Clerk

**1. CALL TO ORDER**

Chairman T. Walter Jaramillo, County Chairman called the meeting to Order at 5:31 pm

**2. ROLL CALL**

Chairman Jaramillo does roll call-5-5 Commissioners in attendance.

**3. Pledge of Allegiance**

Recited by all.

**4. Prayer**

Commissioner Felipe led us in prayer.

**5. Approval of Agenda**

Motion to approve the agenda made by 1<sup>st</sup> Vice Chairman Armijo, second by Commissioner Simpson 5-5 affirmative.

**6. Approval of Minutes**

a. April 27, 2016 Regular Commission Meeting

Motion to approve minutes made by Commissioner Simpson, second by 1<sup>st</sup> Vice Chairman Armijo 5-5 affirmative.

b. May 5, 2016 Special Meeting

Motion to approve May 5, 2016 Special Meeting made by 1<sup>st</sup> Vice Chairman Armijo, second Vice Chairman Molerres. Commissioner Simpson and Commissioner Felipe absent both abstain. 3-5 affirmative.

c. May 11, 2016 Workshop

Motion to approve May 11, 2016 Workshop Meeting made by Commissioner Simpson, second by 1<sup>st</sup> Vice Chairman Armijo 5-5 affirmative.

d. May 18, 2016 Workshop

Motion to approve May 18, 2016 Workshop Meeting made by 1<sup>st</sup> Vice Chairman Armijo with the Correction Commissioner Simpson was present for the meeting second by Commissioner Simpson 5-5 affirmative.

## **7. Presentations**

a. Cibola General Hospital CEO Report

Thomas Whelan provided on update that the Hospital requires balance of quality political care, compassionate service and financial stability and if one of these are not operating well then they can contemplate additional cuts to Medicaid which would be 5% inpatients and 3% on the outpatients side which is proposed by an 11 member panel from Santa Fe. The hospital then has to adjust with this balance. To date there have been 60 hospitals to close since 2010, because they could not keep that balance. And it is reported that more than 700 other hospitals are vulnerable to close, many of them are small rural hospitals like ours. Luckily because of planning and saving and controlling expenses Cibola General Hospital is not on that list. They are financial sound and can afford to upgrade equipment and are currently developing their 2017 budget and goals to that they can continue to provide their services.

b. Employee of the Month

Manager Tony Boyd has named Tony Olveda as employee of the month, because of his hard work and dedication at the Road Department and Cibola County. Tony was hired as a seasonal employee and vector control and worked there until he was hired as a temporary utility man and was made a permanent employee in 2010. He has been with the County for 22 Years both seasonal, temporary and full time.

## **8. Reports**

### **a. Monthly Sheriff's Department Activity Report**

Sheriff Tony Mace gave a report that the sheriff's office for the month of April they had 27 transports from facility to facility, 29 transports from other agencies. And they have two SRO's one is under a contract position through Cibola County Schools and the other is an employee of the County that works directly with the Sheriff's Department. Once the SRO's are finished with their training in California one then works Summer School at the High School and after summer school is done that SRO works with the Sheriff's Office as a Deputy. And as the other SRO at the Middle School she then goes on vacation. And as the Shooting Range they are still waiting on the National Registry and will also be having a clean-up day at the Shooting Range on June 25<sup>th</sup>.

### **b. Monthly Detention Report**

Michael Dodds from the Detention gave an update for the month of April. Mr. Dodds mentioned that they are 3 officers short and 3 medical staff members short and they are still trying to fill in the medical position. They have a few applications for Lieutenant and have no applications for Sargent's or Officers.

#### **a) PREA**

Michael Dodds mentioned that they have no current investigations going or no claims on sexual abuse.

### **c. Monthly Road Department Report**

Gary Porter mentioned that for the month of April they bladed 99.308 miles throughout the County. They have been cutting trees, cleaning cattle guards, clearing culverts, mowing, sweeping, blading and moving rocks of the roadway.

### **d. County Complex Remodel Expense Report**

Manager Tony Boyd mentioned to the Chairman and the Commissioners that they have spent \$362,658.74 for the month of April and have a remaining balance of \$1,317,048.37. Total expenditure on this remodel at this time is \$2,839,718.52 and is still on track and on November 7, 2016 it will be turned over to the County.



## **9. Public Comments**

Linda Calligan a resident from La Jara Subdivision off Zuni Canyon Road mentioned to the Chairman and the Commissioners that the La Jara Subdivision roads were on the maintenance list in 1990 and for some reason or another she believes Mr. Ulibarri removed them off of the maintenance roads. Mr. Triplehorn a resident indicates for numerous years the roads were maintained by the County, because of a misunderstanding between Mr. Ulibarri and Mr. Silva the roads were then removed off the list by Mr. Ulibarri after some research by Mr. Ulibarri. She asked if Zuni Canyon Road can be back to code. Chairman Jaramillo and Manager Tony Boyd said that they would need to look into this matter to see if it was a County road.

Ronny Pynes asked the Chairman and the Commissioners if the \$2,839,718.52 spent to date does that include the \$1,000,000.00 spent on the Heath Services building. Manager Tony Boyd said no it does not.

## **10. Unfinished Business**

- a. Consideration of Pueblo of Acoma request for funding of Bus Routes

Motion to table made by made by 1<sup>st</sup> Vice Chairman Armijo, second by Commissioner Felipe 3-1 affirmative.

## **11. Action Items**

- a. Consideration of Chamber of Commerce request for funding of Fireworks Display

Motion to approve Chamber of Commerce request for funding \$5,000.00 of Fireworks Display made by 1<sup>st</sup> Vice Chairman Armijo, second by Moleres 3-2 affirmative.

- b. Consideration of Road Name Change from Garcia Blvd to Bajar Quemazon Road

Motion to table made by Commissioner Simpson, second by Felipe to get more Information. 5-5 affirmative.

c. Consideration of proceed with Voluntary Insurance through NMAC

Motion to approve consideration of proceed with Voluntary Insurance through NMAC made by 2<sup>nd</sup> Vice Chairman Moleres, second by 1<sup>st</sup> Vice Chairman Armijo 5-5 affirmative.

d. Consideration of Resolution 16-26 Road Cut Permit Policy

Motion to approve Resolution 16-26 Road Cut Permit Policy made by Commissioner Simpson, second by 1<sup>st</sup> Vice Chairman Armijo 5-5 affirmative.

e. Consideration of Resolution 16-27 Grave Excavation Policy

Motion to approve Resolution 16-27 Grave Excavation Policy made by Commissioner Simpson, second by 1<sup>st</sup> Vice Chairman Armijo 5-5 affirmative.

f. Consideration of Resolution 16-28 Social Media Policy

Motion to approve Resolution 16-28 Social Media Policy made Commissioner Felipe, second by Commissioner Simpson 5-5 affirmative.

g. Consideration of Contract:

a. Grant Agreement: Children, Youth, and Families Department #17-19786

Motion to approve Grants Agreement: Children, Youth, and Families Department #17-19786 made by 1<sup>st</sup> Vice Chairman Armijo, second by Commissioner Simpson 5-5 affirmative.

b. Future Foundations

Motion to approve Future Foundations made by Commissioner Simpson, second by 1<sup>st</sup> Vice Chairman Armijo 5-5 affirmative.

c. Grants MainStreet Project

Motion to not fund made by 2<sup>nd</sup> Vice Chairman Moleres, second by Commissioner Simpson 5-5 affirmative.

**d. Huitt Zollars**

Motion to approve Huitt Zollars made by 2<sup>nd</sup> Vice Chairman Moleres, second by Commissioner Simpson 5-5 affirmative.

**e. Extension Office**

Motion to approve 55,905 for Extension Office made by Commissioner Simpson, second by 1<sup>st</sup> Vice Chairman Armijo 5-5 affirmative.

**f. Economic Development**

Motion to approve Economic Development for \$44,000.00 made by 1<sup>st</sup> Vice Chairman Armijo, second by Commissioner Simpson 5-5 affirmative.

**g. Chamber of Commerce**

Motion to fund \$46,500.00 for Chamber of Commerce made by 1<sup>st</sup> Vice Chairman Armijo, second by Commissioner Felipe 5-5 affirmative.

**h. Cibola County Historical Society**

Motion to refrain for making a donation this year for Cibola County Historical Society made by 2<sup>nd</sup> Vice Chairman Moleres, second by 1<sup>st</sup> Vice Chairman Armijo 5-5 affirmative.

**i. Rodeo Association**

Motion to not fund Rodeo Association this year made by 1<sup>st</sup> Vice Chairman Armijo, second by Commissioner Felipe 5-5 affirmative.

**j. Double Six Gallery**

Motion not to fund Double Six Gallery made by 2<sup>nd</sup> Vice Chairman Moleres, second by Simpson 5-5 affirmative.

**k. Road Runner**

Motion to fund and not to exceed \$60,000.00 for Road Runner made by 2<sup>nd</sup> Vice Chairman Molerres, second by 1<sup>st</sup> Vice Chairman Armijo 5-5 affirmative.

**l. Recycle Cibola**

Motion to fund \$4,600.00 for Recycle Cibola made by Commissioner Felipe, second by 2<sup>nd</sup> Vice Chairman Molerres 5-5 affirmative.

**h. Consideration of Preliminary Budget**

Motion to accept Consideration of Preliminary Budget as is and to institute wage freeze made by Commissioner Simpson, second by 2<sup>nd</sup> Vice Chairman Molerres 5-5 affirmative.

**i. Direction to Publish off Highway Vehicle Ordinance**

Motion to Direction to Publish off Highway Vehicle Ordinance made by Commissioner Simpson, second by 2<sup>nd</sup> Vice Chairman Molerres 5-5 affirmative.

**j. Direction to Publish Personal Policy Ordinance**

Motion to Direction to Publish Personal Policy Ordinance made by Commissioner Simpson, second by 2<sup>nd</sup> Vice Chairman Molerres 5-5 affirmative.

**k. Direction to Publish Prohibiting Illegal Tire Dumpsites, The Importation of Scrap Tires Into Cibola County And Providing For The Abatement of Illegal Tire Dumpsites Ordinance.**

Motion to Direction to Publish Prohibiting Illegal Tire Dumpsites, The Importation of Scrap Tires Into Cibola County And Providing For The Abatement of Illegal Tire Dumpsites Ordinance made by Commissioner Simpson, second by 2<sup>nd</sup> Vice Chairman Molerres 5-5 affirmative.

## **12. Manager's Report**

Manager Tony Boyd mentioned that Julie, Joseph, Jason, and Mike Allen have all worked hard on the website. Donald Jaramillo came over on Tuesday afternoon and he will be doing an article in next Tuesday paper about the website, and it will be going live to Citizens and Residence in Cibola County on June 1, 2016. The website will have Ordinances, Resolutions, and Forms. And items will be added to the website as things are getting done. Manager Tony Boyd also mentioned that they had a meeting with the US Forest Service on doing some Trails and Travel Management Plans. This was Spear headed by Mayor Modey Hicks and there trying to get them to revisit the Travel Management Plan to actually allow Four Wheelers, ATV'S, Side by Side's on some of the old railroad trails through the Zuni's and trying to get them to preform maintenance on some of the road ways especially forest road 239 and forest road 50.

## **13. Comments**

### **a. Staff**

No Comments at this time.

### **b. Commissioners**

Commissioner Felipe announced to the Commissioners and Chairman that he will be attending the 2016 Annual Conference of The New Mexico Association of Counties on June 22 through the 24.

## **14. Executive Closed Session**

a. Pursuant to Section 10-15-1 (H) (2) (5) (6) & (8) the following matter may be discussed in closed session:

a.) limited personnel matters: County Managers Contract:

b.) purchase of real property: Land East of La Mesa Mall

-Motion and roll call vote to go into Executive Session for the state reasons

Motion to go into closed session made by 1<sup>st</sup> Vice Chairman Armijo, second by Commissioner Simpson at 10:34 p.m.

Motion to vote to go back into regular session

Motion to vote to go back into Board of Commission made by Commissioner Simpson, second by 1<sup>st</sup> Vice Chairman Armijo at 12:14 a.m.

No votes were taken pertaining to Personal Matters.

**15. Action Items**

a. Consideration of County Managers Contract

Motion to accept Consideration of County Managers Contract made by Commissioner Simpson, second by 1<sup>st</sup> Vice Chairman Armijo 5-5 affirmative.

b. Consideration of Purchase of Land East of La Mesa Mall

No action is required at this time.

**16. Announcements**

The next Regular Commission Meeting will be held on Wednesday, June 22, 2016 at 5:00 p.m. immediately following the Board of Finance Meeting in the County Convention Room.

Cibola County will be closed on Monday May 30<sup>th</sup> for the Memorial Holiday.

**17. Adjournment**

Motion to Adjourn Commission Meeting made by 1<sup>st</sup> Vice Chairman Armijo, second by Commissioner Simpson at 12:17 a.m.



**12. Comments**

**1. Staff**

No comments at this time.

**2. Commissioners**

**13. Executive Closed Session**

**14. Announcements**

The next Regular Commission Meeting will be held on Wednesday, October 28, 2015 at 5:00 p.m. immediately following the Board of Finance Meeting in the County Convention Room.

**15. Adjournment**

A motion to adjourn the meeting made by 1<sup>st</sup> Vice Chairman Simpson, second by Commissioner Armijo 5-5 affirmative at 8:20 p.m.

***Cibola County Commission  
Workshop  
June 15, 2016***

The Cibola County Commission held a Workshop on Wednesday June 15, 2016 in the Cibola County Commission Room.

**Elected officials Present Staff**

**T. Walter Jaramillo, Chairman  
Robert Armijo, 1<sup>st</sup> Vice Chairman  
Jack Moleres, 2<sup>nd</sup> Vice Chairman**

**Manager Tony Boyd  
Joseph Sanders, Financial Analyst  
Michelle Dominguez, Deputy Clerk  
Natalie Grine, Recording/Filing Clerk**

**1. Call to Order**

Chairman T. Walter Jaramillo called the Meeting to Order at 5:06 p.m.

**2. Roll Call**

Chairman T. Walter Jaramillo does roll call 3-5 Commissioners in attendance. Commissioner Felipe and Commissioner Simpson were absent.

**3. Pledge of Allegiance**

Recited by all.

**4. Prayer**

Prayer led by Manager Tony Boyd.

**5. Approval of Agenda**

Approval of Agenda approved by Commissioner Armijo with the motion to postpone item 6 Harshwal & Company LLP until further notice second by 2<sup>nd</sup> Vice Chairman Moleres, 3-5 affirmative.

## **6. Commission Workshop** (For Discussion Purposes Only)

### **a. Contracts**

#### **I. Roberta's Place**

No decisions were made only discussion, this item will be presented at the next County Commission Meeting.

#### **II. Jaynes Corporation**

No decisions were made only discussion, this item will be presented at the next County Commission Meeting.

#### **III. Spy Glass**

No decisions were made only discussion, this item will be presented at the next County Commission Meeting.

#### **IV. Future Foundations**

No decisions were made only discussion, this item will be presented at the next County Commission Meeting.

#### **V. Mainstreet**

No decisions were made only discussion, this item will be presented at the next County Commission Meeting.

## **7. Announcements**

The next Regular Commission Meeting will be held on Wednesday June 22, 2016 at 5:00 p.m. Immediately following the Board of Finance Meeting in the County Convention Room.

## **8. Adjournment**

The meeting was adjourned at 6:35 p.m.



# Cibola County Sheriff's Office

*Sheriff Tony Mace*

tnymace@yahoo.com

*Undersheriff P. Michael Munk*

mmunk@co.cibola.nm.us

Office: 505-876-2040  
Dispatch: 505-287-9476  
Fax: 505-876-2090

Physical: 114 McBride Road  
Grants, NM 87020  
Mailing: 515 W. High St.  
Grants, NM 87020

The following are statistics for the Cibola County Sheriff's Department for MAY 1, 2016 through MAY 31, 2016.

		PREVIOUS YR 2015
Accidents	13	11
Arrests	61	55
Transports	37	27
Warrant Transports	28	20
Calls	687	562
Citations	17	25
Warnings	23	49
Civil Papers	65	49
Incidents	57	48
Animal Control Calls	30	38

Please note the above information will change as deputies do all above duties as it occurs.

# MAY 2016 COMMISSION REPORT

Bookings For May 2016
Bookings For April 2017

Bookings	Releases
242	234
248	230

Daily Average Inmate Count for May 2016
Daily Average Inmate Count for April 2017
Highest facility count for the month of May 2016

Male	Female	Total
151	42	193
136	36	173
158	44	202

Revenue Collected for May 2016		
Co. Correctional Fac GRT.	\$41,312.28	April 2016 For March 2016
Housing	\$99,350.82	Collected in April 2016
Federal Transports	\$4,006.26	Collected in April 2016
Medical	\$1,731.18	Reimbursements & Fees
All Other	\$4,012.29	Inmate Fees, Commissions, Other Revenue
Correction Fees		
Total	\$150,412.83	

Rent paid for May 2016	\$9,821.00	From State to General fund
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Juvenile Care paid for May 2016	\$12,517.19	Juvenile's are currently held at the McKinley County Detention
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## TOTAL BILLING DAYS FOR MAY 2016 = 1,995

Paying May 2016					
County, City & Federal	# of Inmates	Average # of Billing Days	Billing Days	Rate	Total
City of Grants	78	5.2	408	65.00	\$19,299.25
Village of Milan	6	2.5	15	65.00	\$845.00
United States Marshals	47	27.8	1,311	50.13	\$65,720.43
Valencia County				60.00	
Socorro County				54.00	
Rio Arriba County	10	21	210	75.00	\$15,750.00
Mora County	1	29	29	75.00	\$2,175.00
Catron County				75.00	
SanMiguel County				75.00	
Prisoner Transportation Services	10	1.4	14	75.00	\$1,050.00
Security Transport Services	8	1	8	75.00	\$600.00
Totals	160	87.9	1995		\$105,439.68

May 2016 Non Paying					
Non Paying	# of Inmates	Average # of Billing Days	Billing Days	Rate	Total
APPO	41	17.7	728	57.00	\$29,849.00
Magistrate Court	197	9	1,787	57.00	\$91,789.00
District Court	90	19	1,714	57.00	\$96,434.50
Totals	328	45.7	4,229		\$218,072.50

## JUVENILE DETENTION LISTING MAY 2016

FROM DATE	TO DATE	Man - Days	Total
5/24/16 16:32	5/31/16 23:59	7 DAYS & 7.45 HOURS	\$1,279.39
5/1/16 0:00	5/17/16 6:36	16 DAYS & 6.6 HOURS	\$2,848.18
5/27/16 9:22	5/31/16 13:27	3 DAYS & 28.28 HOURS	\$729.91
5/13/16 2:18	5/17/16 6:36	3 DAYS & 28.28 HOURS	\$731.44
5/1/16 0:00	5/31/16 23:59	31 DAYS	\$5,425.00
5/24/16 0:36	5/31/16 23:59	7 DAYS & 23.38 HOURS	\$1,395.67
5/2/16 23:43	5/3/16 14:28	14.74 HOURS	\$107.60

Total Man - Days: 67

Rate Per Day: \$108.00

Total Due: \$12,517.19

Year To Date	
Month	Amount
July	\$5,395.95
August	\$10,723.86
September	\$10,922.31
October	\$13,472.08
November	\$8,415.40
December	\$4,291.25
January	\$3,598.95
February	\$3,875.95
March	\$3,445.14
April	\$7,708.31
May	\$12,517.19
June	

Total To Date: \$84,366.39

Prison Rape Elimination Act (PREA) MONTHLY Reporting Data  
Cibola County Detention Center

1) How many persons under the supervision of your facility were-

CONFINED/BOOKED/RELEASED in the month of Ap

**May-16**    301

2) For the month of MAY, what was the average daily population of your confinement facility?

**May-16**        Male    151        Female    42

3) For the month of MAY, how many allegations of inmate-on-inmate NONCONSENSUAL SEXUAL ACTS were reported?

**May-16**    0

4) Of the allegations reported in item 3, how many were-

- |                          |                     |
|--------------------------|---------------------|
| a. Substantiated         | <b>May</b> <u>0</u> |
| b. Unsubstantiated       | <b>May</b> <u>0</u> |
| c. Unfounded             | <b>May</b> <u>0</u> |
| d. Investigation Ongoing | <b>May</b> <u>0</u> |

5) For the month of MAY how many allegations of inmate-on-inmate ABUSIVE SEXUAL CONTACT were reported?

**May-16**    0

6) Of the allegations reported in item 5, how many were-

- |                          |                     |
|--------------------------|---------------------|
| a. Substantiated         | <b>May</b> <u>0</u> |
| b. Unsubstantiated       | <b>May</b> <u>0</u> |
| c. Unfounded             | <b>May</b> <u>0</u> |
| d. Investigation Ongoing | <b>May</b> <u>0</u> |

7) For the month of MAY how many allegations of inmate-on-inmate SEXUAL HARRASSMENT were reported?

**May-16**    0

8) Of the allegations reported in item 7, how many were-

- |                          |                     |
|--------------------------|---------------------|
| a. Substantiated         | <b>May</b> <u>0</u> |
| b. Unsubstantiated       | <b>May</b> <u>0</u> |
| c. Unfounded             | <b>May</b> <u>0</u> |
| d. Investigation Ongoing | <b>May</b> <u>0</u> |

9) For the month of MAY how many allegations of STAFF SEXUAL MISCONDUCT were reported?

**May-16**    0

10) Of the allegations reported in item 9, how many were-

- |                          |                     |
|--------------------------|---------------------|
| a. Substantiated         | <b>May</b> <u>0</u> |
| b. Unsubstantiated       | <b>May</b> <u>0</u> |
| c. Unfounded             | <b>May</b> <u>0</u> |
| d. Investigation Ongoing | <b>May</b> <u>0</u> |

11) For the month of MAY, how many allegations of STAFF SEXUAL HARASSEMENT were reported?

**May-16**    0

12) Of the allegations reported in item 11, how many were-

- |                          |                     |
|--------------------------|---------------------|
| a. Substantiated         | <b>May</b> <u>0</u> |
| b. Unsubstantiated       | <b>May</b> <u>0</u> |
| c. Unfounded             | <b>May</b> <u>0</u> |
| d. Investigation Ongoing | <b>May</b> <u>0</u> |



# *Cibola County Road Dept.*

*515 W. High Street*

*Grants NM 87020*

*505-285-2570 Phone 505-285 3656 Fax*



*Wednesday, June 15, 2016*

*To: Tony Boyd - County Manager*  
*Fr: Gary Porter - Public Works Director*  
*Re: Monthly Report: 5/2/16 - 5/31/16 (May)*

## *Regular Maintenance*

### *Blade & Shape*

<u><i>Road</i></u>	<u><i>Description</i></u>	<u><i>Miles</i></u>
<i>C41</i>	<i>Pie Town Rd.</i>	<i>10.714</i>
<i>C33</i>	<i>Candy Kitchen</i>	<i>15.125</i>
<i>C47</i>	<i>Mesa Ridge Rd.</i>	<i>8.313</i>
<i>C42</i>	<i>Back Country Byway</i>	<i>10.000</i>
<i>C44</i>	<i>Porter Ranch Rd.</i>	<i>1.330</i>
<i>C35A</i>	<i>Moreno Hill Rd.</i>	<i>10.419</i>
<i>C35</i>	<i>Fence Lake Community Roads</i>	<i>9.064</i>
<i>C34</i>	<i>Pine Hill Road</i>	<i>9.744</i>
<i>Total Miles</i>		<i>74.709</i>

## *Special Projects*

<i>C28</i>	<i>Bluewater Village - Cut trees, sweeping &amp; patching.</i>
<i>C58</i>	<i>San Rafael - Sweeping &amp; watering chips.</i>
<i>C63</i>	<i>Anaconda Rd. - Hauling base course from yard.</i>
<i>C20</i>	<i>San Mateo Roads - Cutting trees, fixing &amp; sweeping roads.</i>
<i>C14</i>	<i>Canada Rd. - Mowing.</i>
<i>C57</i>	<i>Circle Dr.- Remove speed hump.</i>
<i>C18A</i>	<i>Lobo Creek Rd. - Patching &amp; sweeping.</i>
<i>C6</i>	<i>Seboyeta-Bibo-Moquino Roads - Installing speed humps, fixing drainage, moving dirt to Moquino Crossing.</i>
<i>C48</i>	<i>Mallery Rd. - Cleaning cattleguards.</i>
<i>C28A</i>	<i>Plano Colorado Frontage Rd. - Shoulder work.</i>

*C18 Horace Mesa Rd. - Sweeping.*  
*C55 Ben Chavez Loop - Sweeping.*  
*El Morro Ranches - Work on Fire Dept.*

*CO-OP'S*

*C28 (SB) Bluewater Village - Patching.*  
*C25B (CAP) Roberts Rd. (Cemetary Rd.) - Patching.*

# Cibola County Road Dept.

515 W. High Street  
Grants NM 87020  
505-285-2570 Phone Fax 505-287-3656



## **MAINTENANCE REPORT**

**May 2016**

<b>Road Dept.</b>	<b>Chainsaw</b>	<b>25.69</b>	<b>4</b>	<b>\$ 16.50</b>	<b>\$ 91.69</b>
<b>Road Dept.</b>	<b>Weed-wacker</b>	<b>15.75</b>	<b>3</b>	<b>\$ 16.50</b>	<b>\$ 65.25</b>
<b>Road Dept.</b>	<b>Power Welder</b>	<b>46.09</b>	<b>5</b>	<b>\$ 16.50</b>	<b>\$ 128.59</b>
<b>Road Dept.</b>	<b>130</b>	<b>11.93</b>	<b>1.5</b>	<b>\$ 16.50</b>	<b>\$ 36.68</b>
<b>Road Dept.</b>	<b>131</b>	<b>\$0.00</b>	<b>1.5</b>	<b>\$ 16.50</b>	<b>\$ 24.75</b>
<b>Road Dept.</b>	<b>133</b>	<b>\$29.98</b>	<b>4</b>	<b>\$ 16.50</b>	<b>\$ 95.98</b>
<b>Road Dept.</b>	<b>135</b>	<b>\$383.87</b>	<b>1</b>	<b>\$ 16.50</b>	<b>\$ 400.37</b>
<b>Road Dept.</b>	<b>140</b>	<b>\$492.54</b>	<b>15</b>	<b>\$ 16.50</b>	<b>\$ 740.04</b>
<b>Road Dept.</b>	<b>141</b>	<b>\$258.49</b>	<b>6</b>	<b>\$ 16.50</b>	<b>\$ 357.49</b>
<b>Road Dept.</b>	<b>Pump</b>	<b>\$35.43</b>	<b>3</b>	<b>\$ 16.50</b>	<b>\$ 84.93</b>
<b>Road Dept.</b>	<b>151</b>	<b>\$37.52</b>	<b>1</b>	<b>\$ 16.50</b>	<b>\$ 54.02</b>
<b>Road Dept.</b>	<b>154</b>	<b>\$41.10</b>	<b>4</b>	<b>\$ 16.50</b>	<b>\$ 107.10</b>
<b>Road Dept.</b>	<b>157</b>	<b>\$0.50</b>	<b>0.75</b>	<b>\$ 16.50</b>	<b>\$ 12.88</b>
				<b>TOTAL</b>	<b>\$ 2,199.77</b>
<b>Sheriff's</b>	<b>G-78154</b>	<b>\$8.00</b>	<b>0.5</b>	<b>\$ 16.50</b>	<b>\$ 16.25</b>
				<b>TOTAL</b>	<b>\$ 16.25</b>
<b>Detention</b>	<b>G-73152</b>	<b>\$19.25</b>	<b>2</b>	<b>\$ 16.50</b>	<b>\$ 52.25</b>
<b>Detention</b>	<b>G-79879</b>	<b>\$24.68</b>	<b>1</b>	<b>\$ 16.50</b>	<b>\$ 41.18</b>
				<b>TOTAL</b>	<b>\$ 93.43</b>
<b>Information Systems</b>	<b>G-90878</b>	<b>\$32.93</b>	<b>1</b>	<b>\$16.50</b>	<b>\$ 49.43</b>
				<b>TOTAL</b>	<b>\$ 49.43</b>
<b>Manager's Office</b>	<b>G-95862</b>	<b>\$80.49</b>	<b>2</b>	<b>\$16.50</b>	<b>\$ 113.49</b>
				<b>TOTAL</b>	<b>\$ 113.49</b>

# *Cibola County Road Dept.*

515 W. High Street

Grants NM 87020

505-285-2570 Phone 505-287-3656 Fax



## **FUEL REPORT - CIBOLA COUNTY ROAD DEPARTMENT**

### **May 2016**

<b>UNLEADED</b>					
<b>VEHICLE #</b>	<b>COST/MILE</b>	<b>MPG</b>	<b>MILES</b>	<b>TOTAL GAL.</b>	<b>TOTAL COST</b>
G-18461	#VALUE!	#VALUE!	N/U	0.000	\$ -
G-18473	#VALUE!	#VALUE!	N/U	0.000	\$ -
G-18464	#VALUE!	#VALUE!	N/U	0.000	\$ -
G-02084	#VALUE!	#VALUE!	N/U	0.000	\$ -
G-15638	#VALUE!	#VALUE!	N/U	0.000	\$ -
G-29800	0.23	8.84	501	56.700	\$ 115.82
G-29091	0.20	10.08	523	51.900	\$ 105.40
G-23696	0.23	8.79	167	19.000	\$ 38.81
G-23697	0.24	8.25	231	28.000	\$ 56.03
G-39980	0.19	10.56	676	64.000	\$ 130.73
G-39988	0.21	9.77	254	26.000	\$ 52.80
G-57384	0.14	14.48	304	21.000	\$ 42.09
G-57619	0.65	3.09	34	11.000	\$ 22.21
G-57618	0.00	#DIV/0!	20	0.000	\$ -
146	#VALUE!	#VALUE!	N/U	0.000	\$ -
G-66164	0.19	11.00	N/U	12.000	\$ 24.51
G-66165	0.09	21.61	N/U	31.000	\$ 62.59
G-70482	0.11	19.31	473	24.500	\$ 50.03
G-78718	0.12	16.69	2,323	139.200	\$ 282.23
G-64239	0.09	22.02	1,165	52.900	\$ 107.33
G-86952	0.10	20.97	1,034	49.300	\$ 100.20
G-86953	0.08	24.43	1,664	68.100	\$ 138.56
G-86954	0.08	25.97	2,405	92.600	\$ 187.40
G-91750	0.10	20.86	1,544	74.000	\$ 150.46
G-34769	#VALUE!	#VALUE!	N/U	0.000	\$ -
503	#VALUE!	#VALUE!	N/U	0.000	\$ -
Extra card	#DIV/0!	0.00	0	5.100	\$ 13.90

***TOTAL GAS***

***826.300***

***\$ 1,681.10***

<b>DIESEL FUEL</b>					
<b>VEHICLE #</b>	<b>COST/MILE</b>	<b>MPG</b>	<b>MILES</b>	<b>TOTAL GAL.</b>	<b>TOTAL COST</b>
G-50237	0.24	8.27	191	23.100	\$ 45.36
G-18484	#VALUE!	#VALUE!	N/U	0.000	\$ -
G-18476	0.53	3.74	258	69.000	\$ 135.52
G-18795	#VALUE!	#VALUE!	N/U	0.000	\$ -
G-30550	0.13	14.84	135	9.100	\$ 17.95
G-30549	0.81	2.41	75	31.100	\$ 61.08
G-38441	0.90	2.18	73	33.500	\$ 66.06
G-67372	0.33	5.97	1,239	207.500	\$ 409.05
G-67371	0.30	6.54	1,332	203.800	\$ 401.79
G-70782	0.33	6.01	1,055	175.600	\$ 346.12
Distributor	#VALUE!	#VALUE!	N/U	0.000	\$ -
Water Truck	0.72	3.03	76	25.100	\$ 54.78
New Transport	0.66	3.32	872	262.900	\$ 572.31
305	0.00	#DIV/0!	5	0.000	\$ -
306	2.56	0.77	27	35.200	\$ 69.14
307	10.35	0.19	41	215.500	\$ 424.54
308	2.62	0.75	56	74.400	\$ 146.48
309	#VALUE!	#VALUE!	N/U	0.000	\$ -
310	4.12	0.48	11	23.000	\$ 45.37
311	3.65	0.54	54	100.000	\$ 196.84
312	#VALUE!	#VALUE!	N/U	0.000	\$ -
313	#VALUE!	#VALUE!	N/U	0.000	\$ -
314	5.79	0.34	15	44.100	\$ 86.85
416	7.45	0.26	91	345.900	\$ 678.19
417	6.22	0.32	74	234.100	\$ 460.51
418	5.73	0.34	74	215.200	\$ 423.65
501	#VALUE!	#VALUE!	N/U	0.000	\$ -
Extra card	#DIV/0!	0.00	0	15.100	\$ 29.66
<b>TOTAL DIESEL</b>				<b>2343.200</b>	<b>\$ 4,671.25</b>

**\*N/U = NOT USED**



# Cibola County Road Dept.

515 W. High Street  
Grants NM 87020  
505-285-2570 Phone 505-287-3656 Fax



## **FUEL REPORT CIBOLA COUNTY BY DEPARTMENT**

### **May 2016**

#### **SHERIFF'S DEPARTMENT**

<b>VEHICLE #</b>	<b>COST/MILE</b>	<b>MPG</b>	<b>MILES</b>	<b>TOTAL GAL</b>	<b>TOTAL COST</b>
<b>G-85515</b>	<b>0.11</b>	<b>18.09</b>	<b>2,144</b>	<b>118.500</b>	<b>\$ 240.41</b>
<b>G-85514</b>	<b>\$3.76</b>	<b>0.45</b>	<b>102</b>	<b>226.100</b>	<b>\$ 382.89</b>
<b>G-61113</b>	<b>\$0.23</b>	<b>8.93</b>	<b>1,050</b>	<b>117.542</b>	<b>\$ 236.32</b>
<b>G-68384</b>	<b>\$0.00</b>	<b>#DIV/0!</b>	<b>21</b>	<b>0.000</b>	<b>\$ -</b>
<b>G-68920</b>	<b>#VALUE!</b>	<b>#VALUE!</b>	<b>DNTI</b>	<b>0.000</b>	<b>\$ -</b>
<b>G-68922</b>	<b>#VALUE!</b>	<b>#VALUE!</b>	<b>DNTI</b>	<b>0.000</b>	<b>\$ -</b>
<b>G-68921</b>	<b>\$0.18</b>	<b>11.75</b>	<b>2,267</b>	<b>192.950</b>	<b>\$ 399.51</b>
<b>G-68418</b>	<b>#VALUE!</b>	<b>#VALUE!</b>	<b>DNTI</b>	<b>0.000</b>	<b>\$ -</b>
<b>G-72224</b>	<b>#VALUE!</b>	<b>#VALUE!</b>	<b>DNTI</b>	<b>0.000</b>	<b>\$ -</b>
<b>G-72225</b>	<b>#VALUE!</b>	<b>#VALUE!</b>	<b>DNTI</b>	<b>0.000</b>	<b>\$ -</b>
<b>G-75188</b>	<b>#VALUE!</b>	<b>#VALUE!</b>	<b>DNTI</b>	<b>0.000</b>	<b>\$ -</b>
<b>G-78152</b>	<b>\$0.06</b>	<b>33.45</b>	<b>592</b>	<b>17.700</b>	<b>\$ 36.03</b>
<b>G-78153</b>	<b>#VALUE!</b>	<b>#VALUE!</b>	<b>DNTI</b>	<b>0.000</b>	<b>\$ -</b>

<b>G-78154</b>	<b>#VALUE!</b>	<b>#VALUE!</b>	<b>DNTI</b>	<b>12.300</b>	<b>\$ 25.12</b>
<b>G-78717</b>	<b>\$0.83</b>	<b>2.44</b>	<b>40</b>	<b>16.400</b>	<b>\$ 33.12</b>
<b>G-78720</b>	<b>\$0.13</b>	<b>15.83</b>	<b>1,417</b>	<b>89.501</b>	<b>\$ 189.44</b>
<b>G-78721</b>	<b>#VALUE!</b>	<b>#VALUE!</b>	<b>DNTI</b>	<b>0.000</b>	<b>\$ -</b>
<b>G-78722</b>	<b>\$0.16</b>	<b>12.88</b>	<b>219</b>	<b>17.000</b>	<b>\$ 34.73</b>
<b>G-78723</b>	<b>#VALUE!</b>	<b>#VALUE!</b>	<b>DNTI</b>	<b>0.000</b>	<b>\$ -</b>
<b>G-86096</b>	<b>\$0.17</b>	<b>12.05</b>	<b>3,505</b>	<b>290.900</b>	<b>\$ 592.52</b>
<b>G-86996</b>	<b>#VALUE!</b>	<b>#VALUE!</b>	<b>DNTI</b>	<b>0.000</b>	<b>\$ -</b>
<b>G-85471</b>	<b>\$0.13</b>	<b>15.79</b>	<b>1,655</b>	<b>104.829</b>	<b>\$ 222.56</b>
<b>A-190-ULS</b>	<b>#VALUE!</b>	<b>#VALUE!</b>	<b>DNTI</b>	<b>0.000</b>	<b>\$ -</b>
<b>G-88607</b>	<b>\$0.16</b>	<b>13.00</b>	<b>3,480</b>	<b>267.700</b>	<b>\$ 543.49</b>
<b>G-88606</b>	<b>\$0.15</b>	<b>13.13</b>	<b>3,835</b>	<b>292.000</b>	<b>\$ 593.34</b>
<b>G-88608</b>	<b>\$0.14</b>	<b>14.53</b>	<b>1,036</b>	<b>71.310</b>	<b>\$ 142.01</b>
<b>G-88605</b>	<b>\$0.15</b>	<b>13.28</b>	<b>2,487</b>	<b>187.270</b>	<b>\$ 379.75</b>
<b>Max Pro</b> <i>Armored Truck</i>	<b>#VALUE!</b>	<b>#VALUE!</b>	<b>DNTI</b>	<b>0.000</b>	<b>\$ -</b>
<b>G-90204</b>	<b>\$0.12</b>	<b>17.48</b>	<b>3,491</b>	<b>199.700</b>	<b>\$ 404.97</b>
<b>G-90205</b>	<b>\$0.09</b>	<b>22.18</b>	<b>987</b>	<b>44.500</b>	<b>\$ 89.71</b>
<b>3035</b>	<b>\$0.07</b>	<b>27.79</b>	<b>4,274</b>	<b>153.791</b>	<b>\$ 315.31</b>
<b>4479</b>	<b>\$0.17</b>	<b>12.27</b>	<b>3,208</b>	<b>261.468</b>	<b>\$ 541.06</b>
<b>4481</b>	<b>\$0.15</b>	<b>13.32</b>	<b>4,062</b>	<b>305.000</b>	<b>\$ 618.45</b>
<b>207902</b>	<b>\$0.16</b>	<b>13.83</b>	<b>3,952</b>	<b>285.786</b>	<b>\$ 651.87</b>
<b>259</b>	<b>\$0.09</b>	<b>23.93</b>	<b>4,728</b>	<b>197.600</b>	<b>\$ 426.54</b>
<b>443</b>	<b>#VALUE!</b>	<b>#VALUE!</b>	<b>DNTI</b>	<b>0.000</b>	<b>\$ -</b>
<b>445</b>	<b>\$0.17</b>	<b>12.25</b>	<b>2,587</b>	<b>211.197</b>	<b>\$ 436.99</b>
<b>9058</b>	<b>\$0.15</b>	<b>13.72</b>	<b>2,760</b>	<b>201.100</b>	<b>\$ 407.21</b>

<b>2219</b>	<b>\$0.11</b>	<b>18.54</b>	<b>3,584</b>	<b>193.320</b>	<b>\$ 396.18</b>
<b>TOTAL SHERIFF'S</b>				<b>4075.464</b>	<b>\$ 8,339.53</b>
<b><u>MANAGERS</u></b>					
<b>VEHICLE #</b>	<b>COST/MILE</b>	<b>MPG</b>	<b>MILES</b>	<b>TOTAL GAL</b>	<b>TOTAL COST</b>
<b>7466</b>	<b>\$0.01</b>	<b>190.60</b>	<b>5,100</b>	<b>26.758</b>	<b>\$ 65.00</b>
<b>TOTAL MANAGERS</b>				<b>26.758</b>	<b>\$ 65.00</b>
<b><u>RURAL ADDRESSING</u></b>					
<b>VEHICLE #</b>	<b>COST/MILE</b>	<b>MPG</b>	<b>MILES</b>	<b>TOTAL GAL</b>	<b>TOTAL COST</b>
<b>G60137</b>	<b>\$0.13</b>	<b>16.11</b>	<b>155</b>	<b>9.623</b>	<b>\$ 20.20</b>
<b>TOTAL RURAL ADDRESSING</b>				<b>9.623</b>	<b>\$ 20.20</b>
<b><u>EMERGENCY MANAGEMENT</u></b>					
<b>VEHICLE #</b>	<b>COST/MILE</b>	<b>MPG</b>	<b>MILES</b>	<b>TOTAL GAL</b>	<b>TOTAL COST</b>
<b>G-86167</b>	<b>\$0.19</b>	<b>12.01</b>	<b>1,356</b>	<b>112.915</b>	<b>\$ 257.01</b>
<b>TOTAL EMERGENCY MANAGEMENT</b>				<b>112.915</b>	<b>\$ 257.01</b>
<b><u>BUILDING &amp; GROUNDS</u></b>					
<b>VEHICLE #</b>	<b>COST/MILE</b>	<b>MPG</b>	<b>MILES</b>	<b>TOTAL GAL</b>	<b>TOTAL COST</b>
<b>G-67587</b>	<b>\$0.26</b>	<b>8.84</b>	<b>167</b>	<b>18.900</b>	<b>\$ 42.88</b>
<b>TOTAL BUILDING &amp; GROUNDS</b>				<b>18.900</b>	<b>\$ 42.88</b>
<b><u>I.T.(DATA PROCESSING)</u></b>					
<b>VEHICLE #</b>	<b>COST/MILE</b>	<b>MPG</b>	<b>MILES</b>	<b>TOTAL GAL</b>	<b>TOTAL COST</b>

<b>G-90878</b>	<b>\$0.23</b>	<b>8.46</b>	<b>275</b>	<b>32.500</b>	<b>\$ 62.70</b>
<b>G-53547</b>	<b>\$0.26</b>	<b>7.84</b>	<b>102</b>	<b>13.017</b>	<b>\$ 26.67</b>
<b>TOTAL DATA PROCESSING</b>				<b>45.517</b>	<b>\$ 89.37</b>
<b><u>ASSESSORS</u></b>					
<b>VEHICLE #</b>	<b>COST/MILE</b>	<b>MPG</b>	<b>MILES</b>	<b>TOTAL GAL</b>	<b>TOTAL COST</b>
<b>G-78714</b>	<b>\$0.09</b>	<b>23.49</b>	<b>423</b>	<b>18.008</b>	<b>\$ 36.00</b>
<b>G-78715</b>	<b>#VALUE!</b>	<b>#VALUE!</b>	<b>N/U</b>	<b>0.000</b>	<b>\$ -</b>
<b>G-81964</b>	<b>\$0.11</b>	<b>20.56</b>	<b>462</b>	<b>22.475</b>	<b>\$ 48.75</b>
<b>TOTAL ASSESSORS</b>				<b>18.008</b>	<b>\$ 84.75</b>
<b><u>DETENTION</u></b>					
<b>VEHICLE #</b>	<b>COST/MILE</b>	<b>MPG</b>	<b>MILES</b>	<b>TOTAL GAL</b>	<b>TOTAL COST</b>
<b>G-60185</b>	<b>#VALUE!</b>	<b>#VALUE!</b>	<b>DNTI</b>	<b>0.000</b>	<b>\$ -</b>
<b>G-24336</b>	<b>#VALUE!</b>	<b>#VALUE!</b>	<b>DNTI</b>	<b>0.000</b>	<b>\$ -</b>
<b>G-57383</b>	<b>\$0.19</b>	<b>10.57</b>	<b>234</b>	<b>22.131</b>	<b>\$ 45.57</b>
<b>G-59969</b>	<b>#VALUE!</b>	<b>#VALUE!</b>	<b>DNTI</b>	<b>0.000</b>	<b>\$ -</b>
<b>G-60180</b>	<b>#VALUE!</b>	<b>#VALUE!</b>	<b>DNTI</b>	<b>0.000</b>	<b>\$ -</b>
<b>G-61368</b>	<b>\$0.06</b>	<b>29.44</b>	<b>434</b>	<b>14.744</b>	<b>\$ 28.00</b>
<b>G-63072</b>	<b>#VALUE!</b>	<b>#VALUE!</b>	<b>DNTI</b>	<b>0.000</b>	<b>\$ -</b>
<b>G-73152</b>	<b>\$0.07</b>	<b>28.69</b>	<b>710</b>	<b>24.750</b>	<b>\$ 47.00</b>
<b>G-78719</b>	<b>\$0.16</b>	<b>12.90</b>	<b>788</b>	<b>61.094</b>	<b>\$ 122.97</b>
<b>G-79636</b>	<b>#VALUE!</b>	<b>#VALUE!</b>	<b>DNTI</b>	<b>0.000</b>	<b>\$ -</b>
<b>G-79879</b>	<b>\$0.16</b>	<b>12.44</b>	<b>1,020</b>	<b>81.969</b>	<b>\$ 163.01</b>
<b>G-85729</b>	<b>\$0.07</b>	<b>30.50</b>	<b>4,226</b>	<b>138.545</b>	<b>\$ 280.95</b>

<b><i>X-tra Card</i></b>	<b><i>#VALUE!</i></b>	<b><i>#VALUE!</i></b>	<b><i>N/U</i></b>	<b><i>0.000</i></b>	<b><i>\$ -</i></b>
<b><i>TOTAL DETENTION</i></b>				<b><i>343.233</i></b>	<b><i>\$ 687.50</i></b>
<b><i>ROAD DEPT. MOTORPOOL</i></b>					
<b><i>VEHICLE #</i></b>	<b><i>COST/MILE</i></b>	<b><i>MPG</i></b>	<b><i>MILES</i></b>	<b><i>TOTAL GAL</i></b>	<b><i>TOTAL COST</i></b>
<b><i>G-18474</i></b>	<b><i>#VALUE!</i></b>	<b><i>#VALUE!</i></b>	<b><i>N/U</i></b>	<b><i>0.000</i></b>	<b><i>\$ -</i></b>
<b><i>TOTAL ROAD DEPT. MOTORPOOL</i></b>				<b><i>0.000</i></b>	<b><i>\$ -</i></b>
<b><i>CONSOLIDATED DISPATCH</i></b>					
<b><i>VEHICLE #</i></b>	<b><i>COST/MILE</i></b>	<b><i>MPG</i></b>	<b><i>MILES</i></b>	<b><i>TOTAL GAL</i></b>	<b><i>TOTAL COST</i></b>
<b><i>G-70403</i></b>	<b><i>0.10</i></b>	<b><i>20.44</i></b>	<b><i>588</i></b>	<b><i>28.762</i></b>	<b><i>\$ 59.03</i></b>
<b><i>Generator</i></b>	<b><i>#VALUE!</i></b>	<b><i>#VALUE!</i></b>	<b><i>N/U</i></b>	<b><i>0</i></b>	<b><i>\$ -</i></b>
<b><i>TOTAL CONSOLIDATED DISPATCH</i></b>				<b><i>28.762</i></b>	<b><i>\$ 59.03</i></b>
<b><i>CLERKS OFFICE</i></b>					
<b><i>VEHICLE #</i></b>	<b><i>COST/MILE</i></b>	<b><i>MPG</i></b>	<b><i>MILES</i></b>	<b><i>TOTAL GAL</i></b>	<b><i>TOTAL COST</i></b>
<b><i>G-64240</i></b>	<b><i>0.00</i></b>	<b><i>#DIV/0!</i></b>	<b><i>133</i></b>	<b><i>0.000</i></b>	<b><i>\$ -</i></b>
<b><i>G55649</i></b>	<b><i>0.12</i></b>	<b><i>17.74</i></b>	<b><i>859</i></b>	<b><i>48.424</i></b>	<b><i>\$ 100.70</i></b>
<b><i>G-72255</i></b>	<b><i>0.11</i></b>	<b><i>18.58</i></b>	<b><i>863</i></b>	<b><i>46.437</i></b>	<b><i>\$ 95.00</i></b>
<b><i>G-86995</i></b>	<b><i>0.13</i></b>	<b><i>16.79</i></b>	<b><i>208</i></b>	<b><i>12.385</i></b>	<b><i>\$ 26.00</i></b>
<b><i>TOTAL CLERKS</i></b>				<b><i>107.246</i></b>	<b><i>\$ 221.70</i></b>

<b><i>DWI PROGRAM</i></b>					
<b><i>G-53823</i></b>	<b><i>#VALUE!</i></b>	<b><i>#VALUE!</i></b>	<b><i>N/U</i></b>	<b><i>0.000</i></b>	<b><i>\$ -</i></b>
<b><i>G-45051</i></b>	<b><i>#VALUE!</i></b>	<b><i>#VALUE!</i></b>	<b><i>DNTI</i></b>	<b><i>0.000</i></b>	<b><i>\$ -</i></b>

<b><i>G-85669</i></b>	<b><i>0.00</i></b>	<b><i>#DIV/0!</i></b>	<b><i>112</i></b>	<b><i>0.000</i></b>	<b><i>\$ -</i></b>
<b><i>TOTAL DWI PROGRAM</i></b>				<b><i>0.000</i></b>	<b><i>\$ -</i></b>

***\*DNTI = DID NOT TURN IN / \*N/U = NOT USED***





Cibola County, NM

# Detail Report with Activity and Encumbrance Account Detail

Date Range: 05/01/2016 - 05/31/2016

Account	Name	Beginning Balance	Total Activity	Ending Balance	Beginning Enc. Balance	Total Enc. Activity	Ending Enc. Balance
<b>Fund: 563 - CONSTRUCTION FUND</b>							
<a href="#">563-085-445-00101</a>	PROFESSIONAL SERV.	2,864,308.13	529,819.62	3,394,127.75	10,181,205.77	-529,819.62	9,651,386.15
<b>Post Date</b>	<b>Packet Number</b>	<b>Number</b>	<b>Description</b>	<b>Project Account</b>	<b>Amount</b>	<b>Running Balance</b>	<b>Encumbrance</b>
05/19/2016	APPKT00492	9	CHANGE ORDER #2		529,819.62	3,394,127.75	
	<b>Vendor:</b>	28588 - JAYNES CORPORATION	<b>Payment Number:</b>	85280			
05/19/2016		39737A	PRE-CONSTRUCTION OPEN PO				-529,819.62
	<b>Vendor:</b>	JAYNES CORPORATION - 28588					9,651,386.15
<b>Total Fund: 563 - CONSTRUCTION FUND:</b>		<b>2,864,308.13</b>	<b>529,819.62</b>	<b>3,394,127.75</b>	<b>10,181,205.77</b>	<b>-529,819.62</b>	<b>9,651,386.15</b>
<b>Grand Totals:</b>		<b>2,864,308.13</b>	<b>529,819.62</b>	<b>3,394,127.75</b>	<b>10,181,205.77</b>	<b>-529,819.62</b>	<b>9,651,386.15</b>

Fund Summary

Fund	Beginning Balance	Total Activity	Ending Balance	Beginning Enc. Balance	Total Enc. Activity	Ending Enc. Balance
563 - CONSTRUCTION FUND	2,864,308.13	529,819.62	3,394,127.75	10,181,205.77	-529,819.62	9,651,386.15
Grand Total:	2,864,308.13	529,819.62	3,394,127.75	10,181,205.77	-529,819.62	9,651,386.15



## Highlights January 2016 - March 2016

**"Working Together for a Safer, Healthier, More Skilled Cibola County"**

- **After School Programs**—After School Program started on August 13<sup>th</sup>, we currently have 202 students registered with a daily attendance of about 90. Programs consist of art, cooking, fitness & sports, gardening, Earth Club and homework help/Tutoring.  
The after school program will be ending on May 26<sup>th</sup> and we are preparing for our summer program which will start on June 6<sup>th</sup>.
- **Bouncing Baby Boogie Class** for Babies and Parents every Wednesday.
- Facilitation of a **Youth Coalition in partnership with Rotary** (Approximately 16 High School Students).  
\*Projects: Visits to Good Sam, Mentoring younger youth & Community Clean-up
- Facilitation of the **Healthy Kids Healthy Communities** to address Health and Fitness for youth in Cibola County---Farmer's Market, Legacy Trail Development, Walk-n-Roll to School, working with G/CCS to implement School Wellness Policy
  - Throughout January, February, and March the Eat Smart to Play Hard Challenge and the 5-2-1-O Challenge were given to the 2<sup>nd</sup> - students at Milan Elementary, San Rafael Elementary, and Bluewater Elementary. The students were challenged to eat healthy and be physically active for 3-6 weeks and were then rewarded with a fun day where Officer Holmes used his radar gun to see how fast the kids run, the hospital quizzed the kids on health related facts, students from the High School soccer and basketball teams played sports with them, we had a fruit and vegetable walk and a jumper. We had 28 students complete the 5-2-1-O challenge.
- The Grants Farmers Market will begin on August 6<sup>th</sup> and will run each Saturday from 9:30-12:00 through October. We will now be accepting EBT.
- Hosting community blood drives.
- We just completed the 4 teen pregnancy prevention program. 20 teens from the county completed the program successfully
- Community Garden in partnership with the Grants Recreation

- Vegetables are still being produced by our garden club in our greenhouse and the vegetables are used for snacks for the after school students
- **Outside financial audit will be scheduled soon.**
- **Facilitated the Interagency Alliance meetings focus on obesity prevention for youth and families and substance abuse prevention. State Innovation Model input sessions have been held and the information provided to the DOH**
- **We were awarded funding for another year of YCC. We will employ 16 youth and 2 adults to complete projects in the county. The YCC program will begin June 1<sup>st</sup> this year.**

1	Real Property Account R01263	2-051-059-258-052	GARCIA,HARRY	15 GARCIA RD	S: 10 T: 10N R: 9W 15 GARCIA RD 0
2	Real Property Account R09981	2-051-059-201-036	GARCIA, HARRY AND MARIE	25 GARCIA	S: 10 T: 10N R: 9W A TRACT OF LAND SITUATED IN THE SE ...
3	Real Property Account R01059	2-051-059-167-032	GARCIA,HARRY AND GRACE MARIE MARTINEZ-GARCIA	GARCIA RD	S: 10 T: 10N R: 9W A TRACT OF LAND WITHIN SE1/4 5 AC...
4	Real Property Account R00055	2-051-059-030-015	THOMAS,KAREN L.	55 GARCIA RD GRANTS 87020	S: 10 T: 10N R: 9W A TRACT OF LAND WITHIN THE SE 1/2 ...
5	Real Property Account R11333	2-051-059-132-023	GARCIA,HARRY	GARCIA RD	S: 10 T: 10N R: 9W A TRACT OF LAND WITHIN THE SE 1/4 ...
6	Real Property Account R22382	2-051-059-088-024	GARCIA, HARRY AND MARIE	GARCIA RD	S: 10 T: 10N R: 9W MIDDLE 5 ACRES OF A 15 ACRE TRACT P...
7	Real Property Account R04639	2-050-058-462-363	CHAVEZ, ANTHONY I, DAVID D, JOSEPH P. AND GALLEGOS, MOLLY	64 GARCIA BLVD, 74 GARCIA BLVD GRANTS, ... 87020, ...	S: 14 T: 10N R: 9W APPROX. 117.288ACRES 64 GARCIA ...
8	Real Property Account R22470	2-051-059-337-006	GARCIA-HATTEN, MICHELLE AND HATTEN DEWAYNE	3 GARCIA	Tract: 1 S: 10 T: 10N R: 9W AS SHOWN ON PLAT OF TRACT ...
9	Real Property Account R01136	2-051-059-295-000	HATTEN-GARCIA, MICHELLE	7 GARCIA RD GRANTS 87020	Tract: 2 S: 10 T: 10N R: 9W AS SHOWN ON PLAT OF TRACT ...



County Manager Tony Boyd

This letter is being sent to you in an attempt to change a name of a Rd SE of Grants Current Name Garcia Blvd.

At the time the name was given to this Rd I was working for the county Rd Dept. County Mapping was contracted.

At the time Jimmy Chavez and I had a conversation about the Road in question. I replied that it should be named for where its at, the valley it is in is called BAJAR QUEMAZON. How it became GARCIA BLVD I DO NOT KNOW. BUT THERE IS A HARRY GARCIA THAT HAD JUST MOVED INTO THE AREA AND LIVE IN <sup>A</sup> THE MIDDLE LOT ON THIS ROAD.

IN ANY CASE IT IS MY BELIEF THAT THE NAME OF THE ROAD SHOULD NOT BE A SURNAME OF ANY ONE OR IF IT HAS TO BE A SURNAME IT SHOULD BE AFTER THE MAN THAT WORKED ~~THE~~ NEGOTIATED AND WORKED TO IMPROVE THIS ROAD 20 years before Harry Garcia thought of living there. And his name is ALFREDO COLLEGOS JR.

However his family will be happy if we can just change the name from GARCIA BLVD TO BAJAR QUEMAZON Rd.



Enclosed is a copy of a letter sent to  
then Commissioner Edward Michael, maps of  
where this Road is, and a petition signed by  
the Family that uses the road on a regular  
Basis,

Also Enclosed are 3 ways to contact me.  
THANK you AND your reply would be greatly  
Appreciated

Cathy Chy

4-21-13

Commissioner Edward Michael

My name is Anthony Chavez son of  
Junior Gallegos.

I am writing to you about the name  
of our ranch road. Which you yourself have  
driven on, when you bought pigs from us.

Attached is a copy of a map which was given  
to me by Darryl (THE county mapper)

THE name of Garcia Blvd was given to it.  
This in my and my families opinion should never  
have happened. Because when I worked for  
the county Road Dept, Jimmy Chavez and I  
had discussion about the name. I suggested the  
name of the valley where the road sits  
BAJAR QUEMazon or LA Quemazon Rd.

At the time I THOUGHT Jimmy had agreed,  
so I left it alone.

A couple of years after dad passed the  
county Assessor started using Road names on our  
property Description. I guess Jimmy never relayed  
the message,

In any case Out of respect for my Dad  
who actually negotiated with other land owners AT  
THAT TIME, ALSO BUILT THIS ROAD AS TRAVELABLE easement  
TO THE home and land at the end of the Road

WHICH brings us again to the reason  
for this Letter. Please help me change the  
name of the Road, From GARCIA Blvd to  
BAJAR Quemazon Rd or LA Quemazon Rd

I would like to hear from you either by  
Letter or by phone or Email.

mailing address:

Anthony Chavez

Po Box 693

Grants NM 87020

phone:

505 240 0080

Email

anthonychavez21@gmail.com.

Thank you and your reply will be greatly  
appreciated me and the Gallegos family

Anthony Chavez

**Petition Request to change the name of a road 3  
miles east of Grants in Cibola County from  
Garcia Blvd. to Bajar Quemazon Road.**

Molly Carpenter

Anthony Abey - PO Box 693 Grants NM 240-0080

James T. Carr

Bernie Gallegos - 408 W. Santa Fe Grants -

Ray Carpenter

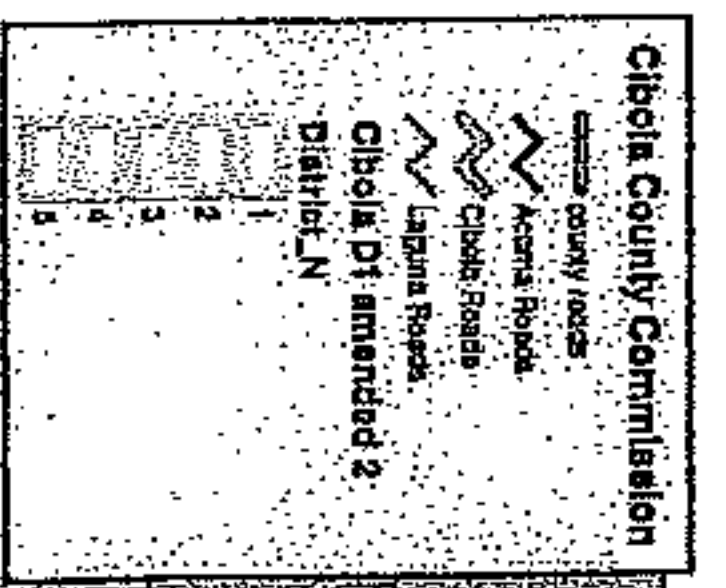
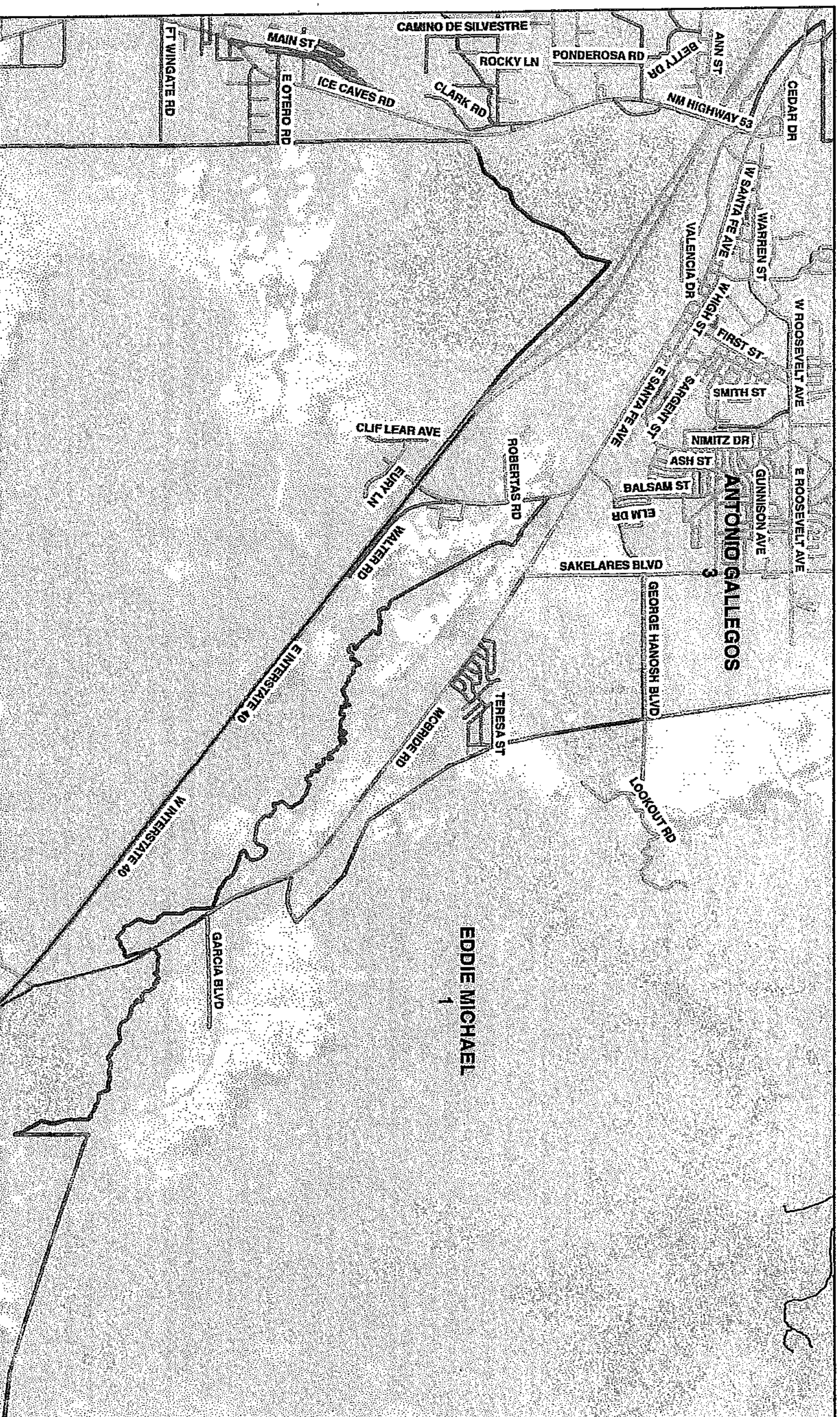
Don D. Abey - PO Box 3413 Milan NM



# Cibola County Commission Districts

© 2012 Cibola County  
The data on this document is believed to be accurate.  
However, Cibola County makes no warranties,  
expressed or implied, including fitness for use.

Cibola County Rural Addressing  
515 W. High Street  
Grants, NM 87020  
(505)285-2515





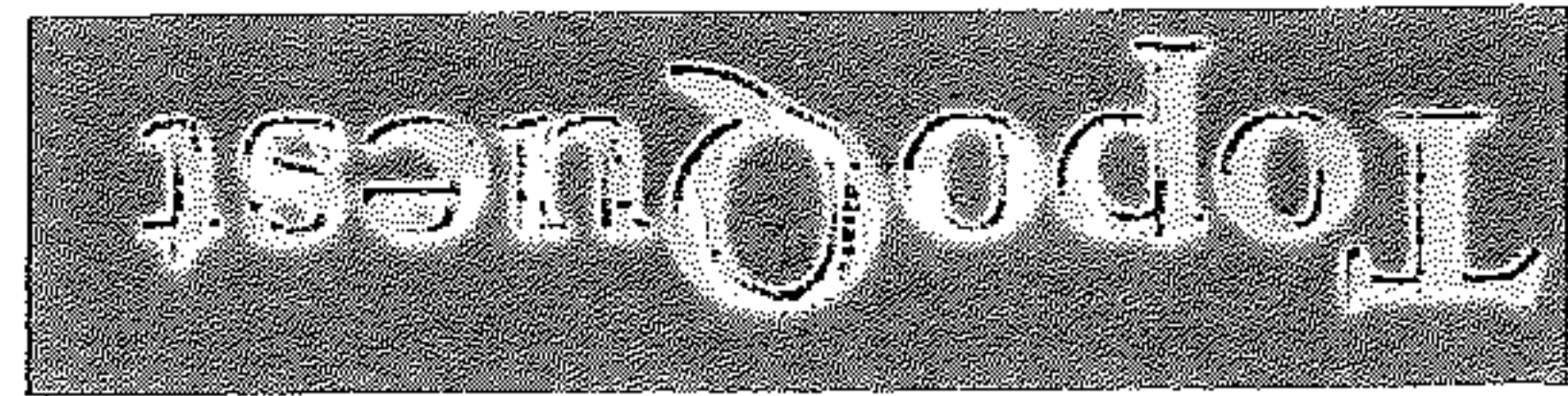
CARPENTER, MOLLIE S.

View...

↑  
GARCON BLVD  
Should be  
BRAD QUAMAZON

41998132.046 4178252.076





[Home](#) [View Maps](#) [Find Maps](#) [Find Places](#) [Forum](#) [Resources & Links](#)

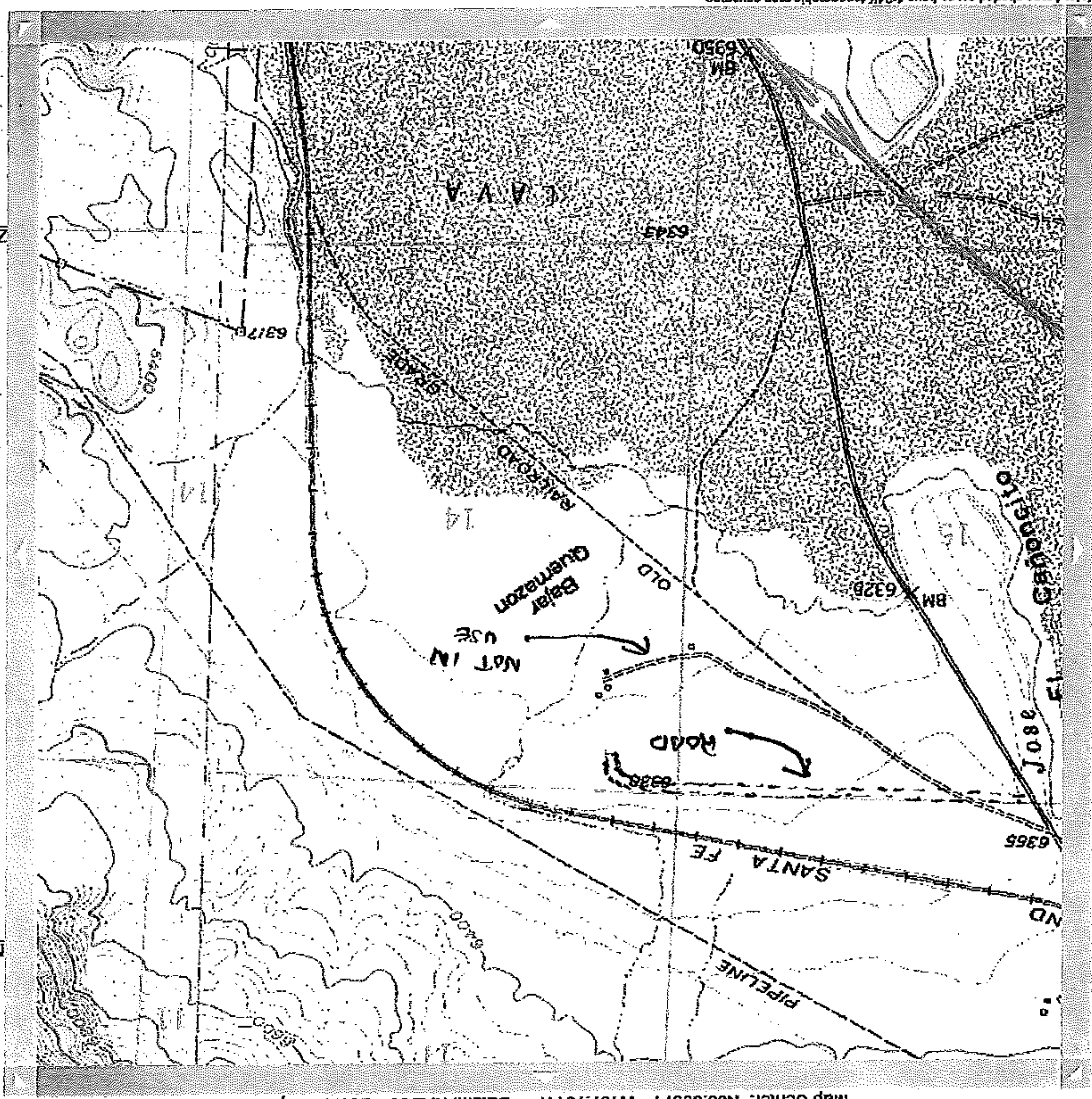
**Welcome to the TopoQuest Map Viewer!**  
Bajar Quemazon, NM is a area located in Cibola County at N35.09671° W107.76117° (NAD83). This is the nearest place in the USGS place names database to the center of the map view below. Look below the map view for a list of other places and locations that are visible within this map view. If you need to locate a landmark or feature, you can search for its location on our [Find Places](#) page. If you need to locate a specific USGS topographic map, try our [Find Maps](#) page.

Click on map to:  
Zoom in (x2)  
Zoom out (x2)  
Re-center

Map contents:  
Choose Automatically

Overall Coverage  
1:24K Coverage  
1:24K Topo maps (US)  
1:50K Coverage  
1:50K Topo maps (US)  
1:50K Coverage  
1:50K Topo maps (Canada)  
1:100K Coverage  
1:100K Topo maps (US)  
1:250K Coverage  
1:250K Topo maps (US)  
Satellite 1m Coverage  
Satellite 1m (US)  
Satellite 1m (US)

Zoom level:  
1m per pixel (Sat)  
2m per pixel (Sat)  
4m per pixel  
8m per pixel  
16m per pixel  
32m per pixel  
64m per pixel  
128m per pixel  
256m per pixel  
512m per pixel  
1km per pixel  
2km per pixel  
4km per pixel



USGS Map Name: Grants SE, NM Map MRC: 35107A7  
Map Center: N35.09671° W107.76117° Datum: NAD83 Zoom: 4m/pixel

Note: Areas shaded green have 1:24K topographic map coverage.



# Quitclaim Deed

**THIS QUITCLAIM DEED** is made by the County of Cibola

## **RECITALS:**

**WHEREAS**, the County of Cibola, a political subdivision of the State of New Mexico, organized and existing under and by virtue New Mexico law and specifically NMSA 1978, Section 4-3a-1; and,

**WHEREAS**, the Fence Lake Community Association is a non-profit Active Corporation #1330166, originally incorporated as the “Fence Lake Benevolent Association Perpetual in October 1986; and was established by Cibola County pursuant to the Fire Protection Act, Section 59A-53-5 NMSA 1978; and,

**WHEREAS**, the County of Cibola owns the real property known as the “Fence Lake Community Center” (“Property”), 2124 and 2138 N.M. Highway 36, Fence Lake, by virtue of a quitclaim deed dated April 19, 1988 conveying the property from the School District to Cibola County; and,

**WHEREAS**, the Association has maintained, renovated, repaired, and managed the Property since 1985, expending approximately \$31,874.08 in cash expenditures; \$35,220.00 in volunteer labor; and, \$21,235.00 in donation of services, material, and equipment; and,

**WHEREAS**, the Property was appraised for \$117,000.00 by Meg Randall, MAI, effective July 24, 2015. The value was difficult to calculate due to the absence of comparable properties, an almost non-existent market, and the Property’s exclusive design as a community center. The Association’s expenditure of about \$101,544.06 toward the property over the last thirty (30) years closely approximates its appraised value; and,

**WHEREAS**, the County has determined that it is in the best interest of its citizens to sell the Property, for value paid (\$101,544.06) to the Association pursuant NMSA 1978, Section 13-6-2(B)(3). The County would no longer be responsible for liability or maintenance costs to the Property, nor would it be responsible for providing a community center for the benefit of the residents of Fence Lake; and,

**WHEREAS**, the County and the Fence Lake Community Association entered into an Agreement for the Sale of the Fence Lake Community Center to the Fence Lake Community Association signed by the County Commission on April 27, 2016 and by Kathleen Gibson for the Community Association on May 6, 2016.

**NOW, THEREFORE**, the County of Cibola hereby quitclaims the real property, further described below, to the Fence Lake Community Association:

The subject property is legally described as Parcel 1, Lot 4, Section 18, Township 5 North, Range 17 West, N.M.P.M. Fence Lake Village, Cibola County, New Mexico.

**APPROVED, ADOPTED, and PASSED** on this 22<sup>nd</sup> day of June, 2016.

\_\_\_\_\_  
Robert Armijo  
Commissioner, District I

\_\_\_\_\_  
T. Walter Jaramillo  
Chairman, District II

\_\_\_\_\_  
Jack Moleres  
Commissioner, District III

\_\_\_\_\_  
Patrick Simpson  
Commissioner, District IV

\_\_\_\_\_  
Lloyd F. Felipe  
Commissioner, District V

Attest:

\_\_\_\_\_  
Elisa Bro  
Cibola County Clerk

New Mexico State Board of Finance  
181 Bataan Memorial Building  
Santa Fe, New Mexico

By: \_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Date

**CIBOLA COUNTY  
BOARD OF COUNTY COMMISSIONERS  
RESOLUTION NO. 16-30**

**ADOPTING A COUNTY SEAL**

**WHEREAS**, the Board of County Commissioners met in a Special Meeting on Wednesday, June 22, 2016 at 5:00 p.m. at 515 West High Street, Grants, New Mexico; and,

**WHEREAS**, the County of Cibola is New Mexico's newest county created out of part of Valencia County by an act of the New Mexico Legislature in 1981, with the adoption of NMSA 1978, Section 4-3A-1 *et seq.*; and;

**WHEREAS**, pursuant to NMSA 1978, Section 4-38-1 (1884) the powers of a county as a body politic and corporate shall be exercised by a board of county commissioners; and,

**WHEREAS**, the name Cibola is thought to be the original Zuni Indian name for their pueblos or tribal lands. The name was later interpreted by the Spanish to mean, "buffalo.; and,

**WHEREAS**, the Board of County Commissioners desires to adopt a new County Seal incorporating the County's historic buffalo symbol while displaying modern design; and,

**WHEREAS**, the proposed logo/ Seal of Cibola County symbolizes the following:

- The symbol of the buffalo (cibola) represents the County rich culturally diverse heritage;
- The mountains represent the County vast 4541.71 square mile area that is used for agriculture, ranching, mining and recreation.

**NOW, THEREFORE, BE IT RESOLVED**, by the Cibola County Commission that the following symbol is officially adopted as the logo and Seal of the County of Cibola:

**PLACE SEAL HERE**

**APPROVED, ADOPTED, AND PASSED** on this 22<sup>nd</sup> day of June, 2016.

---

Robert Armijo  
Commissioner, District I

---

T. Walter Jaramillo  
Commissioner, District II

---

Jack Moleres  
Commissioner, District III

---

Patrick Simpson  
Commissioner, District IV

---

Lloyd F. Felipe  
Commissioner, District V

Attest:

---

Elisa Bro  
Cibola County Clerk



Option A

## PROFESSIONAL SERVICES CONTRACT

### CIBOLA COUNTY

THIS AGREEMENT is made and entered into by and between the County of Cibola, hereinafter referred to as the "County" and Global Correctional Group, hereinafter referred to as the "Contractor", and is effective as of the date set forth below upon which it is executed by the Purchasing Agent and the Board of County Commissioners.

IT IS AGREED BETWEEN THE PARTIES:

**1. Scope of Work.**

The Contractor shall perform the work outlined in the Scope of Work attached hereto as **Attachment 1** and incorporated herein by reference.

**2. Compensation.**

A. The County shall pay to the Contractor in full payment for services satisfactorily performed One Hundred Eight Thousand Dollars and no cents (\$108,000.00) annually, to be invoiced in equal monthly amounts after performance of the services. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling \$8,505.00 shall be paid by the County to the Contractor in equal monthly amounts. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed \$116,505.00. In no event will the Contractor be paid any amount in excess of the specified total amount payable without this Agreement being amended in writing.

B. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work. All invoices MUST BE received by the County no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

C. Contractor must submit a detailed statement accounting for all services performed, specified on a minimum of a quarter hour basis, and expenses incurred. If the County finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the County that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the County shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

D. The payment of taxes due for any money received under this Agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor's Federal and State tax identification number(s).

**3. Term.**

This Agreement is for one (1) year from the date of approval by the Cibola County Board of County Commissioners. This Contract will not automatically renew on an annual basis, but must be presented to and approved by the Cibola County Commission for each of the three (3) additional one (1) year terms unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

**4. Termination.**

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the County's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the County is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the County or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of government funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

B Termination Management. Immediately upon receipt by either the County or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the County; 2) comply with all directives issued by the County in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the County shall direct for the protection, preservation, retention or transfer of all property titled to the County and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the County upon termination and shall be submitted to the County as soon as practicable.

**5. Appropriations.**



The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Board of County Commissioners for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Board of County Commissioners, this Agreement shall terminate immediately upon written notice being given by the County to the Contractor. The County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the County proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

**6. Status of Contractor.**

The Contractor and its agents and employees are independent contractors performing professional services for the County and are not employees of the County of Cibola. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of county vehicles, or any other benefits afforded to employees of the County of Cibola as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the County of Cibola unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

**7. Assignment.**

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the County.

**8. Subcontracting.**

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the County. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the County. In all cases, the contractor is solely responsible for fulfillment of this Agreement.

**9. Release.**

Final payment of the amounts due under this Agreement shall operate as a release of the procuring agency of the County, its officers and employees, and the County of Cibola from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

**10. Confidentiality.**

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.

**11. Product of Service -- Copyright.**

All materials developed or acquired by the Contractor under this Agreement shall become the property of the County of Cibola and shall be delivered to the County no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

**12. Conflict of Interest; Governmental Conduct Act.**

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:

1) in accordance with Section 10-16-4.3 NMSA 1978, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any County employee while such employee was or is employed by the County and participating directly or indirectly in the County's contracting process;

2) this Agreement complies with Section 10-16-7(B) NMSA 1978 because (i) the Contractor is not a public officer or employee of the County; (ii) the Contractor is not a member of the family of a public officer or employee of the County; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the County, a member of the family of a public officer or employee of the County, or a business in which a public officer or employee of the County or the family of a public officer or employee of the County has a substantial interest, public notice was given as required by Section 10-16-7(B) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;

3) in accordance with Section 10-16-8(C) NMSA 1978, (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the County within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the County whose official act, while in County employment, directly resulted in the County's making this Agreement;

4) in accordance with Section 10-16-13 NMSA 1978, the Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and

5) in accordance with Section 10-16-3 and Section 10-16-13.3 NMSA 1978, the Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of the County.



C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the County relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the County if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the County and notwithstanding anything in the Agreement to the contrary, the County may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12(B).

**13. Amendment.**

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

**14. Merger.**

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

**15. Penalties for violation of law.**

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

**16. Equal Opportunity Compliance.**

The Contractor agrees to abide by all federal, state and county laws and rules and regulations, pertaining to equal employment opportunity. In accordance with all such laws, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

**17. Applicable Law.**

In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern and that venue will lie in the Thirteenth Judicial District Court in Cibola County. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

**18. Workers Compensation.**

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the County.

**19. Records and Financial Audit.**

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the County, the Department of Finance and Administration and the State Auditor. The County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payments

**20. Disclaimer and Hold Harmless.**

Cibola County shall not be liable to the Contractor, or the Contractor's successors, heirs, administrators, or assigns, for any loss, damage, or injury, whether to Contractor's person or property, occurring in connection with Contractor's performance of Contractor's duties according to this Agreement. Contractor shall hold Cibola County harmless from all loss, damage, and injury, including court costs and attorney fees, incurred by Cibola County in connection with the performance by Contractor of Contractor's duties according to this Agreement.

**21. Indemnification.**

The Contractor shall defend, indemnify and hold harmless the County of Cibola from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the County of Cibola and the New Mexico Association of Counties by certified mail.

**22. Invalid Term or Condition.**

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

**23. Enforcement of Agreement.**

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

**24. Authority.**

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

**25. Lobbying.**

No federal appropriated funds can be paid or will be paid, by or on behalf of the CONTRACTOR, or any person for influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, or the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of this federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

**26. Approval of Contractor Personnel.**

Personnel proposed in the Contractor's written proposal to the County are considered material to any work performed under this Agreement. No changes of personnel will be made by the Contractor without prior written consent of the procuring agency of the County. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The procuring agency of the County shall retain the right to request the removal of any of the Contractor's personnel at any time.

**27. Survival.**

The agreement paragraphs titled "Patent, Copyright, Trademark, and Trade Secret Indemnification" and "Indemnification" shall survive the expiration of this agreement.

Software licenses, leases, maintenance and any other unexpired agreements that were entered into under the terms and conditions of this agreement shall survive this agreement

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This agreement shall extend to and be binding upon the successors and assigns of the parties.

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A party shall be excused from performance under this agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

**30. Mediation.**

In the event a dispute arises as to the rights and obligations among the parties hereto, the parties agree to attempt to resolve the dispute through mediation as a condition precedent to seeking legal and equitable remedies. The parties agree to evenly split the costs of any such mediation services. The parties shall mutually agree upon the choice of mediator. In the event the parties have not agreed upon a mediator within twenty (20) days of written notice to the other regarding the dispute, then a list of seven potential mediators will be obtained from the New Mexico Association of Counties and the parties shall utilize a striking process until a mediator is agreed upon.

**31. Notice to Proceed.**

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**32. Attorney's Fees.**

In the event this Agreement results in dispute, mediation, litigation, or settlement between the parties to this Agreement, the prevailing party of such action shall NOT be entitled to an award of attorneys' fees and court costs.

**33. Cooperation.**

All parties hereto will fully cooperate with the other and their respective counsel, accountant, and agents in connection with any steps required to be taken under this Agreement.

**34. Incorporation and Order of Precedence.**

Request for Proposals No. FY2016-05-02 and the contractor's proposal are incorporated by reference into this agreement and are made a part of this agreement. In the event of any conflict among these documents, the following order of precedence shall apply:

1. Any contract amendment(s), in reverse chronological order; then
  2. this contract itself; then
  3. the Request for Proposals; then
  4. the Contractors Best and Final Offer(s), in reverse chronological order;
- then
5. the contractor's proposal; then
  6. the contractor's standard agreement terms and conditions (which may or may not have been submitted as part of the contractor's proposal).

**35. Patent, Copyright, Trademark and Trade Secret Indemnification.**

A. The contractor shall defend, at its own expense, the County of Cibola against any claim that any product or service provided under this agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the County of Cibola based upon the contractor's trade secret infringement relating to any product or service provided under this agreement, the contractor agrees to reimburse the County of Cibola for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the County of Cibola shall:

- i. give the contractor prompt written notice of any claim;
- ii. allow the contractor to control the defense or settlement of the claim; and
- iii. cooperate with the contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the contractor's opinion is likely to become the subject of a claim of infringement, the contractor shall at its option and expense:

- i. provide a procuring agency of the County the right to continue using the product or service;
  - ii. replace or modify the product or service so that it becomes non-infringing;
- or
- iii. accept the return of the product or service and refund an amount equal to the depreciated value of the returned product or service, less the unpaid portion of the



purchase price and any other amounts which are due to the contractor. The contractor's obligation will be void as to any product or service modified by the procuring agency of the County to the extent such modification is the cause of the claim.

**36. Professional Liability Insurance.**

Contractor agrees to maintain in full force throughout the duration of the Agreement a lawyers professional liability insurance policy with a minimum coverage of \$1,000,000.00 per occurrence/ \$2,000,000.00 aggregate.

**37. Notices.**

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the County: Tony Boyd, County Manager // 515 West High Street // Grants, NM 87020

To the Contractor: Global Corrections Group //One Sun Avenue NE Suite # 650 //Albuquerque, NM 87109

**IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the Board of County Commissioners below.**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Contractor

Printed Name: Danieray Johnson, Vice President

Address: One Sun Avenue NE Suite # 650, Albuquerque, NM 87109

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Cibola County Manager

Printed Name: Tony Boyd

Address: 515 West High Street  
Grants, NM 87020

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Cibola County Purchasing Agent

Printed Name: Frances Medina

Address: 515 West High Street  
Grants, NM 87020

**BOARD OF COUNTY COMMISSIONERS**

**APPROVED, ADOPTED AND PASSED** on this \_\_\_\_\_ day of \_\_\_\_\_,  
2016.

\_\_\_\_\_  
Robert Armijo  
Commissioner, District I

\_\_\_\_\_  
T. Walter Jaramillo  
Commissioner, District II

\_\_\_\_\_  
Jack Moleris  
Commissioner, District III

\_\_\_\_\_  
Pat Simpson  
Commissioner, District IV

\_\_\_\_\_  
Lloyd Felipe  
Commissioner, District V

Attest:

\_\_\_\_\_  
Lisa Bro  
Cibola County Clerk

## **Attachment 1**

### **Scope of Work**

Required activities include, but are not necessarily limited to, the following:

#### **I. Scope of Services**

The responsibility of the Contractor is to use its best efforts to render professional consulting services to Cibola County to impart expertise to assist in maintaining successful compliance, based upon Contractor's experience with the American Correctional Association and its extensive knowledge of the Federal Performance Based Detention Standards.

Included in the support services, the Contractor shall assist in providing Phase II Aftercare Services which consist of the following:

- A) Provide County Commission with monthly SCORECARD© evaluation on progress of assessment reviews and compliance procedures.
- B) Consultation to assist the County to maintain effective facility oversight.
- C) Provide onsite weekly/bi-weekly site visits as mutually agreed upon and deemed appropriate.
- D) Attend additional meetings, training, as mutually agreed and deemed appropriate.
- E) Assist with training and development of managers and Correctional staff.
- F) Make recommendations regarding staff assessment, hires and training needs.
- G) Assess and recommend compliance action(s) according to the Prison Rape Elimination Act (P.R.E.A.) pursuant to the Department of Justice (D.O.J.) [C.F.R. National Standards to Prevent, Detect and Respond to Prison Rape (June, 2012) referred to as the Act].
- H) Provide managerial training and mentoring to facility officials.
- I) Consulting services when working with Federal and other agencies.
- J) Oversight assistance and monitoring - perpetual-audit compliance.

K) Oversight assistance and monitoring of facility procedural compliance.

**GCG will provide:**

- In depth knowledge with Adult Detention Standards and provide documents that comply with the Adult Detention Standards
- Provide weekly, bi-weekly, (or according to an agreed schedule) on-going inspections and meet with leadership staff
- Assist with training and development
- Assist with development and tracking of scorecard process
- Provide an annual inspection and report to the County Manager
- Provide monthly scorecard reports of the Detention Center progress to the County Manager
- Assist with Management interviews
- Provide assistance as outlined in this proposal and specifically as described under Section 1, Tab d, Response to Specifications



Option B

## PROFESSIONAL SERVICES CONTRACT

### CIBOLA COUNTY

THIS AGREEMENT is made and entered into by and between the County of Cibola, hereinafter referred to as the "County" and Global Correctional Group, hereinafter referred to as the "Contractor", and is effective as of the date set forth below upon which it is executed by the Purchasing Agent and the Board of County Commissioners.

IT IS AGREED BETWEEN THE PARTIES:

**1. Scope of Work.**

The Contractor shall perform the work outlined in the Scope of Work attached hereto as **Attachment 1** and incorporated herein by reference.

**2. Compensation.**

A. The County shall pay to the Contractor in full payment for services satisfactorily performed Fifty-Four Thousand Dollars and no cents (\$54,000.00) semi-annually, to be invoiced in equal monthly amounts after performance of the services. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling \$ 4,252.50 shall be paid by the County to the Contractor in equal monthly amounts. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed \$58,252.500. In no event will the Contractor be paid any amount in excess of the specified total amount payable without this Agreement being amended in writing.

B. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work. All invoices MUST BE received by the County no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

C. Contractor must submit a detailed statement accounting for all services performed, specified on a minimum of a quarter hour basis, and expenses incurred. If the County finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the County that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the County shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

D. The payment of taxes due for any money received under this Agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor's Federal and State tax identification number(s).

**3. Term.**

This Agreement is for Six (6) months from the date of approval by the Cibola County Board of County Commissioners. This Contract will not automatically renew on a semi-annual basis, but must be presented to and approved by the Cibola County Commission for the six (6) additional months' term unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

**4. Termination.**

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the County's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the County is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the County or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of government funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

B Termination Management. Immediately upon receipt by either the County or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the County; 2) comply with all directives issued by the County in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the County shall direct for the protection, preservation, retention or transfer of all property titled to the County and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the County upon termination and shall be submitted to the County as soon as practicable.

**5. Appropriations.**



The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Board of County Commissioners for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Board of County Commissioners, this Agreement shall terminate immediately upon written notice being given by the County to the Contractor. The County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the County proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

**6. Status of Contractor.**

The Contractor and its agents and employees are independent contractors performing professional services for the County and are not employees of the County of Cibola. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of county vehicles, or any other benefits afforded to employees of the County of Cibola as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the County of Cibola unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

**7. Assignment.**

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the County.

**8. Subcontracting.**

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the County. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the County. In all cases, the contractor is solely responsible for fulfillment of this Agreement.

**9. Release.**

Final payment of the amounts due under this Agreement shall operate as a release of the procuring agency of the County, its officers and employees, and the County of Cibola from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

**10. Confidentiality.**

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.

**11. Product of Service -- Copyright.**

All materials developed or acquired by the Contractor under this Agreement shall become the property of the County of Cibola and shall be delivered to the County no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

**12. Conflict of Interest; Governmental Conduct Act.**

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:

1) in accordance with Section 10-16-4.3 NMSA 1978, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any County employee while such employee was or is employed by the County and participating directly or indirectly in the County's contracting process;

2) this Agreement complies with Section 10-16-7(B) NMSA 1978 because (i) the Contractor is not a public officer or employee of the County; (ii) the Contractor is not a member of the family of a public officer or employee of the County; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the County, a member of the family of a public officer or employee of the County, or a business in which a public officer or employee of the County or the family of a public officer or employee of the County has a substantial interest, public notice was given as required by Section 10-16-7(B) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;

3) in accordance with Section 10-16-8(C) NMSA 1978, (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the County within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the County whose official act, while in County employment, directly resulted in the County's making this Agreement;

4) in accordance with Section 10-16-13 NMSA 1978, the Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and

5) in accordance with Section 10-16-3 and Section 10-16-13.3 NMSA 1978, the Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of the County.



C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the County relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the County if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the County and notwithstanding anything in the Agreement to the contrary, the County may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12(B).

**13. Amendment.**

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

**14. Merger.**

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

**15. Penalties for violation of law.**

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

**16. Equal Opportunity Compliance.**

The Contractor agrees to abide by all federal, state and county laws and rules and regulations, pertaining to equal employment opportunity. In accordance with all such laws, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

**17. Applicable Law.**

In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern and that venue will lie in the Thirteenth Judicial District Court in Cibola County. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

**18. Workers Compensation.**

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the County.

**19. Records and Financial Audit.**

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the County, the Department of Finance and Administration and the State Auditor. The County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payments

**20. Disclaimer and Hold Harmless.**

Cibola County shall not be liable to the Contractor, or the Contractor's successors, heirs, administrators, or assigns, for any loss, damage, or injury, whether to Contractor's person or property, occurring in connection with Contractor's performance of Contractor's duties according to this Agreement. Contractor shall hold Cibola County harmless from all loss, damage, and injury, including court costs and attorney fees, incurred by Cibola County in connection with the performance by Contractor of Contractor's duties according to this Agreement.

**21. Indemnification.**

The Contractor shall defend, indemnify and hold harmless the County of Cibola from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the County of Cibola and the New Mexico Association of Counties by certified mail.

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If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

**25. Lobbying.**

No federal appropriated funds can be paid or will be paid, by or on behalf of the CONTRACTOR, or any person for influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, or the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of this federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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  2. this contract itself; then
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  4. the Contractors Best and Final Offer(s), in reverse chronological order;
- then
5. the contractor's proposal; then
  6. the contractor's standard agreement terms and conditions (which may or may not have been submitted as part of the contractor's proposal).

**35. Patent, Copyright, Trademark and Trade Secret Indemnification.**

A. The contractor shall defend, at its own expense, the County of Cibola against any claim that any product or service provided under this agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the County of Cibola based upon the contractor's trade secret infringement relating to any product or service provided under this agreement, the contractor agrees to reimburse the County of Cibola for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the County of Cibola shall:

- i. gives the contractor prompt written notice of any claim;
- ii. allow the contractor to control the defense or settlement of the claim; and
- iii. cooperate with the contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the contractor's opinion is likely to become the subject of a claim of infringement, the contractor shall at its option and expense:

- i. provide a procuring agency of the County the right to continue using the product or service;
  - ii. replace or modify the product or service so that it becomes non-infringing;
- or
- iii. accept the return of the product or service and refund an amount equal to the depreciated value of the returned product or service, less the unpaid portion of the



purchase price and any other amounts which are due to the contractor. The contractor's obligation will be void as to any product or service modified by the procuring agency of the County to the extent such modification is the cause of the claim.

**36. Professional Liability Insurance.**

Contractor agrees to maintain in full force throughout the duration of the Agreement a lawyers professional liability insurance policy with a minimum coverage of \$1,000,000.00 per occurrence/ \$2,000,000.00 aggregate.

**37. Notices.**

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the County: Tony Boyd, County Manager // 515 West High Street // Grants, NM 87020

To the Contractor: Global Corrections Group //One Sun Avenue NE Suite # 650 //Albuquerque, NM 87109

**IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the Board of County Commissioners below.**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Contractor

Printed Name: Danieray Johnson, Vice President

Address: One Sun Avenue NE Suite # 650, Albuquerque, NM 87109

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Cibola County Manager

Printed Name: Tony Boyd

Address: 515 West High Street  
Grants, NM 87020

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Cibola County Purchasing Agent

Printed Name: Frances Medina

Address: 515 West High Street  
Grants, NM 87020

**BOARD OF COUNTY COMMISSIONERS**

**APPROVED, ADOPTED AND PASSED** on this \_\_\_\_\_ day of \_\_\_\_\_,  
2016.

\_\_\_\_\_  
Robert Armijo  
Commissioner, District I

\_\_\_\_\_  
T. Walter Jaramillo  
Commissioner, District II

\_\_\_\_\_  
Jack Moleris  
Commissioner, District III

\_\_\_\_\_  
Pat Simpson  
Commissioner, District IV

\_\_\_\_\_  
Lloyd Felipe  
Commissioner, District V

Attest:

\_\_\_\_\_  
Lisa Bro  
Cibola County Clerk

## **Attachment 1**

### **Scope of Work**

Required activities include, but are not necessarily limited to, the following:

#### **I. Scope of Services**

The responsibility of the Contractor is to use its best efforts to render professional consulting services to Cibola County to impart expertise to assist in maintaining successful compliance, based upon Contractor's experience with the American Correctional Association and its extensive knowledge of the Federal Performance Based Detention Standards.

Included in the support services, the Contractor shall assist in providing Phase II Aftercare Services which consist of the following:

- A) Provide County Commission with monthly SCORECARD© evaluation on progress of assessment reviews and compliance procedures.
- B) Consultation to assist the County to maintain effective facility oversight.
- C) Provide onsite weekly/bi-weekly site visits as mutually agreed upon and deemed appropriate.
- D) Attend additional meetings, training, as mutually agreed and deemed appropriate.
- E) Assist with training and development of managers and Correctional staff.
- F) Make recommendations regarding staff assessment, hires and training needs.
- G) Assess and recommend compliance action(s) according to the Prison Rape Elimination Act (P.R.E.A.) pursuant to the Department of Justice (D.O.J.) [C.F.R. National Standards to Prevent, Detect and Respond to Prison Rape (June, 2012) referred to as the Act].
- H) Provide managerial training and mentoring to facility officials.
- I) Consulting services when working with Federal and other agencies.
- J) Oversight assistance and monitoring - perpetual-audit compliance.

K) Oversight assistance and monitoring of facility procedural compliance.

**GCG will provide:**

- In depth knowledge with Adult Detention Standards and provide documents that comply with the Adult Detention Standards
- Provide weekly, bi-weekly, (or according to an agreed schedule) on-going inspections and meet with leadership staff
- Assist with training and development
- Assist with development and tracking of scorecard process
- Provide an annual inspection and report to the County Manager
- Provide monthly scorecard reports of the Detention Center progress to the County Manager
- Assist with Management interviews
- Provide assistance as outlined in this proposal and specifically as described under Section 1, Tab d, Response to Specifications



## CONTRACT

### CIBOLA COUNTY

THIS AGREEMENT is made and entered into by and between the Board of County Commissioners of Cibola County, State of New Mexico, hereinafter referred to as the "County" and **Information Technologies, Inc.**, hereinafter referred to as the "Contractor", and is effective as of the date set forth below upon which it is executed by the Purchasing Agent, the Cibola County Manager and the Board of County Commissioners.

IT IS AGREED BETWEEN THE PARTIES:

**1. Scope of Work.**

The Contractor shall deliver products or perform the work outlined in its response to the Request for Proposals, attached hereto as **Attachment 1** and incorporated herein by reference, with the following exceptions:

- A) Interface, NDEX is deleted from Cibola County Sheriff's Office Core Software Applications and Services (page 26 of Attachment 1)
- B) Optional Services, Services – Data Conversion is included for Cibola County Sheriff's Office (page 26 of Attachment 1)
- C) Interface, NDEX is deleted from Grants Police Department Core Software Applications and Services (page 27 of Attachment 1)
- D) Optional Services, Services–Data Conversion is included for Grants Police Department (page 27 of Attachment 1)
- E) All Core Software Applications and Services pertaining to Milan Police Department are deleted (page 28 of Attachment 1)

Product(s) shall be delivered or work performed only upon receipt of a valid Purchase Order issued by the County that specifically identifies the products or services to be provided by the Contractor.

**2. Compensation.**

A. The County shall pay to the Contractor in full payment for product(s) delivered and services performed based on the following prices and terms:

<b>CIBOLA COUNTY SHERIFF'S OFFICE CORE SOFTWARE APPLICATIONS</b>	
Item	Lic / Qty
<b>Hosted Software Service</b>	1
Hosted Service - Additional LAN Workstation	9

Hosted Service - Mobile Workstation	23
Hosted Service - Computer Aided Dispatch (single station)	1
Hosted Service - Additional CAD Workstation	4
Hosted Service - Dispatch Monitor (10 Concurrent Licenses)	1
<b>Enterprise Framework</b>	1
Regional Data Sharing	1
Personnel Management	1
Interface, New Mexico NCIC	1
<b>Computer Aided Dispatch</b>	1
Dispatch Map (web based)	5
Interface, E911	1
Interface, ProQA Platinum Level for CAD	1
<b>Law Enforcement Records Management</b>	1
<b>Annual Hosted Cost: \$41,940.00</b>	
<b>Payment in this amount will be made within five (5) days of software delivery and acceptance by Ms. Mindy Cunningham.</b>	

<b>CIBOLA COUNTY SHERIFF'S OFFICE</b>		
<b>CORE SERVICES</b>		
Item	Qty	One-Time Costs
<b>Hosted Service -</b>		
<b>Services – Software Installation</b>		
Services - Installation / Setup of Hosted Service	1	199.00
Services - Installation / Setup of Hosted LAN Workstation	9	450.00
Services - Installation / Setup of Hosted CAD Workstation	5	495.00
Services - Installation / Setup of Hosted Mobile Workstation	23	2,277.00
Services - Installation / Setup of Hosted Regional Data Sharing	1	250.00
Services - Installation / Setup of Hosted NCIC Interface	1	250.00
Services - Installation / Setup of Hosted E911 Interface	1	250.00
Services - Installation / Setup of Hosted Dispatch Monitor	1	199.00
<b>Training - Sys Admin at ITI (per day)</b>	2	6,780.00
<b>Services - Configuration Assistance</b>	1	2,500.00
<b>Training - Custom Class On-Site</b>	2	4,100.00
<b>Expenses</b>	1	2,900.00
<b>Services - Data Conversion</b>	1	15,000.00

<b>Total Services</b>	<b>35,650.00</b>
<b>Payment for expenses will be made in total, after the first on-site trip.</b>	

Contractor reserves the right to not perform the above services until payment for Core Software Application has been made.

<b>GRANTS POLICE DEPARTMENT CORE SOFTWARE APPLICATIONS</b>	
Item	Lic / Qty
<b>Hosted Service</b>	1
Hosted Service - Additional LAN Workstation	15
Hosted Service - Mobile Workstation	23
<b>Enterprise Framework</b>	1
Regional Data Sharing	1
Personnel Management	1
Interface, New Mexico NCIC	1
<b>Law Enforcement Records Management</b>	1
Interface, ITI CAD to RMS Web Service	1
<b>Annual Hosted Cost: 26,316.00</b>	
<b>Payment in this amount will be made within five (5) days of software delivery and acceptance by Chief Craig Vandiver.</b>	

<b>GRANTS POLICE DEPARTMENT CORE SERVICES</b>		
Item	Qty	One-Time Costs
<b>Hosted Service -</b>		
<b>Services – Software Installation</b>		
Services - Installation / Setup of Hosted Service	1	199.00
Services - Installation / Setup of Hosted LAN Workstation	15	750.00
Services - Installation / Setup of Hosted Mobile Workstation	23	2,277.00
Services - Installation / Setup of Hosted Regional Data Sharing	1	250.00
Services - Installation / Setup of Hosted NCIC Interface	1	250.00
<b>Training - Sys Admin at ITI (per day)</b>	2	3,390.00
<b>Services - Configuration Assistance</b>	1	1,695.00

<b>Training - Custom Class On-Site</b>	2	4,100.00
<b>Expenses</b>	1	2,300.00
<b>Services - Data Conversion</b>	1	7,500.00
<b>Total Services</b>		<b>22,711.00</b>
<b>Payment for expenses will be made in total, after the first on-site trip.</b>		

Contractor reserves the right to not perform the above services until payment for Core Software Application has been made.

B. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below.

C. The Contractor shall submit an accurate invoice for each purchase. Any reimbursement of taxes due to the Contractor shall be shown as a separate item. Invoices shall refer to the Purchase Order Number and shall be itemized unless otherwise specified by the County. Invoices are to be mailed to: Cibola County Accounts Payable, 515 West High Street, Grants, NM 87020.

D. The payment of taxes due for any money received under this Agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor's Federal and State tax identification number(s).

### **3. Term.**

This Agreement shall terminate one (1) year from the date of approval by the Cibola County Board of County Commissioners, unless sooner terminated as provided herein.

### **4. Termination.**

A. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. If the County is the terminating party, the full contract sum is due and payable upon termination. A notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for product(s) delivered or such work performed within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of government funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS

AGREEMENT. THIS PROVISION ALSO DOES NOT WAIVE THE CONTRACTORS OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE COUNTY'S DEFAULT/BREACH OF THIS AGREEMENT.

B Termination Management. Immediately upon receipt by either the County or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the County; 2) If requested by County within thirty (30) days of notice of Termination, provide to County, upon receipt of a one-time payment of \$ 299.00, an electronic copy of their data (Database Archive). Contractor will provide the archive on CD or DVD media in Microsoft SQL Server backup form. After this 30 day period, all Agency data will be purged from Contractors system and will not be recoverable.

Note: SQL Server backup form includes copies of the database tables and not printable data that can be utilized through conventional means such as a word processor. A database conversion by a qualified programmer or database administrator would be necessary to import this data into other software. These services are not provided or available from Contractor.

**5. Appropriations.**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Board of County Commissioners for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Board of County Commissioners, this Agreement shall terminate immediately upon written notice being given by the County to the Contractor. The County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the County proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment. In the event of termination under this provision, all provisions of Section 4: Termination will apply, including the full contract sum being payable to Contractor.

**6. Status of Contractor.**

The Contractor and its agents and employees are independent contractors providing product(s) or performing services for the County and are not employees of the County of Cibola. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of county vehicles, or any other benefits afforded to employees of the County of Cibola as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the County of Cibola unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

**7. Assignment.**

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the County. No such assignment or transfer shall relieve the Contractor from the obligations and liabilities under this Agreement.



**8. Subcontracting.**  
Not applicable.

**9. Release.**

Final payment of the amounts due under this Agreement shall operate as a release of the procuring agency of the County, its officers and employees, and the County of Cibola from all liabilities, claims and obligations whatsoever arising from or under this Agreement

**10. Confidentiality.**

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.

**11.**

**12. Conflict of Interest; Governmental Conduct Act.**

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:

1) in accordance with Section 10-16-4.3 NMSA 1978, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any County employee while such employee was or is employed by the County and participating directly or indirectly in the County's contracting process;

2) this Agreement complies with Section 10-16-7(B) NMSA 1978 because (i) the Contractor is not a public officer or employee of the County; (ii) the Contractor is not a member of the family of a public officer or employee of the County; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the County, a member of the family of a public officer or employee of the County, or a business in which a public officer or employee of the County or the family of a public officer or employee of the County has a substantial interest, public notice was given as required by Section 10-16-7(B) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;

3) in accordance with Section 10-16-8(C) NMSA 1978, (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the County within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the County whose official act, while in County employment, directly resulted in the County's making this Agreement;

4) in accordance with Section 10-16-13 NMSA 1978, the Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and

5) in accordance with Section 10-16-3 and Section 10-16-13.3 NMSA 1978, the Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of the County.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the County relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the County if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the County and notwithstanding anything in the Agreement to the contrary, the County may immediately terminate the Agreement. In the event of such Termination, all provisions of Section 4: Termination will apply.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12(B).

**13. Amendment.**

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

**14. Merger.**

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

**15. Penalties for violation of law.**

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

**16. Equal Opportunity Compliance.**

The Contractor agrees to abide by all federal, state and county laws and rules and regulations, pertaining to equal employment opportunity. In accordance with all such laws, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any

program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

**18. Workers Compensation.**

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the County.

**19. Records and Financial Audit.**

The County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payments for matters not clearly outlined in the contract.

**20. Disclaimer and Hold Harmless.**

**21. Indemnification.**

**22. Invalid Term or Condition.**

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

**23. Enforcement of Agreement.**

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

**24. Authority.**

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

**25. Lobbying.**

No federal appropriated funds can be paid or will be paid, by or on behalf of the CONTRACTOR, or any person for influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, or the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of this federal

contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

**26. Non-Collusion.**

In signing this bid the Bidder certifies he/she has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this offer submitted to the County.

**27. Survival.**

The Agreement paragraphs titled "Patent, Copyright, Trademark, and Trade Secret Indemnification" and "Indemnification" shall survive the expiration of this Agreement. Software licenses, leases, maintenance and any other unexpired Agreements that were entered into under the terms and conditions of this Agreement shall survive this Agreement

**28. Succession.**

This Agreement shall extend to and be binding upon the successors and assigns of the parties.

**29. Force Majeure.**

A party shall be excused from performance under this Agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

**30. Mediation.**

In the event a dispute arises as to the rights and obligations among the parties hereto, the parties agree to attempt to resolve the dispute through mediation as a condition precedent to seeking legal and equitable remedies. The parties agree to evenly split the costs of any such mediation services. The parties shall mutually agree upon the choice of mediator. In the event the parties have not agreed upon a mediator within twenty (20) days of written notice to the other regarding the dispute, then a list of seven potential mediators will be obtained from the New Mexico Association of Counties and the parties shall utilize a striking process until a mediator is agreed upon.

**31. Notice to Proceed.**

It is expressly understood that this Agreement is not binding upon the County until it is executed by the Board of County Commissioners after voting on the Contract at a public meeting or unless it is executed by the Cibola County Manager, if the amount of the Contract is \$10,000.00 or less. Further, the Contractor is not to proceed with its obligations under the Agreement until the Contractor has received a fully executed copy of the Agreement and one or more valid Purchase Orders issued by the County.

**33. Cooperation.**

All parties hereto will fully cooperate with the other and their respective counsel, accountant, and agents in connection with any steps required to be taken under this Agreement.

**34. Incorporation and Order of Precedence.**

This Invitation for Bids and the Contractor's Bid Form are incorporated by reference into this Agreement and are made a part of this Agreement. In the event of any conflict among these documents, the following order of precedence shall apply:

1. Any Contract amendment(s), in reverse chronological order; then
2. this Contract itself; then
3. the Response to the Request for Proposals; then
4. the Request for Proposals; then
  
5. the Contractor's standard agreement terms and conditions (which may or may not have been submitted as part of the Contractor's proposal).

**35. Patent, Copyright, Trademark and Trade Secret Indemnification.**

A. The Contractor shall defend, at its own expense, the County of Cibola against any claim that any product or service provided under this Agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the County of Cibola based upon the Contractor's trade secret infringement relating to any product or service provided under this Agreement, the Contractor agrees to reimburse the County of Cibola for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the County of Cibola shall:

- i. give the Contractor prompt written notice of any claim;
- ii. allow the Contractor to control the defense or settlement of the claim; and
- iii. cooperate with the Contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the Contractor's opinion is likely to become the subject of a claim of infringement, the Contractor shall at its option and expense:

- i. provide a procuring agency of the County the right to continue using the product or service;
- ii. replace or modify the product or service so that it becomes non-infringing; or
- iii. accept the return of the product or service and refund an amount equal to the depreciated value of the returned product or service, less the unpaid portion of the purchase price and any other amounts which are due to the Contractor. The Contractor's obligation will be void



as to any product or service modified by the procuring agency of the County to the extent such modification is the cause of the claim.

**36. Escalation Clause.**

Price escalation due to increased cost to the Contractor is not allowed.

**37. Warranties.**

Contractor warrants the materials, supplies or services furnished to be exactly as specified, free from defects in Contractor's design, labor, materials and manufacture, and to be in compliance with any drawings or specifications incorporated herein and with any samples furnished by Contractor..

**38. Commercial Warranty.**

The Contractor agrees that the supplies or services furnished under this order shall be covered by the most favorable commercial warranties the Contractor gives for such to any customer for such supplies or services. The rights and remedies provided herein shall extend to the County and are in addition to and do not limit any rights afforded to the County by any other clause of this Agreement. Contractor agrees not to disclaim warranties of fitness for a particular purpose of merchantability. Warranties shall become effective at the time of delivery.

**41. Late Payment Charges.**

Except as contained in this agreement: late payment charges may be assessed against the user agency in the amount and under the conditions set forth in Section 13-1-158 NMSA 1978.

**42. Overcharge Resulting from Antitrust Violations.**

Contractor agrees that any and all claims for overcharge resulting from antitrust violations which are borne by the County as to goods, services, and materials purchased in connection with this bid are hereby assigned to the County.

**43. Succession.**

This Agreement shall extend to and be binding upon the successors and assigns of the parties.

**44. Insurance.**

Contractor will carry the following insurance coverage with Cibola County listed as additional insured on all policies:

- a) General and professional liability insurance in the amount of \$1,000,000.00 per occurrence/\$2,000,000.00 aggregate.
- b) Automobile insurance in the amount of \$1,000,000.00.
- c) Workers' Compensation insurance as required by state statute.

**45. Notices.**

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the County: Tony Boyd, County Manager // 515 West High Street // Grants, NM 87020

To the Contractor: [E. Michael Krebs, Controller] //[10430 Baur Blvd.] //[St. Louis, MO 63132].

46. Contractor's Hosted Service requires a broadband internet connection acceptable to Contractor. Prior to installation, Contractor will need remote access to test County's internet connection for verification of broadband speed and connection integrity.

47. County agrees that Contractor's service is an alternative to purchasing, installing, setting up and maintaining an in-house server and related software. As such, County agrees that some periods of outage, without notice, will occur due to circumstances beyond Contractor's control (power, internet connectivity, hardware failure, etc.). Contractor does not guarantee uninterrupted service. In the event of an outage or un-planned event at the hosting site, use of the software will be interrupted. County is encouraged to maintain paper copies of all reports and agrees to hold Contractor harmless in all circumstances involving loss of use of the software. In the event of an outage at the hosting site lasting more than 72 consecutive hours, Contractor will offer a pro-rated discount for the next month of purchased service equal to the outage period.

48. All County workstations using Contractor's software must meet Contractor's minimum workstation requirements published at <http://www.itiusa.com/hardware-requirements/> and must be protected with an anti-virus software application (not provided by Contractor) that is under a maintenance agreement to receive the most current software and pattern updates from the Agency's chosen vendor. Contractor shall have the right to immediately deny access, without prior notice, to any workstation found to be inadequately protected or currently infected with any software virus, worm, spyware or similar malware. In this event, County will be responsible for the removal / repair of the workstation and will receive no credit for lost periods of service

49. Contractor will have the right to deactivate the software in the event that the County does not perform any obligation required under this Agreement. In the event of deactivation, County shall have no recourse against Contractor for their inability to use said software.

50. All software provided under this service is for use solely by County. County may not provide any software or use of software to any other entity.

51. Collection Of Statistical Or Use Information: During the term of this Agreement, Contractor may collect for internal use, the following information from client's data:

- Configuration information for use in providing support.
- Use information regarding user and activity counts associated with Contractor's pricing model for this Agreement, and for use by Contractor to enhance the user experience.

- Hardware and operating system information about the computers on which Contractor's software runs.
- Emails or other communications from users to Contractor

**Note: Contractor WILL NOT COLLECT ANY CRIMINAL JUSTICE INFORMATION from Agency's data.**

**Contractor will also download to Agency workstations the following:**  
Software updates, including assemblies, components or related modules associated with software revisions, including HELP files.

- Emails or other communications from Contractor to users

52. As part of this service, Contractor will perform updates / upgrades to the Contractor's software. Contractor will have the right to increase the minimum PC requirements as needed to support future enhancements to the software.

53. Contractor's Hosted Service includes a workstation license for the number of workstations subscribed. As a result of subscribing to Contractor's Hosted Service, County WILL NOT be acquiring any license to use the provided software beyond the term of this Agreement and WILL NOT ACQUIRE ANY OWNERSHIP of any of the software provided.

54. Product Offering: Contractor's product offering is limited to the software specifically listed herein. Additional products or interfaces not specifically listed herein are not included.

55. Mobile License: Contractor's Mobile License is provided on a per workstation basis. Each workstation that will run Contractor's software outside of the Local Area Network requires a mobile license. A minimum 3G cellular connection is required for connection to the data server.

**IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the Board of County Commissioners below.**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Contractor

Printed Name: [name]

Address: [address]

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Cibola County Manager

Printed Name: Tony Boyd

Address: 515 West High Street  
Grants, NM 87020

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Cibola County Purchasing Agent

Printed Name: Frances Medina

Address: 515 West High Street  
Grants, NM 87020

### **Attachment 1**

**[insert scope of services and compensation schedule  
from response to request for proposals]**

## SERVICES CONTRACT

### CIBOLA COUNTY

THIS AGREEMENT is made and entered into by and between the County of Cibola, hereinafter referred to as the "County" and Roberta's Place, Inc., hereinafter referred to as the "Contractor", and is effective as of the date set forth below upon which it is executed by the Purchasing Agent and the Board of County Commissioners. Pursuant to NMSA 1978, Section 13-1-125(A) and Cibola County Procurement Regulations 2.6.2.1.

IT IS AGREED BETWEEN THE PARTIES:

**1. Scope of Work.**

The Contractor shall perform the work outlined in the Scope of Work attached hereto as **Attachment 1** and incorporated herein by reference.

**2. Compensation.**

A. The County shall pay to the Contractor in full payment for services satisfactorily performed Fifteen Thousand Dollars and no cents (\$15,000.00) annually, to be invoiced in equal monthly amounts after performance of the services. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling \$0.00 shall be paid by the County to the Contractor in equal monthly amounts. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed \$15,000.00. In no event will the Contractor be paid any amount in excess of the specified total amount payable without this Agreement being amended in writing.

B. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work. All invoices MUST BE received by the County no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

C. Contractor must submit a detailed statement accounting for all services performed, specified on a minimum of a quarter hour basis, and expenses incurred. If the County finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the County that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the County shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.



D. The payment of taxes due for any money received under this Agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor's Federal and State tax identification number(s).

**3. Term.**

This Agreement is for one (1) year from the date of approval by the Cibola County Board of County Commissioners. This Contract will not automatically renew.

**4. Termination.**

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the County's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the County is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the County or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of government funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

B Termination Management. Immediately upon receipt by either the County or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the County; 2) comply with all directives issued by the County in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the County shall direct for the protection, preservation, retention or transfer of all property titled to the County and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the County upon termination and shall be submitted to the County as soon as practicable.

**5. Appropriations.**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Board of County Commissioners for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Board of County Commissioners, this Agreement shall terminate immediately upon written notice being given by the County to the Contractor. The County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be

final. If the County proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

**6. Status of Contractor.**

The Contractor and its agents and employees are independent contractors performing professional services for the County and are not employees of the County of Cibola. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of county vehicles, or any other benefits afforded to employees of the County of Cibola as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the County of Cibola unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

**7. Assignment.**

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the County.

**8. Subcontracting.**

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the County. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the County. In all cases, the contractor is solely responsible for fulfillment of this Agreement.

**9. Release.**

Final payment of the amounts due under this Agreement shall operate as a release of the procuring agency of the County, its officers and employees, and the County of Cibola from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

**10. Confidentiality.**

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.

**11. Product of Service -- Copyright.**

All materials developed or acquired by the Contractor under this Agreement shall become the property of the County of Cibola and shall be delivered to the County no later than the termination date of this Agreement. Nothing developed or produced, in whole or

in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

**12. Conflict of Interest: Governmental Conduct Act.**

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:

1) in accordance with Section 10-16-4.3 NMSA 1978, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any County employee while such employee was or is employed by the County and participating directly or indirectly in the County's contracting process;

2) this Agreement complies with Section 10-16-7(B) NMSA 1978 because (i) the Contractor is not a public officer or employee of the County; (ii) the Contractor is not a member of the family of a public officer or employee of the County; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the County, a member of the family of a public officer or employee of the County, or a business in which a public officer or employee of the County or the family of a public officer or employee of the County has a substantial interest, public notice was given as required by Section 10-16-7(B) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;

3) in accordance with Section 10-16-8(C) NMSA 1978, (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the County within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the County whose official act, while in County employment, directly resulted in the County's making this Agreement;

4) in accordance with Section 10-16-13 NMSA 1978, the Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and

5) in accordance with Section 10-16-3 and Section 10-16-13.3 NMSA 1978, the Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of the County.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the County relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the County if, at any time during the term of this Agreement, Contractor learns

that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the County and notwithstanding anything in the Agreement to the contrary, the County may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12(B).

**13. Amendment.**

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

**14. Merger.**

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

**15. Penalties for violation of law.**

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

**16. Equal Opportunity Compliance.**

The Contractor agrees to abide by all federal, state and county laws and rules and regulations, pertaining to equal employment opportunity. In accordance with all such laws, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

**17. Applicable Law.**

In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern and that venue will lie in the Thirteenth Judicial District Court in Cibola County. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

**18. Workers Compensation.**

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the County.

**19. Records and Financial Audit.**

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the County, the Department of Finance and Administration and the State Auditor. The County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payments

**20. Disclaimer and Hold Harmless.**

Cibola County shall not be liable to the Contractor, or the Contractor's successors, heirs, administrators, or assigns, for any loss, damage, or injury, whether to Contractor's person or property, occurring in connection with Contractor's performance of Contractor's duties according to this Agreement. Contractor shall hold Cibola County harmless from all loss, damage, and injury, including court costs and attorney fees, incurred by Cibola County in connection with the performance by Contractor of Contractor's duties according to this Agreement.

**21. Indemnification.**

The Contractor shall defend, indemnify and hold harmless the County of Cibola from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the County of Cibola and the New Mexico Association of Counties by certified mail.

**22. Invalid Term or Condition.**

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

**23. Enforcement of Agreement.**



A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

**24. Authority.**

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

**25. Lobbying.**

No federal appropriated funds can be paid or will be paid, by or on behalf of the CONTRACTOR, or any person for influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, or the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of this federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

**26. Approval of Contractor Personnel.**

Personnel proposed in the Contractor's written proposal to the County are considered material to any work performed under this Agreement. No changes of personnel will be made by the Contractor without prior written consent of the procuring agency of the County. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The procuring agency of the County shall retain the right to request the removal of any of the Contractor's personnel at any time.

**27. Survival.**

The agreement paragraphs titled "Patent, Copyright, Trademark, and Trade Secret Indemnification" and "Indemnification" shall survive the expiration of this agreement. Software licenses, leases, maintenance and any other unexpired agreements that were entered into under the terms and conditions of this agreement shall survive this agreement

**28. Succession.**

This agreement shall extend to and be binding upon the successors and assigns of the parties.

**29. Force Majeure.**

A party shall be excused from performance under this agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

**30. Mediation.**

In the event a dispute arises as to the rights and obligations among the parties hereto, the parties agree to attempt to resolve the dispute through mediation as a condition precedent to seeking legal and equitable remedies. The parties agree to evenly split the costs of any such mediation services. The parties shall mutually agree upon the choice of mediator. In the event the parties have not agreed upon a mediator within twenty (20) days of written notice to the other regarding the dispute, then a list of seven potential mediators will be obtained from the New Mexico Association of Counties and the parties shall utilize a striking process until a mediator is agreed upon.

**31. Notice to Proceed.**

It is expressly understood that this Agreement is not binding upon the County until it is executed by the Board of County Commissioners after voting on the contract at a public meeting or unless it is executed by the Cibola County Manager, pursuant to the Manager's delegated authority. Further, the Contractor is not to proceed with its obligations under the Agreement until the Contractor has received a fully signed copy of the Agreement.

**32. Attorney's Fees.**

In the event this Agreement results in dispute, mediation, litigation, or settlement between the parties to this Agreement, the prevailing party of such action shall NOT be entitled to an award of attorneys' fees and court costs.

**33. Cooperation.**

All parties hereto will fully cooperate with the other and their respective counsel, accountant, and agents in connection with any steps required to be taken under this Agreement.

**34. Incorporation and Order of Precedence.**

The contractor's proposal is incorporated by reference into this agreement and are made a part of this agreement. In the event of any conflict among these documents, the following order of precedence shall apply:

1. Any contract amendment(s), in reverse chronological order; then

2. this contract itself; then
  3. the Request for Proposals; then
  4. the Contractors Best and Final Offer(s), in reverse chronological order;
- then
5. the contractor's proposal; then
  6. the contractor's standard agreement terms and conditions (which may or may not have been submitted as part of the contractor's proposal).

**35. Patent, Copyright, Trademark and Trade Secret Indemnification.**

A. The contractor shall defend, at its own expense, the County of Cibola against any claim that any product or service provided under this agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the County of Cibola based upon the contractor's trade secret infringement relating to any product or service provided under this agreement, the contractor agrees to reimburse the County of Cibola for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the County of Cibola shall:

- i. give the contractor prompt written notice of any claim;
- ii. allow the contractor to control the defense or settlement of the claim; and
- iii. cooperate with the contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the contractor's opinion is likely to become the subject of a claim of infringement, the contractor shall at its option and expense:

- i. provide a procuring agency of the County the right to continue using the product or service;
  - ii. replace or modify the product or service so that it becomes non-infringing;
- or
- iii. accept the return of the product or service and refund an amount equal to the depreciated value of the returned product or service, less the unpaid portion of the purchase price and any other amounts which are due to the contractor. The contractor's obligation will be void as to any product or service modified by the procuring agency of the County to the extent such modification is the cause of the claim.

**36. Notices.**

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the County: Tony Boyd, County Manager // 515 West High Street // Grants, NM 87020

To the Contractor: Roberta's Place, Inc.//P.O. Box 7304 //Grants, N.M. 87020.

**IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the Board of County Commissioners below.**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Contractor

Printed Name: Roberta's Place Authorized Agent

Address: Grants, N.M. 87020

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Cibola County Manager

Printed Name: Tony Boyd

Address: 515 West High Street  
Grants, NM 87020

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Cibola County Purchasing Agent

Printed Name: Frances Medina

Address: 515 West High Street  
Grants, NM 87020

**BOARD OF COUNTY COMMISSIONERS**

**APPROVED, ADOPTED AND PASSED** on this \_\_\_\_\_ day of  
\_\_\_\_\_, 2016

\_\_\_\_\_  
Robert Armijo  
Commissioner, District I

\_\_\_\_\_  
T. Walter Jaramillo  
Commissioner, District II

\_\_\_\_\_  
Jack Moleris  
Commissioner, District III

\_\_\_\_\_  
Pat Simpson  
Commissioner, District IV

\_\_\_\_\_  
Lloyd Felipe  
Commissioner, District V

Attest:

\_\_\_\_\_  
Lisa Bro  
Cibola County Clerk



## **Attachment 1**

### **Scope of Work**

Required activities include, but are not necessarily limited to, the following:

Providing personal care items, baby supplies, school supplies for the children.  
Provide Shelter Crisis Line – Shelter Electric – Propane – Water and Sanitation

#### **Capital Outlay**

Shaded Structure for Playground Equipment  
Labor for Construction

Provide shelter, counseling, and support services for victims of Domestic Violence and their children.

Provide non-residential counseling, education classes, and support groups for victims of Domestic Violence.

Participate in efforts to have abusers take responsibility for and end violent and abuse behavior through a Batters Intervention Program.

Provide community outreach and education as a means to reach victims and educate the community about Domestic Violence.

Advocate for changes supportive of Domestic Violence victims in our Legislative – Judicial – and bureaucratic systems.

In 2014-2015 the following achievements were noted:

1. New Sheltered	54 Women	66 Children
2. Total Sheltered	94 Women	124 Children
3. Non-Residential	40 Women	1 Child
4. Sheltered Nights	2040	
5. Meals	6120.5	
6. Crisis Calls	134 (Intervention)	
7. Crisis Clients	42 (arising from calls)	
8. Miles Driven	1578 Miles	
9. Legal Advocacy	461	
10. Court Appearance	61	
11. ER Approved	4	
12. Transportation	269	
13. Referrals	139	
14. Legal Referrals	29	
15. Group Activities	196	
16. Child Activities	48	
17. Volunteer #s	77	
18. Volunteer Hours	2141	
19. Staffing Clients	38	
20. Staff Training	10	
21. Fed Women	41	
22. Fed Child	40	
23. Criminal	1	
24. F/U	34	
25. Safety Plan	155	
26. Outreach	21	

**MASTER SERVICES AGREEMENT ADDENDUM**  
**COST SEGREGATION AND NEW MEXICO GROSS RECEIPTS TAX STUDY**

Cibola County  
Jaynes Corporation  
5/23/16

**Scope of Services:**

In this Engagement, we will perform the following services:

- Perform a cost segregation analysis, for New Mexico gross receipt tax purposes, incurred with respect to the construction of the Cibola County Administration and Judicial Building (the "Project") located in Grants, New Mexico.
- Produce a report from our cost segregation study that will provide a breakdown of recommended items subject to deduction from New Mexico gross receipts tax.
- Utilize the results of the cost segregation study to determine the intended use of the property and apply Federal cost segregation principles to identify qualifying property for purposes of the New Mexico gross receipts tax.
- Serve as Jaynes Corporation's ("General Contractor") contact point for the Taxation & Revenue Department ("the Department") and coordinate communications and conferences.
- Respond to requests from the Department for additional information and documentation, which may require additional research and analysis of published guidance and/or gathering additional documentation to support the positions taken.

Moss Adams shall provide these services in accordance with New Mexico law and all applicable professional standards.

**Your Responsibilities:**

Upon Engagement acceptance, we will provide you with a list of the required information we will need for this Engagement. The scope of this Engagement is dependent on receiving from you project information that is fully reconciled, accurate, and reliable.

**Limitations:**

The following limitations apply to our report:

1. Our report is prepared and issued solely for use in determining items eligible for deduction from New Mexico gross receipts tax. The report is confined to the properties identified herein, and may not be used for any other purpose or by anyone other than you. Moss Adams assumes no responsibility for the consequences of extending the conclusions reached in the report to properties or taxpayers not identified herein.
2. We provide no assurance that our report and the conclusions reached therein will not be challenged by the state tax authorities or that such conclusions will be upheld by the courts if challenged by the state tax authorities.
3. The federal and state tax authorities upon whom our report is based are subject to change, and such changes may be retroactively effective and adversely affect the conclusions reached therein. Nothing in our report may be construed as imposing on Moss Adams any obligation or responsibility to inform any interested parties of, or update our report or conclusions for, any changes in the applicable law subsequent to the date of our report.

**Master Services Agreement Addendum**

Cost Segregation and New Mexico Gross Receipts Tax Study

Cibola County

Jaynes Corporation

5/23/16

Page 2 of 4

4. Our report must be considered and used only in its entirety, and may not be disassembled or in any manner segmented for viewing.
5. Our report's description of the subject asset's physical condition is based upon visual inspections where permitted and necessary.
6. We do not warrant the accuracy of the information provided to us upon which our report is based.
7. We have no responsibility to verify, or discover errors or misrepresentations in, the facts upon which the conclusions reached in the report are based.
8. The services provided hereunder are limited to cost segregation analyses for purposes of the New Mexico gross receipts tax and do not include audit, consulting, valuation, or other tax-related services that may be provided by Moss Adams.
9. We will not investigate the soil, structural or operating conditions of the property, which is the subject of our report, and we make no warranty as to their conditions. Further, our services will not include inspecting for or reporting the existence of hazardous, toxic, or contaminating materials or substances.
10. The conclusions reached in our report will not take into consideration whether you are in compliance with the Americans with Disabilities Act of 1990, or the effect that any non-compliance might have on such conclusions.
11. Moss Adams is the sole owner of any and all electronic models used in conducting any studies related to the report.

The General Contractor agrees that Moss Adams shall have no liability for any increase in the gross receipts tax and/or compensating tax owed by the General Contractor as a result of Moss Adams' services.

**Fee Arrangement:**

Our fee will be paid by Cibola County.

Our fees for providing the above services will be \$18,000, plus expenses. Further, if more extensive involvement on our part is required, we will discuss the additional fees with Cibola County before we proceed.

Our fee does not include any time to update our study for events and circumstances that occur after the date of its issuance unless we have been engaged to do so.

**Master Services Agreement Addendum**

Cost Segregation and New Mexico Gross Receipts Tax Study

Cibola County

Jaynes Corporation

5/23/16

Page 3 of 4

**Payment of Taxes, Interest and Penalties:**

If a taxing authority determines that additional New Mexico gross receipts tax is owed arising from the construction of the Project, Cibola County agrees that it shall be responsible for paying such additional tax.

If the taxing authority determines that penalty and interest charges are owed associated with the underpayment of New Mexico gross receipts tax arising from the construction of the Project, and to the extent any such penalties are not the result of Moss Adams' negligence or intentional misconduct, Cibola County agrees that it shall be responsible for paying such charges.

If the taxing authority assesses penalties associated with the underpayment of New Mexico gross receipts tax arising from the construction of the Project, Moss Adams agrees that it shall be responsible for paying such penalties to the extent such penalties were caused by Moss Adams' negligence or intentional misconduct in providing services under this Agreement. Nothing in the provision shall constitute a waiver of Cibola County's ability to assert a claim against Moss Adams for the payment of the interest charges.

The provision of this Section shall survive the termination of this Agreement.

**MSA Application:**

The services set forth in this Addendum are subject to the terms and conditions of the Master Services Agreement between Cibola County and Moss Adams and between Jaynes Corporation and Moss Adams. The applicable Master Services Agreement has the most current date preceding the date of this Addendum or otherwise accompanies this Addendum. Terms not otherwise defined herein shall have the same meaning as set forth in the Master Services Agreement.

**ACCEPTED AND AGREED:**

This Addendum and the Master Services Agreement set forth the understanding with respect to the tax services described above to be provided by Moss Adams and is effective as of the date set forth herein. The terms and conditions of the Addendum will expire 30 days from the date of issuance if you do not sign and return it to us before such expiration date.

**JAYNES CORPORATION**

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Master Services Agreement Addendum**

Cost Segregation and New Mexico Gross Receipts Tax Study

Cibola County

Jaynes Corporation

5/23/16

Page 4 of 4

**MOSS ADAMS LLP**



Signature: \_\_\_\_\_

Print Name: Duwayne Sibley

Title: Senior Manager

**ACCEPTED AND AGREED AS TO THE TERMS SET FORTH IN THE "FEE ARRANGEMENT" AND "PAYMENT OF TAXES, INTEREST, AND PENALTIES" SECTIONS:**

**CIBOLA COUNTY**

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

v. 2/5/16



## **TAX AND CONSULTING MASTER SERVICES AGREEMENT**

This Master Services Agreement (the “MSA” or “Agreement”) represents the terms and conditions relating to services to be provided to Cibola County (“you,” “your,” “Company,” and “Client”) by Moss Adams LLP (“Moss Adams,” “we,” “us,” and “our”). Moss Adams and the Client may be individually referred to as a “Party” and collectively as the “Parties.”

### **Agreement Scope**

The terms and conditions of this Agreement shall remain in effect until terminated as provided herein and shall apply to each instance (an “Engagement”) in which we provide tax and/or consulting related services to you. The nature and scope of our services in each Engagement should be set forth in an Addendum signed by Moss Adams and you or otherwise confirmed in writing by Moss Adams. However, all tax and/or consulting related services we provide you, whether or not set forth in writing in a separate Addendum, shall be subject to the terms of this Agreement.

### **Tax Preparation Services**

As part of the Agreement, we may prepare the tax returns as specified in a signed Addendum (collectively “returns”). We will assume no responsibility for preparing returns which are not set forth in a signed Addendum. We will not audit or otherwise verify the data you submit to prepare these returns, although we may ask you to clarify it or furnish us with additional data.

The information contained in tax returns prepared by Moss Adams is based solely on your representations and are ultimately your responsibility. Further, it is your responsibility to maintain the documentation necessary to support the data used in preparing your tax returns, including but not limited to auto, travel, entertainment, and related expenses and the required documents to support charitable contributions. If you have any questions as to the type of records required, please ask us for advice in that regard. It is also your responsibility to carefully examine and approve your completed tax returns before signing and mailing them to the tax authorities. We are not responsible for disallowed deductions or inadequate supporting documentation.

### **Tax Advice**

As part of the Agreement, we may provide you with tax advice, including but not limited to the tax ramifications of planned or actual transactions. Tax advice may involve (i) developing the relevant facts, (ii) determining the applicable law, (iii) preparing an analysis applying the law to the facts, and (iv) deriving a conclusion. Our tax advice will specify the facts on which they are based. The facts and assumptions used by Moss Adams relating to any advice provided to you are based solely on your representations. Moss Adams is not responsible to verify facts or for advice that is based upon incomplete information. If these facts are incorrect, incomplete or omitted our tax advice may not be relied on.

Any advice provided pursuant to this MSA is based upon published law, rulings or other authority as of the date the advice is provided and is based upon the facts provided to Moss Adams. You agree that Moss Adams is not responsible to update its advice if the law changes or if court cases or other rulings are issued that otherwise impact the advice provided.

Whenever we believe applicable tax law is unclear or there are conflicting interpretations of the law by authorities (e.g., tax agencies and courts), we will advise you as to the possible positions that may be taken. It is your responsibility to decide which position(s) will be taken on your applicable tax return. If the IRS or other taxing authority should later contest the position taken, there may be an assessment of additional tax plus interest and penalties. You agree we have no liability for any such additional penalties or assessments.

## **Tax and Consulting Master Services Agreement**

Cibola County

Page 2 of 6

### **Fraud and Internal Controls**

Our services cannot be relied on to detect errors, fraud, irregularities or illegal acts that may exist. In addition, we have no responsibility to identify or communicate significant deficiencies or material weaknesses in your internal controls. You are responsible for developing and evaluating internal controls, including, without limitation, internal controls over financial reporting and disclosure controls and procedures. Our services are not intended to assist you in developing or evaluating your internal controls and should not be relied on for this purpose.

### **Paid Preparer Matters**

Federal tax law may treat Moss Adams as a "paid preparer" in certain situations where we provide significant tax advice that is used in preparing a Federal income tax return. Similar rules can apply at the state level. Where significant tax advice is provided resulting in Moss Adams becoming a paid preparer, you agree to cooperate with Moss Adams in complying with the requirements of the paid preparer rules and law. This may require Moss Adams to review and sign the return as paid preparer. If this is necessary, we will issue an Addendum to cover such services.

### **Confidentiality and Privileged Communication**

Certain communications involving tax advice between you and Moss Adams may be privileged and not subject to disclosure to the IRS. By disclosing the contents of those communications to anyone or by turning over information about those communications to the government, you may be waiving this privilege. To protect your right to privileged communication between you and Moss Adams, you should consult with us or your attorney prior to disclosing any information about our tax advice.

### **Fees and Expenses**

Our services will be billed at our standard rate(s) in effect for the individual(s) providing the services, absent an Addendum specifying a different fee. Billings are due upon presentation and become delinquent if not paid within 30 days of the invoice date. Any past due fee under this Agreement shall bear interest at the lower of twelve percent per annum or the highest rate allowed by law on any unpaid balance. In addition to fees, you may be billed for expenses and any applicable sales and gross receipts tax. Direct expenses may be charged based on out-of-pocket expenditures, per diem allotments, and mileage reimbursements, depending on the nature of the expense. Indirect expenses, such as processing and copying, are passed through at our estimated clerical and equipment cost and may be charged as a flat fee. If we elect to suspend a specific Addendum to the MSA for nonpayment, we may not resume our work until your account is paid in full. If we elect to terminate our services for nonpayment, or as otherwise provided in this Agreement, all Addenda will be deemed to have been completed upon written notification of termination, even if we have not completed our work. You will be obligated to compensate us for fees earned for services rendered and to reimburse us for all expenses.

### **Management Responsibilities**

You agree to accept the responsibilities set forth below regarding tax and/or consulting services provided under this Agreement:

- Assume all management responsibilities.
- Oversee the service, by designating an individual, preferably within senior management who possesses skill, knowledge, and/or experience to oversee the services. The individual is not required to possess the expertise to perform or reperform the services.

## **Tax and Consulting Master Services Agreement**

Cibola County

Page 3 of 6

- Evaluate the adequacy and results of the services performed.
- Accept responsibility for the results of the services.

If any issues or concerns in this area arise during the course of our Engagement, we will discuss them with you prior to continuing with the Engagement.

### **Limitation on Liability**

YOU AGREE THAT MOSS ADAMS' TOTAL LIABILITY TO YOU OR ANY THIRD PARTY FOR ANY AND ALL DAMAGES WHATSOEVER ARISING OUT OF THIS AGREEMENT FROM ANY CAUSE, INCLUDING BUT NOT LIMITED TO CONTRACT LIABILITY OR MOSS ADAMS' NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, BREACH OF CONTRACT OR BREACH OF WARRANTY SHALL NOT, IN THE AGGREGATE, EXCEED THE FEES PAID TO MOSS ADAMS DURING THE THEN CURRENT TERM OF THIS AGREEMENT.

IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR OTHERWISE ARISING OUT OF THIS AGREEMENT EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

### **Intellectual Property Rights**

We may use intellectual property in performing our services, including without limitation, data, software, designs, utilities, tools, models, systems, ideas, methods and techniques ("Materials"). We retain all intellectual property rights in the Materials (including any developments, improvements, and knowledge generated during the performance of our services), and in any working papers compiled in connection with the services.

In the course of performing our services, we may provide you spread sheets, models, or other software tools. Such items are provided solely for your convenience in "as is" condition without warranty of any kind. We assume no responsibility for results obtained by anyone other than Moss Adams from the use of such items.

### **Internal Use and Third Parties**

You acknowledge that Moss Adams has not placed any limitations on your disclosure of the tax treatment or tax structure associated with the tax services under this Agreement ("Tax Information"), and nothing in this Agreement shall be construed as limiting or restricting disclosure of Tax Information. You acknowledge that none of your other advisors have imposed or will impose any conditions of confidentiality with respect to Tax Information. With the exception of tax authorities, you shall inform those to whom you disclose Tax Information that they may not rely on it for any purpose. All services shall be solely for your informational purposes and internal use, and no Engagement creates privity between Moss Adams and any person or party other than you ("third party"). Unless we agree otherwise in a signed Addendum, none of our services are intended for the express or implied benefit of any third party, and no third party is entitled to rely on the services we provide you, including without limitation, any advice, opinions, or reports. In the event of any unauthorized reliance, you agree to indemnify and hold harmless Moss Adams and its personnel from all third-party claims, liabilities, costs, and expenses.

### **Document Retention Policy**

At the conclusion of each Engagement, we will return original records you supplied to us. Your records comprise the backup and support for your tax returns. Our records and files, including our working papers, whether kept on paper or electronic media, are the property of Moss Adams and are not a substitute for your own records. If you

## **Tax and Consulting Master Services Agreement**

Cibola County

Page 4 of 6

have any questions as to the type of records required, please ask us for advice in that regard. We are not responsible for damages resulting from documentation inadequately supported by your records.

Except as set forth above, you agree that Moss Adams may destroy documents, including, without limitation, correspondence, agreements, and representation letters, and retain only electronic images thereof.

### **Subpoena of Documents**

As a result of our services to you, we may be required or requested to provide information or documents to you or a third-party in connection with governmental regulations or activities, or a legal, arbitration or administrative proceeding (including a grand jury investigation), in which we are not a party. We will notify you of any such request and you may, within the time permitted for us to respond to any request, initiate such legal action as you deem appropriate to protect information from discovery. If you take no action within the time permitted for us to respond or if your action does not result in a judicial order protecting us from supplying requested information, we will construe your inaction or failure as consent to comply with the request. Our efforts in complying with such requests or demands will be deemed a part of this Agreement and we shall be entitled to additional compensation for our time and reimbursement for our out-of-pocket expenditures (including legal fees) in complying with such request or demand.

### **Use of Electronic Communication**

In the interest of facilitating our services to you, we may communicate by facsimile transmission or send electronic mail over the Internet. Such communications may include information that is confidential. We employ measures in the use of facsimile machines and computer technology designed to provide reasonable assurance that data security is maintained. While we will use our best efforts to keep such communications secure in accordance with our obligations under applicable laws and professional standards, you recognize and accept we have no control over the unauthorized interception of these communications once they have been sent. Unless you issue specific instructions to do otherwise, we will assume you consent to our use of facsimile transmissions to your representatives and other use of these electronic devices during the term of this MSA as we deem appropriate.

### **Use of a Party's Name**

Neither party may use the other party's name, its trademarks, service marks or logos in connection with the services contemplated by this Agreement or otherwise without the prior written consent of such party, which consent may be withheld for any reason and may be subject to certain conditions.

### **Use of Third Party Service Providers**

We may use third party service providers in serving you, including software and data storage providers. You understand that Moss Adams does not control the providers' networks, security or availability of services.

### **Use of Non-licensed Personnel**

Certain Engagement personnel, who are not licensed as Certified Public Accountants, may provide services as part of this Agreement.

### **Force Majeure**

Neither party shall be liable for breach of this Agreement (other than payment obligations) caused by circumstances beyond such party's reasonable control.

## **Tax and Consulting Master Services Agreement**

Cibola County

Page 5 of 6

### **Dispute Resolution Procedure, Venue and Limitation Period**

This Agreement shall be governed by the laws of the state of Washington, without giving effect to any conflicts of laws principles. If a dispute arises out of or relates to the MSA, including, without limitation, any tax and/or consulting services we provide to you subject to this MSA, and if the dispute cannot be settled through negotiations, the Parties agree first to try in good faith to settle the dispute by mediation using an agreed upon mediator. If the Parties are unable to agree on a mediator, the Parties shall petition the state court that would have jurisdiction over this matter if litigation were to ensue and request the appointment of a mediator, and such appointment shall be binding on the Parties. Each Party shall be responsible for its own mediation expenses, and shall share equally in the mediator's fees and expenses.

If the claim or dispute cannot be settled through mediation, each Party hereby irrevocably (a) consents to the exclusive jurisdiction and venue of the appropriate state or federal court located in King County, state of Washington, in connection with any dispute hereunder or the enforcement of any right or obligation hereunder, and (b) WAIVES ITS RIGHT TO A JURY TRIAL. EACH PARTY FURTHER AGREES THAT ANY SUIT ARISING OUT OF OR RELATED TO THIS AGREEMENT MUST BE FILED IN A COURT OF PROPER JURISDICTION WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ARISES.

### **Term**

The initial term of this Agreement shall begin on the later of the date signed by Client or Moss Adams and continue for one (1) year. This Agreement will renew annually for successive one (1) year terms unless either Party terminates as provided in this Agreement.

### **Termination**

This Agreement may be terminated by either Party, with or without cause, upon ten (10) days written notice. In such event, we will stop providing services hereunder except on work, mutually agreed upon in writing, necessary to carry out such termination. In the event of termination, (a) you shall pay us for services provided and expenses incurred through the effective date of termination, (b) we will provide you with all finished reports that we have prepared pursuant to this Agreement, and (c) neither Party shall be liable to the other for any damages that occur as a result of our ceasing to render services.

### **Entire Agreement**

This Master Services Agreement, including any applicable Addendum/Addenda, constitutes the entire Agreement and understanding between Moss Adams and the Client regarding our tax and related consulting services. You agree that in entering into this Agreement you have not relied upon any oral or other representations, promises or statements made by anyone which is not set forth herein.

### **Enforceability**

In the event any portion of this Agreement is deemed invalid or otherwise unenforceable, the other provisions shall remain in full force and effect.

### **Execution of this Agreement**

This Agreement may have been forwarded to you by email or facsimile transmission. Your acceptance of this Agreement, returned by the same or similar means is legally binding upon Moss Adams and you. The party



**Tax and Consulting Master Services Agreement**

Cibola County

Page 6 of 6

executing this Agreement represents that he/she has the authority to make this Agreement with Moss Adams and to bind to its terms you and any of your affiliates or others for whom services are performed.

**AGREED:**

**CIBOLA COUNTY**

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**MOSS ADAMS LLP**



Signature: \_\_\_\_\_

Print Name: Duwayne Sibley

Title: Senior Manager

Date: 5/24/2016

v. 5/20/2016

## SpyGlass Snapshot Audit Agreement

This agreement, effective as of the later of the dates of signature below ("Effective Date"), is between County of Cibola ("Company"), and The SpyGlass Group, LLC, an Ohio limited liability company ("Auditor").

**1. Primary Audit Services.** Company is engaging Auditor as an independent contractor to analyze its primary telecommunications service accounts (local voice, long distance voice, data, Internet, and wireless) to seek cost recovery, service elimination and cost reduction recommendations. Auditor will deliver the recommendations to Company, implement recommendations that Company elects for Auditor to implement, and deliver a complete telecommunications inventory to Company.

While Auditor is performing its analysis, Company will not make changes or perform internal cost reduction analysis with respect to provider accounts which Company has included within the scope of Auditor's review.

**2. Fees.** Company will pay Auditor the applicable fee set forth below **ONLY** for Auditor recommendations implemented within twelve (12) months of Auditor delivering the recommendation to Company:

- 50% of any "Cost Recovery", as defined below
- 12 times any "Service Elimination Savings", as defined below
- 12 times any "Cost Reduction Savings", as defined below

"Cost Recovery" is any refund, credit or compensation received by Company relating to past services or charges.

"Service Elimination Savings" is any monthly cost reduction received by Company relating to cancellation of any service, including monthly usage cost reduction (calculated as the average of the last 2 months of usage costs associated with the cancelled service).

"Cost Reduction Savings" is any monthly cost reduction received by Company relating to the modification, consolidation or negotiation of any service, account or contract, including post discount usage rate improvement (calculated as the (a) decrease in post discount per unit pricing realized by Company for any service, times (b) the average of Company's last two (2) months usage levels measured in such units for the modified service).

**3. Invoicing and Payment.** Fees for Cost Recovery are due as a one-time payment within 10 days of verification that Company has been issued the refund, credit or compensation resulting in such fees. Fees for Service Elimination Savings and Cost Reduction Savings are due as a one-time payment within 10 days of verification that the cancellation or other activity resulting in the Service Elimination Savings or Cost Reduction Savings has been completed. Auditor may issue separate invoices as different fees are earned.

**4. Miscellaneous.** This agreement is governed by the laws of the state of New Mexico, without regard to principles of conflicts of law, and may be executed by facsimile and simultaneously in multiple counterparts. Company agrees that Auditor does not warranty the overall performance, Company satisfaction, or data accuracy of any telecommunications related carrier, provider, software manufacturer or vendor at any time whatsoever during or after the term of this agreement. Each person signing this agreement on behalf of a party represents that he or she has been duly authorized to sign this agreement and to bind the party on whose behalf this agreement is being signed by that signatory. AUDITOR SHALL NOT BE LIABLE TO THE COMPANY FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR BUSINESS INTERRUPTION, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT OR OTHERWISE, EVEN IF EITHER PARTY HAS BEEN WARNED OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE IN ADVANCE. IN ADDITION, IN NO EVENT SHALL AUDITOR'S LIABILITY TO COMPANY EXCEED THE FEES ACTUALLY PAID BY COMPANY TO AUDITOR.

**IN WITNESS WHEREOF**, the parties hereto have executed this agreement as of the Effective Date.

### COMPANY

County of Cibola

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

### AUDITOR

The SpyGlass Group, LLC

Signature: \_\_\_\_\_

Print Name: Edward M. DeAngelo

Date: \_\_\_\_\_

**Cibola County Commission**

T. Walter Jaramillo, Chairman  
Robert Armijo, 1<sup>st</sup> Vice-Chair  
Jack Moleres, 2<sup>nd</sup> Vice-Chair  
Patrick Simpson, Commissioner  
Lloyd F. Felipe, Commissioner

**Cibola County**

**515 West High Street**

**Grants, New Mexico 87020**

Phone (505) 287-9431 – Fax (505) 285-5434



Tony M. Boyd  
County Manager

June 8, 2016

Grants Mainstreet Project, Inc.  
P.O. Box 337  
Grants, NM 87020

Re: Notice of Termination of Professional Contract Proposal Agreement with the County of Cibola due to Non-Appropriation

To Whom It May Concern:

On May 25, 2016 at a duly noticed regular meeting, the Board of County Commissioners of Cibola County determined that the County does not have sufficient appropriations to fund the above referenced agreement executed on July 1, 2015.

Accordingly, this letter serves as notice, pursuant to Section 10 of the Agreement, that the contract is hereby terminated effected at the end of this fiscal year, June 30, 2016. Section 10 of the Agreement provides in pertinence part:

"The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Governing Body of the County for the performance of this agreement. If sufficient appropriations and authorization are not made by the Governing Body of the County, this Agreement shall terminate upon written notice being given by the County to the Contractor. The County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final."

At its meeting the Commissioners expressed how much they appreciate your organization and its dedication to the community and hope to be able to re-fund the Agreement in the 2017-18 fiscal year.

Sincerely,

---

Tony Boyd, Manager

# **CIBOLA COUNTY**

CONTRACT # 2016-04-01

THIS AGREEMENT is made and entered into by and between the County of Cibola, hereinafter referred to as the "County" and Future Foundations Family Center (SOS Entity #1724707), hereinafter referred to as the "Contractor"; procured pursuant to RFP 2016-04-01, the Contractor's response thereto, and any negotiations conducted pursuant to NMSA 1978 Section 13-1-115 and county purchasing policy; and is effective as of the date set forth below upon which it is executed by the Purchasing Agent and the Board of County Commissioners.

IT IS AGREED BETWEEN THE PARTIES:

**1. Scope of Work.**

The Contractor shall perform the work outlined in the Scope of Work attached hereto as **Attachment 1** and incorporated herein by reference.

**2. Compensation.**

A. The compensation to be provided pursuant to this solicitation will be \$63,000.00 for Administrative Overhead and Oversight on Programs held at Center. The sum of \$17,000 will be available for building maintenance (janitorial plus materials) and utilities for the entire facility. The Contractor will provide the first \$1000 toward any building repair; the County providing the remainder of cost of repair.

B. Contractor must submit a monthly statement accounting for all services performed.

C. The payment of taxes due for any money received under this Agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor's Federal and State tax identification number(s).

**3. Term.**

This Agreement is for one (1) year from the date of approval by the Cibola County Board of County Commissioners. This Contract will automatically renew on an annual basis, for up to three (3) additional one (1) year terms unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations).

**4. Termination.**

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. A notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. Notwithstanding the

foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the County or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of government funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

B Termination Management. Immediately upon receipt by either the County or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) comply with all directives issued by the County in the notice of termination as to the performance of work under this Agreement; and 2) take such action as the County shall direct for the protection, preservation, retention or transfer of all property titled to the County and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the County upon termination and shall be submitted to the County as soon as practicable.

**5. Appropriations.**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Board of County Commissioners for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Board of County Commissioners, this Agreement shall terminate immediately upon written notice being given by the County to the Contractor. The County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the County proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

**6. Status of Contractor.**

The Contractor and its agents and employees are independent contractors performing professional services for the County and are not employees of the County of Cibola. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of county vehicles, or any other benefits afforded to employees of the County of Cibola as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the County of Cibola unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

**7. Assignment.**

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the County.

**8. Subcontracting.**



The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the County. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the County. In all cases, the contractor is solely responsible for fulfillment of this Agreement.

**9. Release.**

Final payment of the amounts due under this Agreement shall operate as a release of the procuring agency of the County, its officers and employees, and the County of Cibola from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

**10. Confidentiality.**

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.

**11. Product of Service -- Copyright.**

All materials developed or acquired by the Contractor under this Agreement shall become the property of the County of Cibola and shall be delivered to the County no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

**12. Conflict of Interest; Governmental Conduct Act.**

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:

1) in accordance with Section 10-16-4.3 NMSA 1978, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any County employee while such employee was or is employed by the County and participating directly or indirectly in the County's contracting process;

2) this Agreement complies with Section 10-16-7(B) NMSA 1978 because (i) the Contractor is not a public officer or employee of the County; (ii) the Contractor is not a member of the family of a public officer or employee of the County; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the County, a member of the family of a public officer or employee of the County, or a business in which a public officer or employee of the County or the family of a public officer or employee of the

County has a substantial interest, public notice was given as required by Section 10-16-7(B) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;

3) in accordance with Section 10-16-8(C) NMSA 1978, (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the County within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the County whose official act, while in County employment, directly resulted in the County's making this Agreement;

4) in accordance with Section 10-16-13 NMSA 1978, the Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and

5) in accordance with Section 10-16-3 and Section 10-16-13.3 NMSA 1978, the Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of the County.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the County relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the County if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the County and notwithstanding anything in the Agreement to the contrary, the County may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12(B).

**13. Amendment.**

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

**14. Merger.**

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

**15. Penalties for violation of law.**

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

**16. Equal Opportunity Compliance.**

The Contractor agrees to abide by all federal, state and county laws and rules and regulations, pertaining to equal employment opportunity. In accordance with all such laws, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

**17. Applicable Law.**

In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern and that venue will lie in the Thirteenth Judicial District Court in Cibola County. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

**18. Workers Compensation.**

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the County.

**19. Records and Financial Audit.**

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the County, the Department of Finance and Administration and the State Auditor. The County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payments

**20. Disclaimer and Hold Harmless.**

Cibola County shall not be liable to the Contractor, or the Contractor's successors, heirs, administrators, or assigns, for any loss, damage, or injury, whether to Contractor's person or property, occurring in connection with Contractor's performance of Contractor's duties according to this Agreement. Contractor shall hold the Cibola County harmless from all loss, damage, and injury, including court costs and attorney fees, incurred by Cibola County in connection with the performance by Contractor of Contractor's duties according to this Agreement.

**21. Indemnification.**

The Contractor shall defend, indemnify and hold harmless the County of Cibola from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this

Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the County of Cibola and the New Mexico Association of Counties by certified mail.

**22. Invalid Term or Condition.**

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

**23. Enforcement of Agreement.**

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

**24. Authority.**

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

**25. Lobbying.**

No federal appropriated funds can be paid or will be paid, by or on behalf of the CONTRACTOR, or any person for influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, or the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of this federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

**26. Approval of Contractor Personnel.**

Personnel proposed in the Contractor's written proposal to the County are considered material to any work performed under this Agreement. No changes of personnel will be made by the Contractor without prior written consent of the procuring agency of the County. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability,

experience and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The procuring agency of the County shall retain the right to request the removal of any of the Contractor's personnel at any time.

**27. Survival.**

The agreement paragraphs titled "Patent, Copyright, Trademark, and Trade Secret Indemnification" and "Indemnification" shall survive the expiration of this agreement. Software licenses, leases, maintenance and any other unexpired agreements that were entered into under the terms and conditions of this agreement shall survive this agreement

**28. Succession.**

This agreement shall extend to and be binding upon the successors and assigns of the parties.

**29. Force Majeure.**

A party shall be excused from performance under this agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

**30. Mediation.**

In the event a dispute arises as to the rights and obligations among the parties hereto, the parties agree to attempt to resolve the dispute through mediation as a condition precedent to seeking legal and equitable remedies. The parties agree to evenly split the costs of any such mediation services. The parties shall mutually agree upon the choice of mediator. In the event the parties have not agreed upon a mediator within twenty (20) days of written notice to the other regarding the dispute, then a list of seven potential mediators will be obtained from the New Mexico Association of Counties and the parties shall utilize a striking process until a mediator is agreed upon.

**31. Notice to Proceed.**

It is expressly understood that this Agreement is not binding upon the County until it is executed by the Board of County Commissioners after voting on the contract at a public meeting. Further, the Contractor is not to proceed with its obligations under the Agreement until the Contractor has received a fully signed copy of the Agreement.

**32. Attorney's Fees.**

In the event this Agreement results in dispute, mediation, litigation, or settlement between the parties to this Agreement, the prevailing party of such action shall NOT be entitled to an award of attorneys' fees and court costs.

**33. Cooperation.**

All parties hereto will fully cooperate with the other and their respective counsel, accountant, and agents in connection with any steps required to be taken under this Agreement.

**34. Incorporation and Order of Precedence.**

Request for Proposals No. 2016-04-01 and the contractor's proposal are incorporated by reference into this agreement and are made a part of this agreement. In the event of any conflict among these documents, the following order of precedence shall apply:

1. Any contract amendment(s), in reverse chronological order; then
2. this contract itself; then
3. the Request for Proposals; then
4. the Contractors Best and Final Offer(s), in reverse chronological order; then
5. the contractor's proposal; then
6. the contractor's standard agreement terms and conditions (which may or may not have been submitted as part of the contractor's proposal).

**35. Patent, Copyright, Trademark and Trade Secret Indemnification.**

A. The contractor shall defend, at its own expense, the County of Cibola against any claim that any product or service provided under this agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the County of Cibola based upon the contractor's trade secret infringement relating to any product or service provided under this agreement, the contractor agrees to reimburse the County of Cibola for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the County of Cibola shall:

- i. gives the contractor prompt written notice of any claim;
- ii. allow the contractor to control the defense or settlement of the claim; and
- iii. cooperate with the contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the contractor's opinion is likely to become the subject of a claim of infringement, the contractor shall at its option and expense:

- i. provide a procuring agency of the County the right to continue using the product or service;
- ii. replace or modify the product or service so that it becomes non-infringing; or
- iii. accept the return of the product or service and refund an amount equal to the depreciated value of the returned product or service, less the unpaid portion of the purchase price and any other amounts which are due to the contractor. The contractor's obligation will be void



as to any product or service modified by the procuring agency of the County to the extent such modification is the cause of the claim.

**36. Insurance.**

Contractor agrees to maintain in full force throughout the duration of the Agreement a premises liability insurance policy with a minimum coverage of \$1,000,000.00 per occurrence/ \$2,000,000.00 aggregate. Contractor additionally agrees to maintain in full force throughout the duration of the Agreement a general commercial liability insurance policy with a minimum coverage of \$1,000,000.00 per occurrence/ \$2,000,000.00 aggregate.

**37. Notices.**

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the County: Frances Medina, Cibola County Certified Purchasing Officer // 515 West High Street // Grants, NM 87020

To the Contractor: [insert name and address].

**IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the Board of County Commissioners below.**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Sherri Kachirisky

Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Certified Purchasing Officer

Printed Name: Frances Medina      Address: 515 West High Street    Grants, NM 87020

**BOARD OF COUNTY COMMISSIONERS**

**APPROVED, ADOPTED AND PASSED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Robert Armijo  
Commissioner, District I

\_\_\_\_\_  
T. Walter Jaramillo  
Commissioner, District II

\_\_\_\_\_  
Jack Moleres  
Commissioner, District III

\_\_\_\_\_  
Pat Simpson  
Commissioner, District IV

\_\_\_\_\_  
Lloyd Felipe  
Commissioner, District V

Attest:

\_\_\_\_\_  
Lisa Bro  
Cibola County Clerk

**Julie Quintana**

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**From:** Lloyd Felipe <lloyd.felipe60@yahoo.com>  
**Sent:** Thursday, June 16, 2016 5:20 PM  
**To:** julieq@co.cibola.nm.us; Tony Boyd  
**Subject:** 2016 NACo Annual Conference & Exposition Schedule | NACo

Take a look at the NACO conference agenda for Monday, July 25, 2016, at 8:00 am workshop. I am scheduled to be part of a panel discussion. I wish there was some way to record this session for our County and NMAC. This is a great honor and. Opportunity to showcase the efforts of our organization.

<http://www.naco.org/events/annual-conference/2016-naco-annual-conference-exposition-schedule>

Lloyd F. Felipe Sr.  
505-240-7526



# 2016 NACo ANNUAL CONFERENCE & EXPOSITION | Los Angeles County LONG BEACH • JULY 22-25, 2016

## SCHEDULE - AS OF JUNE 2, 2016

### Thursday, July 21, 2016

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**7:30 a.m. - 1:30 p.m.**

#### **CIO Forum**

The CIO Forum enables county CIOs, along with Premier Corporate Members, to collaborate on local government challenges and solutions. The CIO Forum is an invitation-only event, and requires separate registration in addition to conference registration. To register and for more information, please visit [www.NACo.org/CIOForum](http://www.NACo.org/CIOForum)

**8:00 a.m. - 6:00 p.m.**

#### **National Association for County Community and Economic Development (NACCED) Board and Committee Meetings**

**2:00 p.m. - 4:00 p.m.**

#### **The Growing Experience Urban Farm- Mobile Workshop**

The Growing Experience Community Environmental Resource Center (TGE), operated by the Housing Authority of the County of Los Angeles, is a seven-acre facility located within Carmelitos Public Housing (Carmelitos). TGE operates programs that create affordable access to locally grown healthy produce, provide education and skills training opportunities related to environmental sustainability for underserved youth and young adults, and engage the public through seasonal community events and volunteerism. Participants in this mobile workshop will be able to view TGE's facilities, which includes a 4.5 acre urban farm featuring agricultural crops grown using environmentally sustainable methods, a climate-controlled greenhouse featuring an aquaponics and vertical towers growing system, a demonstration and drought-tolerant community food forest, a food waste composting program, and multi-purpose meeting space. Register at [www.naco.org/urbanfarm](http://www.naco.org/urbanfarm)

**2:00 p.m. - 4:00 p.m.**

#### **THUMS Island Tour- Mobile Workshop**

We will tour the THUMS islands (an acronym of oil companies) located in the beautiful Long Beach marina. Constructed to blend with the city skyline, the tour will take you to an island to see how oil is produced in a safe and environmentally friendly manner. The oil islands were constructed in 1965 to access the Wilmington oil field, the third largest oil field in the United States. The islands are jointly operated through a public-private partnership between the city of Long Beach, state of California, and California Resources Corporation. Register at [www.naco.org/THUMS](http://www.naco.org/THUMS).

**2:00 p.m. - 6:30 p.m.**

#### **NACo Technology Innovation Summit- Part One**

The two-day Technology Innovation Summit educates county elected officials on how technology can reduce costs and improve constituent services, with a particular emphasis on how counties have applied these technologies. All attendees of the NACo Annual Conference are invited to participate in the summit. To register and for more information, please visit [www.NACo.org/TechSummit](http://www.NACo.org/TechSummit)

**2:30 p.m. - 4:30 p.m.**

#### **National Association of County Human Services Administrators**

## Friday, July 22, 2016

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- 8:00 a.m. - 2:00 p.m.**     **NACo Technology Innovation Summit- Part Two**  
The two-day Technology Innovation Summit educates county elected officials on how technology can reduce costs and improve constituent services, with a particular emphasis on how counties have applied these technologies. All attendees of the NACo Annual Conference are invited to participate in the summit. To register and for more information, please visit [www.NACo.org/TechSummit](http://www.NACo.org/TechSummit)
- 8:00 a.m. - 9:00 a.m.**     **Healthy Counties Advisory Board Meeting**
- 8:00 a.m. - 9:00 a.m.**     **Policy Coordinating Committee Meeting #1**
- 9:00 a.m. - 10:00 a.m.**     **Public Lands Policy Steering Committee - Resolutions Meeting**
- 9:00 a.m. - 10:00 a.m.**     **Transportation Policy Steering Committee - Resolutions Meeting**
- 9:00 a.m. - 10:30 a.m.**     **Agriculture and Rural Affairs Policy Steering Committee - Subcommittee Meetings**
- 9:00 a.m. - 10:30 a.m.**     **Community, Economic and Workforce Development Policy Steering Committee - Resolutions Meeting**
- 9:00 a.m. - 11:00 a.m.**     **Environment, Energy and Land Use Policy Steering Committee - Resolutions Meeting**
- 9:00 a.m. - 12:00 p.m.**     **Health Policy Steering Committee - Subcommittee Meetings**
- 9:00 a.m. - 12:00 p.m.**     **Human Services and Education Policy Steering Committee - Subcommittee Meetings**
- 10:00 a.m. - 11:00 a.m.**     **NACIO Business Meeting**
- 10:00 a.m. - 12:00 p.m.**     **Justice and Public Safety Policy Steering Committee - Business Meeting**
- 10:00 a.m. - 12:00 p.m.**     **Public Lands Policy Steering Committee - Subcommittee Meetings**
- 10:00 a.m. - 12:00 p.m.**     **Transportation Policy Steering Committee - Subcommittee Meetings**
- 10:30 a.m. - 12:00 p.m.**     **Agriculture and Rural Affairs Policy Steering Committee - Business Meeting**
- 10:30 a.m. - 12:00 p.m.**     **Audit Committee Meeting**
- 10:30 a.m. - 12:00 p.m.**     **Community, Economic and Workforce Development Policy Steering Committee - Subcommittee Meetings**
- 11:30 a.m. - 2:00 p.m.**     **Finance, Pensions and Intergovernmental Affairs Policy Steering Committee - Business Meeting**
- 11:30 a.m. - 4:00 p.m.**     **Communication Topics for Counties & State Associations Pre-Conference Workshop sponsored by NACIO**
- 12:00 p.m. - 1:30 p.m.**     **Finance Committee Meeting**
- 12:00 p.m. - 2:00 p.m.**     **Luncheon on the Opioid Epidemic (RSVP Required)**
- 12:30 p.m. - 2:00 p.m.**     **Environment, Energy and Land Use Policy Steering Committee - Subcommittee Meetings**
- 1:30 p.m. - 4:00 p.m.**     **Community, Economic and Workforce Development Policy Steering Committee - Business Meeting**
- 1:30 p.m. - 4:00 p.m.**     **Transportation Policy Steering Committee - Business Meeting**



2:00 p.m. - 3:30 p.m.	Finance, Pensions and Intergovernmental Affairs Policy Steering Committee - Resolutions Meeting
2:00 p.m. - 4:00 p.m.	Environment, Energy and Land Use Policy Steering Committee - Business Meeting
2:00 p.m. - 4:00 p.m.	Health Policy Steering Committee - Business Meeting
2:00 p.m. - 4:00 p.m.	Human Services and Education Policy Steering Committee - Business Meeting
2:00 p.m. - 4:00 p.m.	Justice and Public Safety Policy Steering Committee - Subcommittee Meetings
2:00 p.m. - 4:00 p.m.	Public Lands Policy Steering Committee - Business Meeting
2:30 p.m. - 4:00 p.m.	Telecommunication and Technology Policy Steering Committee - Business Meeting
5:00 p.m. - 5:45 p.m.	Policy Coordinating Committee Meeting #2
8:00 p.m. - 10:00 p.m.	NACo Opening Reception - Lights, Leadership, Action!

## Saturday, July 23, 2016

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6:00 a.m. - 7:15 a.m.	Early Risers Activity along the Shore
8:00 a.m. - 6:00 p.m.	National Association of County Engineers Executive Committee Meeting
8:00 a.m. - 9:15 a.m.	<b>Aetna Healthy Counties Breakfast</b> This breakfast session will explore the ways that counties can support and respond to the behavioral health needs of their residents. Attendees will have the opportunity to discuss best practices related to behavioral health and learn from other county leaders and experts who will discuss issues such as setting up a comprehensive and coordinated health system focused on behavioral health and primary care, using technology to provide behavioral health services, and matching up wraparound services, including housing, with traditional service models.
8:00 a.m. - 9:15 a.m.	First Time Attendee Breakfast
8:00 a.m. - 9:15 a.m.	Gulf States Counties and Parishes Caucus
8:00 a.m. - 9:15 a.m.	Hot Topic Breakfast (TBD)
8:00 a.m. - 9:15 a.m.	<b>Maximizing Your Investment Returns on the County Level</b> In this environment of low interest rates, county financial officers are in search of ways in which to maximize fixed income investment returns. This session will explain the different investment options available to generate return while minimizing risk.
8:00 a.m. - 9:15 a.m.	Resilient Counties Advisory Board
8:00 a.m. - 9:15 a.m.	Solution Session - Trans Canada
8:30 a.m. - 10:30 a.m.	Veterans and Military Services Committee Meeting
9:00 a.m. - 11:00 a.m.	NACA Executive Board Meeting
9:00 a.m. - 12:00 p.m.	Rural Action Caucus



**9:30 a.m. - 10:30 a.m.**

**NextGen Community Service Project**

Saving Innocence will be the charity for Next Generation NACo's Community Service Project at NACo's 2016 Annual Conference & Exhibition.

The vision of Saving Innocence is to end the commercial sexual exploitation of children and restore the cultural values of innocence and human worth. Their mission is to rescue and restore child victims of sex trafficking through strategic partnerships with local law enforcement, social service providers, and schools while mobilizing communities to prevent abuse and increase neighborhood safety. Saving Innocence is part of the First Responder Protocol with local law enforcement and social service partners and provides case management and advocacy for these child victims. Since its inception in the fall of 2010 Saving Innocence has helped more than 350 children.

For more information on Saving Innocence visit: [www.savinginnocence.org](http://www.savinginnocence.org).

Participate in this worthy cause by registering to take part in the Community Service Project when you register for the Annual Conference. Your \$25 fee will be used to purchase much needed items for the victims of sexual exploitation in the Los Angeles County area. You can also purchase items on your own and drop them off in the bin which will be located in the convention center in Long Beach. A list of needed items can be found [here](#).

**9:30 a.m. - 11:00 a.m.**

**GIS Subcommittee**

**9:30 a.m. - 11:00 a.m.**

**JPS Emergency Management Subcommittee Meeting**

**9:30 a.m. - 12:00 p.m.**

**Large Urban County Caucus Meeting**

**9:30 a.m. - 12:00 p.m.**

**Western Interstate Region Board**

**10:45 a.m. - 12:00 p.m.**

**Nominating Committee**

**11:00 a.m. - 12:00 p.m.**

**IT Standing Committee**

**11:30 a.m. - 1:30 p.m.**

**NCACC NACo Candidate Screening Lunch**

**12:00 p.m. - 1:30 p.m.**

**Membership Committee**

**12:00 p.m. - 1:30 p.m.**

**Programs and Services Committee**

**12:00 p.m. - 3:00 p.m.**

**NOBCO/NABCO Meeting**

**1:30 p.m. - 3:00 p.m.**

**Arts and Culture Commission Meeting**

This meeting will focus on the role of local arts agencies in developing local arts programming and local community and economic development efforts. Speakers from arts agencies within Los Angeles County will discuss their work, how they work with both each other and local elected officials and how counties can replicate their success. The discussion will include an overview of American for the Arts' 2015 Local Arts Agency Census, which paints a portrait of the programs, budgets and operations of the local arts agency field across the United States.

**Speakers:**

Ms. Sofia Klatzker, Arts for LA

Ms. Laura Zucker, Los Angeles County Arts Commission

Ms. Danielle Brazell, city of Los Angeles Department of Cultural Affairs

Mr. Jay Dick, Americans for the Arts

**1:30 p.m. - 3:00 p.m.**

**North Carolina Association of Black County Officials**

**1:45 p.m. - 3:00 p.m.**

**NACo Board Forum**

<b>1:45 p.m. - 3:00 p.m.</b>	<b>Reducing Mental Illness in Jails: A Working Meeting for Stepping Up Counties</b> All counties that are already part of, or interested in joining, the Stepping Up initiative to reduce mental illness in jails are invited to participate in this working meeting of the NACo Stepping Up Network. The purpose of the Network is to inform future activities and resources of the initiative and find out more about how county officials can learn from and mentor their peers on this important issue. Participants in the working meeting will have an opportunity to network with peers and sign up to participate in future Network activities. Come to the meeting to learn more!
<b>1:45 p.m. - 3:00 p.m.</b>	<b>Solution Session - CGI</b>
<b>1:45 p.m. - 3:00 p.m.</b>	<b>State Association Meeting Planners Meeting</b>
<b>3:15 p.m. - 5:00 p.m.</b>	<b>General Session</b> <b>Speakers:</b> Mr. Kareem Abdul-Jabbar Mr. Jack Dangermond, Co-Founder and President Esri
<b>5:00 p.m. - 6:00 p.m.</b>	<b>Iowa Caucus Meeting</b>
<b>5:00 p.m. - 6:00 p.m.</b>	<b>Mississippi Caucus</b>
<b>5:00 p.m. - 6:00 p.m.</b>	<b>Missouri Delegation Caucus</b>
<b>5:00 p.m. - 6:00 p.m.</b>	<b>Pennsylvania Counties Caucus</b>
<b>5:00 p.m. - 6:30 p.m.</b>	<b>Alabama Delegates Caucus</b>
<b>5:00 p.m. - 6:30 p.m.</b>	<b>Kansas Association of Counties Caucus</b>
<b>5:00 p.m. - 6:30 p.m.</b>	<b>Minnesota Delegation Caucus</b>
<b>5:00 p.m. - 6:30 p.m.</b>	<b>North Carolina Caucus</b>
<b>5:00 p.m. - 6:30 p.m.</b>	<b>Oregon/Washington Reception</b>
<b>5:30 p.m. - 7:00 p.m.</b>	<b>Digital Counties Award Reception</b>
<b>6:30 p.m. - 8:00 p.m.</b>	<b>North Carolina Reception</b>

## Sunday, July 24, 2016

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<b>6:00 a.m. - 7:15 a.m.</b>	<b>Early Risers Activity along the Shore</b>
<b>7:30 a.m. - 8:30 a.m.</b>	<b>Illinois Counties Association Breakfast</b>
<b>7:30 a.m. - 8:30 a.m.</b>	<b>Non-Denominational Worship Service</b>
<b>7:30 a.m. - 8:30 a.m.</b>	<b>Wisconsin Counties Association Breakfast Caucus</b>
<b>7:30 a.m. - 8:30 a.m.</b>	<b>WSAC Breakfast</b>
<b>7:30 a.m. - 9:00 a.m.</b>	<b>Alaska, Idaho, Montana, Nevada, North Dakota and Wyoming Joint Association Breakfast</b>
<b>7:30 a.m. - 9:00 a.m.</b>	<b>Virginia, West Virginia and Maryland State Associations' Breakfast</b>
<b>8:00 a.m. - 9:00 a.m.</b>	<b>Florida Delegates Caucus</b>

- 9:00 a.m. - 10:15 a.m.** **Are you buried in data? Innovative Solutions to Your Knowledge Management Strategy**  
IBM businesses are drowning in data but starving for insights. But what if data insights can be specifically tailored to your county's needs? Conventional approaches to gaining insights from data can take an enormous amount of time, money and headache! New solutions, driven by cloud and open data technologies, can analyze the intersections of people, places and events to get timely actionable insights delivered as a service, saving time and money. These insights can go beyond anything made available to most of our counties in the past, in a much more sustainable model.
- 9:00 a.m. - 10:15 a.m.** **Identifying and Preventing Human Trafficking in Your County**  
Human trafficking occurs in counties of all sizes, but the signs of it are often missed due to lack of knowledge. Learn about Los Angeles County's work to educate residents on indicators of human trafficking, how to use a victim-centered approach to combat trafficking and how to bring together law enforcement, social service agencies and other organizations in your county to address this issue. Attendees will receive individual jurisdictions.
- 9:00 a.m. - 10:15 a.m.** **Innovations in Water Infrastructure Financing and Service Delivery**  
Many counties rely on aging water infrastructure systems. At the same time, county budgets to maintain and upgrade water infrastructure are increasingly strained, leaving some places concerned about how ensure provision of essential drinking water and wastewater services to residents and businesses. The growing frequency of extreme weather events and the risks that disaster events pose to water supply and stormwater management systems only compound these issues. This workshop will explore innovative financing mechanisms and creative strategies for improving local and regional drinking water, wastewater and stormwater management services.
- 9:00 a.m. - 10:15 a.m.** **Managing the Relationship between County Administrators and County Attorneys**  
Being an elected official is not just about managing relationships with constituents, it's also about managing relationships with members of your own county government team. With two critical members of the team being the county manager and the county attorney, it is important to understand how to work with the two offices to achieve positive results. In partnership with the National Association of County Administrators (NACA), the National Association of County Civil Attorneys (NACCA), and the International Municipal Lawyers Association (IMLA), county attorneys and administrators will discuss how to maintain a cooperative relationship with county board members.  
**Speakers:**  
Mr. Rick Moorefield, County Attorney, Cumberland County, N.C.  
Mr. Kevin Leonard, Executive Director, North Carolina Association of County Commissioners  
Mr. Thomas Montgomery, County Counsel, San Diego County, Calif.  
Mr. Peter Austin, County Administrator, McHenry County, Ill.; President, National Association of County Administrators
- 9:00 a.m. - 10:15 a.m.** **NCCAE Professional Development Session**
- 9:00 a.m. - 11:45 a.m.** **Leadership Ethics: Keeping the Faith in Local Government**  
In an era where public distrust of all levels of government is growing, it is increasingly important for county officials to ensure they are up-to-date on the ethics laws. Part one in this two part session will explore the general ethical considerations to include voting conflicts, bribery and/or extortion prohibitions, federal laws and ethics reform at both the state and local levels. During part two of this session, former Palm Beach County Commissioner Mary McCarty will discuss practical and honest strategies for maintaining ethical boundaries as an elected official while she shares her experience of being investigated and convicted of ethics violations. You will travel with former Commissioner McCarty through her journey from search warrant to recovering after prison. If you think it cannot happen to you, think again!  
**Speakers:**  
Ms. Denise Neiman, Palm Beach County, Fla.  
Mr. Herb Thiele, Leon County, Fla.

**9:00 a.m. - 12:00 p.m. NACo Board of Directors and Resolutions Committee Meetings**

**10:30 a.m. - 11:45 a.m. Best Practice in Active Shooter Preparedness**

Join us for a panel discussion focusing on the implementation of best practices used in an active shooter scenario. Learn from first-hand experience how a county handled an active shooter situation, how they collaborated with federal and state officials and the technologies that were used in protecting their citizens. Walk away with a tangible knowledge of how to handle an active shooter scenario in your county.

**10:30 a.m. - 11:45 a.m. Integrated Care and Community Health: Treating the “Whole Person”**

Solution Session Physical and mental health issues are closely connected. According to the Centers for Disease Control and Prevention, major depressive disorder is found in 40 percent of cancer victims, 27 percent of diabetes patients and 17 percent of people with heart disease. Despite these strong linkages, siloed approaches to care prevent coordinated, integrated treatment and contribute to increased costs for county healthcare and human services programs. This panel session will showcase a successful care coordination initiative that is improving health outcomes and reducing the cost of care.

**10:30 a.m. - 11:45 a.m. Let’s Balance! Budgeting Simulation Game for County Officials**

Developed by the Leon County Government, this scenario-based budgeting workshop will give you a front row seat to the budgeting process for county commissioners. This immersive session is created to provide newly elected officials and county citizens with the opportunity to understand the ins and outs of budgeting in a fun and interactive way. Through the twist and turns of the game, you will experience the difficult challenges and tough choices of balancing a budget as competing and conflicting demands vie for limited resources. Participants will use financial reserves, allocate revenue and expenditure options to fund community and organizational priorities and while dealing with such dynamics as natural disasters and unfunded mandates along the way.

**Speakers:**

Mr. Vince Long, County Administrator, Leon County, Fla.

Honorable Bryan Desloge, Commissioner, Leon County, Fla.

Mr. Alan Rosenzweig, Deputy County Administrator Leon County, Fla.

**10:30 a.m. - 11:45 a.m. Local Road Safety: Reducing Fatalities and Serious Injuries on County Roads**

This workshop will discuss strategies to improve safety on county roads, including the development of Local Road Safety Plans in coordination with state and federal agencies. Participants will also learn about Toward Zero Deaths, a national strategy counties can use to establish a common vision of what the nation’s safety culture should be pertaining to rural roads. Gain a understanding of best practices in developing Local Road Safety Plans and how counties can start on the road to zero deaths by focusing on implementing safety improvements while improving existing road infrastructure.

**Speakers:**

Mr. Brian Keierleber, Buchanan County, Iowa

Mr. Brian Roberts, National Association of County Engineers

**10:30 a.m. - 11:45 a.m. Measuring the Impact and Value of Your Programs**

Program and performance measurement is an emerging best practice in county organizations and departments. It can help us better manage resources and explain how county resources are used. This session will discuss measurement techniques and traps: the benefits and costs of measurement, how it can be of value to counties, how to design and implement a measurement system, outputs versus outcomes and some pitfalls to avoid.

**Speakers:**

Dr. Laree Kiely, Kiely Group

**10:30 a.m. - 11:45 a.m. NCCAE Professional Development Session**

- 10:30 a.m. - 11:45 a.m. Reducing Unnecessary Jail Use to Make Your County Safer**  
Although many counties are faced with jails that have become increasingly expensive to operate and overcrowded, some jurisdictions have found effective ways to decrease jail populations while maintaining public safety. This session will provide examples of successful strategies from several counties.
- 10:30 a.m. - 11:45 a.m. Removing Barriers to Solar Energy Deployment: A Roundtable Discussion on the SolSmart Program**  
This interactive roundtable session will feature solar energy experts from the U.S. Department of Energy (DOE) and the Solar Foundation as they provide information and answer questions on the new SolSmart program through the DOE's SunShot initiative. SolSmart aims to provide technical assistance and national recognition to communities that have taken steps to remove barriers to solar deployment, such as reducing soft costs and limiting 'red tape' at the local level. Leaders from counties already on their way to reducing such barriers will also provide best practice expertise and insight on the program and the process. Attendees are encouraged to be highly interactive with the roundtable panelists during this session.
- 12:00 p.m. - 2:30 p.m. NACo Achievement Awards Luncheon**  
This is a ticketed event. For more information and to register go to [www.naco.org/awardsluncheon](http://www.naco.org/awardsluncheon).
- 12:00 p.m. - 3:00 p.m. NACA General Membership Meeting & Idea Exchange**
- 12:00 p.m. - 5:00 p.m. Los Angeles River Ecosystem Restoration Project - Mobile Workshop**
- 2:30 p.m. - 4:00 p.m. National Association of County Surveyors Forum**
- 2:30 p.m. - 5:15 p.m. Defined Contribution and Retirement Advisory Committee**
- 2:30 p.m. - 5:15 p.m. FSC Advisory Committee**
- 2:45 p.m. - 3:45 p.m. Are You Prepared for a Media Storm?**  
In county government we never know when the next unexpected media storm will surface due to elements often out of our control such as natural disasters and crisis situations. Social media also brings a new layer to the mix. Come learn about effective strategies for helping manage media storms during a crisis. This workshop will include both a presentation providing participants with key takeaways and interactive mock interview sessions to allow attendees the opportunity to practice strategies for handling media situations. Members from the National Association of County Information Officers (NACIO) will play the role of tough journalists and provide expertise to workshop attendees as part of the session.  
**Speakers:**  
Ms. Lori Hudson, Hillsborough County, Fla.  
Ms. Jessica Beyer, Blue Earth County, Minn.  
Mr. Donnell Preskey Hushka, North Dakota Association of Counties  
Mr. Todd McGee, North Carolina Association of County Commissioners  
Mr. Dave Rose, El Paso County, Colo.
- 2:45 p.m. - 3:45 p.m. Business Tax Compliance - Why You Don't Know What You Don't Know and How to Find Out**



**2:45 p.m. - 3:45 p.m.**

**Is Your County Ready for Pay for Success?**

With the growing interest in Pay for Success (PFS) efforts and county officials seeking improved outcomes, the need to provide local policymakers with information to inform their decision-making is critical. Lessons learned from early projects have emphasized the importance of local governments understanding the policy and practical implications of PFS to develop successful and sustainable projects. Join this discussion to learn how counties may leverage the research, policies and practices to deepen our understanding of PFS models.

**Speakers:**

Mr. Ian Galloway, Portland Branch of the Federal Reserve Bank of San Francisco  
Ms. Caroline Whistler, Third Sector Capital Partners, Inc.

**2:45 p.m. - 3:45 p.m.**

**NCCAE Business Meeting**

**2:45 p.m. - 3:45 p.m.**

**Running an Effective Meeting**

In many instances, county board meetings are the only window for the public to see the inner workings of county government. Consequently, how meetings are run can substantially impact your constituents' opinion of their local government. Join this interactive session to discuss first-hand accounts of how to conduct a meeting that is in everyone's best interest. Walk away with concrete tools on how to prepare for and manage your meeting.

**Speakers:**

Hon. William B. Kyger, Jr., Rockingham County, Va.  
Mr. Chuck Thompson, International Municipal Lawyers Association  
Ms. Phyllis Errico, Virginia Association of Counties

**2:45 p.m. - 3:45 p.m.**

**Technology Tools for Engaging Your Constituents**

Solution Session: Looking for the right technology tools to provide your county residents with a fast, efficient and self-service government experience? In this session learn about some emerging technology tools that help you meet constituent expectations and become a more efficient county.

**2:45 p.m. - 3:45 p.m.**

**What is a Healthy County?**

The health of a community is affected by a number of factors that include education, income, housing, transportation and access to healthcare. Counties play a pivotal role in setting community health priorities, developing programs to implement those priorities and foster important partnerships to sustain health improvement. This workshop is the first of a two-part series addressing the fundamental question: What makes a county health? Speakers will address multiple aspects of a healthy county, including cross-sector partnerships, investments in upstream health factors and data-driven programs. Attendees will also hear from peer counties about their efforts to create a healthy county.

**2:45 p.m. - 5:15 p.m.**

**Are You Prepared when a Catastrophe Comes to Your Community?**

Government offices, churches, hospitals, schools and other highly populated locations are vulnerable to crimes. It is important that employees and administrators are prepared for a variety of liability concerns. Administrators are charged with preparing for weather related events, fire events, and incidents of violence in our workplaces. Join us for an interactive session that will prepare you to respond when disaster strikes. Learn philosophies and concrete actions that you can use to save your lives and the life of others anywhere, anytime.



- 3:00 p.m. - 4:30 p.m.**      **International Trade and Transport Links: A Tour of the Port of Long Beach**  
 The Port of Long Beach, located in Los Angeles County, is one of the world's busiest seaports and a leading gateway for trade between the United States and Asia. The 3,200-acre port supports over 300,000 jobs in southern California and generates billions of dollars in economic activity each year. Participants will board a boat for a 90-minute harbor tour of the port to learn first-hand how the port moves millions of container units each year, and glimpse the complex logistics and supply chain dynamics that ripple across the country. To register go to [www.naco.org/porttour](http://www.naco.org/porttour).  
**Speakers:**  
 Ms. Bianca Villanueva, Port of Long Beach  
 Mr. Don Snyder, Port of Long Beach
- 3:00 p.m. - 5:00 p.m.**      **Immigration Reform Task Force Meeting**
- 4:00 p.m. - 5:00 p.m.**      **NACHFA Meeting**
- 4:00 p.m. - 5:15 p.m.**      **Building a Healthier County**  
 The health of a community is affected by a number of factors that include education, income, housing, transportation and access to healthcare. Counties play a pivotal role in setting community health priorities, developing programs to implement those priorities and foster important partnerships to sustain health improvement. This workshop is the second of a two-part series addressing the fundamental question: What makes a county healthy? Building on part one, What is a Healthy County, national experts will actively engage attendees in an interactive conversation on building a healthy county.  
**Speakers:**  
 Dr. Garth Graham, Aetna Foundation  
 Dr. LaMar Hasbrouck, National Association of County & City Health Officials (NACCHO)
- 4:00 p.m. - 5:15 p.m.**      **Elected Officials Guide to Financial Leadership**  
 Some of the most critical decisions made by county officials are those involving finances. As an elected official it is important to not only understand financial policies that are set by the board but to effectively communicate those policies to constituents. Join this session to learn how to use the counties financial planning as a tool to communicate to constituents.  
**Speakers:**  
 Mr. Mike Bailey, Finance Director, city of Redmond, Wash.
- 4:00 p.m. - 5:15 p.m.**      **Leadership Development: Communicating in Contentious Meetings**  
 Conflicts and disagreements are a fact of life in counties, but contentious meetings can often do more harm than good and can lead to an escalating situation. Transform the most difficult circumstances into a satisfying experience for all involved. This session will help you identify constructive approaches to preparing for and managing conflict whether from the dais, in a meeting, or one-on-one.  
**Speakers:**  
 Dr. Laree Kiely, Kiely Group
- 4:00 p.m. - 5:15 p.m.**      **National Association of County Civil Attorneys Meeting**
- 4:00 p.m. - 5:15 p.m.**      **Social Security - The Choice of a Lifetime**  
 Decisions about when and how to file for Social Security benefits is one of the most important choices you will ever make. Its the choice of a lifetime. Social Security is a significant component of someone's overall financial portfolio. This informative session will provide you with updates on the new Social Security filing rules that have recently changed. Attendees will have the opportunity to complete an assessment and get results emailed to them after the conference.
- 4:00 p.m. - 5:15 p.m.**      **State Association Deputy Directors/Association Staff Roundtable**

<b>4:00 p.m. - 5:15 p.m.</b>	<b>Thinking Outside the Big Box: Property Valuation and Taxation Concerns with Big-Box Stores</b> Government officials are increasingly aware of the effects of big-box store property valuation appeals. Hardly a week goes by without news about a big-box store fighting its property tax assessment. Although big-box stores have existed for decades, challenges to the way they are assessed for tax purposes have accelerated in the last few years. This workshop explores the most common appeal arguments regarding the approach assessors use to determine their value, the impact big-box protests can have on government budgets and how these issues are being addressed by jurisdictions, courts and legislatures. <b>Speakers:</b> Hon. Michael Repay, Commissioner, Lake County, Indiana Mr. Sonny Brasfield, Executive Director, Association of County Commissions of Alabama Mr. President- Elect Randy Ripperger (Moderator), International Association of Assessing Officers (IAAO), Assessor, Polk County, Iowa Mr. Tim Wilmath, Director of Valuation, Hillsborough County, Fla.
<b>4:00 p.m. - 5:15 p.m.</b>	<b>User-Friendly Tools for Improving Criminal Justice Outcomes</b> Do you often ask if the investments your county makes in public safety are effective, as well as cost-effective? How do you know if the program or reform is having an impact? This training workshop will feature a criminal justice and cost-benefit analysis expert to discuss tools counties can use to help project future jail populations as well as conduct cost-benefit analyses for pretrial, probation, and jail programs and policies. In addition, county practitioners will discuss their progress and next steps for using these tools in their county justice systems. <b>Speakers:</b> Ms. Erin Dalton, Deputy Director, Office of Data Analysis, Research and Evaluation, Department of Human Services, Allegheny County, Pa. Hon. Ed Eilert, Johnson County, Kansas Mr. Michael Wilson, Michael Wilson Consulting Mr. Robert Sullivan, Criminal Justice Coordinator, Johnson County, Kan.
<b>4:30 p.m. - 5:30 p.m.</b>	<b>California Caucus</b>
<b>4:30 p.m. - 5:30 p.m.</b>	<b>Next Gen Business Meeting</b>
<b>4:30 p.m. - 6:00 p.m.</b>	<b>Nebraska Association of County Officials Delegate Meeting</b>
<b>5:00 p.m. - 6:00 p.m.</b>	<b>National Conference of Republican County Officials: Business Meeting</b>
<b>5:00 p.m. - 6:00 p.m.</b>	<b>S.C. Association of Counties Reception</b>
<b>5:30 p.m. - 6:30 p.m.</b>	<b>Healthy Counties Reception</b>
<b>5:30 p.m. - 6:30 p.m.</b>	<b>Hispanic County Officials</b>
<b>5:30 p.m. - 7:00 p.m.</b>	<b>Arizona Caucus</b>
<b>5:30 p.m. - 7:00 p.m.</b>	<b>New Mexico Association of Counties Delegate Reception</b>
<b>6:00 p.m. - 7:00 p.m.</b>	<b>National Conference of Republican County Officials: Reception</b>
<b>6:00 p.m. - 7:00 p.m.</b>	<b>Next Gen and CLI Reception</b>
<b>6:00 p.m. - 8:00 p.m.</b>	<b>West Virginia Caucus Dinner</b>
<b>6:30 p.m. - 8:30 p.m.</b>	<b>Arts and Culture Commission Dinner</b>

**Monday, July 25, 2016**

8:00 a.m. - 9:15 a.m.	<p><b>Building Effective County-Tribal Relations</b></p> <p>For many counties, balancing and managing relations with intergovernmental partners includes not only state and city governments, but tribal governments as well. Regardless of level, all governments work to serve the public benefit. This session brings together county officials, tribal government leaders and Administration officials to discuss how county and tribal governments can develop relationships and work together toward common goals.</p> <p><b>Speakers:</b></p> <p>Mr. Gary Shelton, County Administrator, Scott County, Minn.  Honorable Diane Dillon, Supervisor, Napa County, Calif.  Mr. Michael S. Black, Director, Bureau of Indian Affairs  Honorable David Rabbitt, Supervisor, Sonoma County, Calif.  Honorable Lloyd Felipe, Commissioner, Cibola County, N.M.  Ms. Denise Desiderio, Policy Director, National Congress of American Indians</p>
8:00 a.m. - 9:15 a.m.	<p><b>County Solutions for Employee Health and Wealth</b></p> <p>Join the NACo Financial Services Corporation, Nationwide Retirement Solutions, and Optum Healthcare as they provide and discuss projected healthcare costs, prevention tools, and assessments to help your employees prepare for and live in retirement.</p> <p><b>Speakers:</b></p> <p>Mr. Troy Simmons, Nationwide Retirement Solutions</p>
8:00 a.m. - 9:15 a.m.	<p><b>Focus Group: Rethinking Flood Protection and Resiliency through Natural Infrastructure</b></p> <p>Nature's unpredictable fury and extreme weather events now seem to have become the unfortunate norm for many counties across the nation. Traditional approaches for mitigating risks from storms are proving not to be enough, while the role nature itself can play is often overlooked. Natural or green infrastructure systems can best help counties become more resilient to extreme weather, while providing additional economic, health, and social benefits, too. This breakfast focus group session is an opportunity for county leaders to provide input into a new tool being developed to help counties determine the role nature can play in reducing flood risk. The Nature Conservancy and Sasaki Associates will preview the beta version of this practical, online tool designed to help county leaders access best practice solutions to help mitigate flood risks for both coastal and river communities.</p>
8:00 a.m. - 9:15 a.m.	<p><b>Policy Coordinating Breakfast</b></p>
8:00 a.m. - 9:15 a.m.	<p><b>Public Health Preparedness and Response: Zika as a Case Study</b></p> <p>Counties are on the frontlines of public health emergencies. County leaders must work with their health departments and across county agencies to prepare for and respond appropriately to public health issues. In this session, experts and county officials will use Zika as a case study to discuss public health preparedness and response and to engage attendees in sharing their best practices.</p>
8:00 a.m. - 9:15 a.m.	<p><b>Solution Session - EY</b></p>
8:00 a.m. - 9:15 a.m.	<p><b>Stepping Up: Key Considerations for Reducing Mental Illness in Jails</b></p> <p>Counties are "Stepping Up" to reduce mental illness in their jails. Two challenges that people with mental illnesses face before, after and during their involvement with the justice system is right to counsel and access to housing. Both of these factors can have a significant impact on whether a person is arrested, how long he or she remains in jail, and his or her success after release. During this roundtable, national experts and county practitioners will discuss challenges and opportunities and outline how changing the provision of these services can help to reduce jail populations, save money and ensure the safety.</p> <p><b>Speakers:</b></p> <p>Ms. Brooke Page, Assistant Manager, Clark County Social Service  Hon. Ronnie Beale, Commissioner, Macon County, N.C.  Ms. Verah Bradford, Head Deputy, Mental Health Unit; Law Offices of the Public Defender, Los Angeles County  Ms. Corrin Buchanan, Diversion and Reentry Housing Director, Housing for Health, LA County Department of Health Services</p>

Ms. Colette Tvedt, Public Defense Training and Reform Director, National Association of  
Criminal Defense Lawyers

Mr. Patrick Fleming, NACo Senior Fellow

**9:30 a.m. - 11:30 a.m. NACo Annual Business Meeting and Election**

**11:45 a.m. - 12:30 p.m. Central Region Caucus Meeting**

**11:45 a.m. - 12:30 p.m. Northeast Region Caucus Meeting**

**11:45 a.m. - 12:30 p.m. South Region Caucus Meeting**

**11:45 a.m. - 12:30 p.m. Western Region Caucus Meeting**

**12:45 p.m. - 1:15 p.m. NACo New Organizational Board of Directors Meeting**

**2:00 p.m. - 4:00 p.m. General Session**

**Speakers:**

Ms. Diana Nyad

**4:30 p.m. - 6:00 p.m. WON Reception**

**6:30 p.m. - 9:30 p.m. NACo Conference-wide Celebration Event**

# **CIBOLA COUNTY**

## **ORDINANCE NO: 16-01**

### **ORDINANCE AUTHORIZING THE OPERATION OF RECREATIONAL OFF-HIGHWAY VEHICLES AND ALL-TERRAIN VEHICLES ON PAVED STREETS OWNED AND CONTROLLED BY THE COUNTY OF CIBOLA AS SET FORTH IN THIS ORDINANCE.**

**WHEREAS**, the New Mexico Legislature amended Section 66-3-1011 NMSA 1978 to allow the operation of recreational off-highway and all-terrain vehicles on a paved street owned and controlled by the authorizing entity, subject to certain conditions;

**WHEREAS**, the Governing Body of the County of Cibola has adopted by reference the 2016 Compilation of the New Mexico Uniform Traffic Code, which rewrote section 66-1-1 through 67-7-11 to allow the operation of recreational off-highway and all-terrain vehicles on a paved street owned and controlled by the authorizing authority, subject to certain conditions;

**WHEREAS**, the Governing Body of the County of Cibola now deems it desirable to allow the operation of recreational off-highway and all-terrain vehicles on paved streets owned and controlled by the County of Cibola, subject to certain conditions;

### **NOW THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE COUNTY OF CIBOLA, NEW MEXICO:**

**SECTION 1: PURPOSE.** The purpose of this Ordinance is to allow the operation of recreational off-highway and all-terrain vehicles on a paved street or highway owned and controlled by the County of Cibola, as authorized in this Ordinance.

### **SECTION 2: DEFINITIONS.** As used in this Ordinance:

- A. "All-Terrain Vehicle" is a type of off-highway motor. An all-terrain vehicle means a vehicle fifty inches or less in width, having an unladen dry weight of one thousand pounds or less, traveling on three or more low-pressure tires and having a seat designed to be straddled by the operator and handlebar-type steering control, or as otherwise defined in Section 66-3-1001.1(E)(1) of the Off-Highway Motor Vehicle Act.
- B. "Recreational Off-Highway Vehicle" is a type of off-highway motor vehicle. A recreational off-highway vehicle means:



- (1) A recreational off-highway vehicle is a motor vehicle designed for travel on four or more non-highway tires, for recreational use by one or more persons, and having:
  - (a) a steering wheel for steering control;
  - (b) non-straddle seating;
  - (c) maximum speed capability greater than thirty-five miles per hour;
  - (d) gross vehicle weight rating no greater than one thousand seven hundred fifty pounds;
  - (e) less than eighty inches in overall width, exclusive of accessories;
  - (f) engine displacement of less than one thousand cubic centimeters; and
  - (g) identification by means of a seventeen-character vehicle identification number; or
- (2) By rule of the Department of Game and Fish, any other vehicles that may enter the market that fit the general profile of vehicles operated off the highway for recreational purposes.

**SECTION 3: OPERATION OF RECREATIONAL OFF-HIGHWAY VEHICLE OR ALL-TERRAIN VEHICLE ON PAVED STREETS OWNED AND CONTROLLED BY THE COUNTY OF CIBOLA.**

- A. A person shall not operate an off-highway motor vehicle on any
  - (1) limited access highway or freeway at any time; or
  - (2) paved street except as provided in Subsections B, C, D, E, F, and G below.
- B. A recreational off-highway vehicle or all-terrain vehicle may be operated on a paved street owned and controlled by the County of Cibola, if:
  - (1) the vehicle has one or more headlights and one or more tail-lights that comply with the Off-Highways Motor Vehicle Act, Chapter 66, Article 3, NMSA 1978;
  - (2) the vehicle has brakes, mirror, and mufflers;
  - (3) the operator has a valid driver's license, instruction permit or provisional license and an off-highway motor vehicle safety permit;



- (4) the operator is insured in compliance with provisions of the Mandatory Financial Responsibility Act, Chapter 55, Article 5, NMSA 1978; and
  - (5) the operator of the vehicle is wearing eye protection and a safety helmet that comply with the Off-Highway Motor Vehicle Act; Chapter 66, Article 3, NMSA 1978.
- C. Off-highway motor vehicles may cross streets or highways, except limited access highways or freeways, if the crossing are made after coming to a complete stop prior to entering the street. Off-highway motor vehicle shall yield the right of way to oncoming traffic and shall begin a crossing only when it can be executed safely and then crossing in the most direct manner, as close to a perpendicular angle as possible.
- D. A person shall not operate an off-highway motor vehicle on state game commission-owned, state game commission-controlled or state game commission-administered land, except as specifically allowed pursuant to the Habitat Protection Act, Chapter 17, Article 1, NMSA 1978.
- E. A person shall not operate an off-highway motor vehicle on land owed, controlled or administered by the state parks division of the energy, minerals and natural resources department, pursuant to the State Parks Division statute, Chapter 16, Article 2, NMSA 1978, except in areas designated by and permitted by rules adopted by the secretary of energy, minerals and natural resources.
- F. Unless authorized, a person shall not:
  - (1) Remove, deface or destroy any official sign installed by a state, federal, local or private land management agency; or
  - (2) Install any off-highway motor vehicle-related sign.

**SECTION 4: SPEED LIMIT.** The statute allows the County to establish separate speed limits and operating restrictions for off-highway vehicles. The speed limits shall be as defined below:

- (1) The speed limit for all-terrain vehicles operated within the county shall be 35 miles per hour or the posted speed limit, whichever is less. If the posted speed limit is higher than 35 miles per hour, the operator shall operate the all-terrain vehicle on the extreme right hand side of the roadway.

- (2) The speed limit for recreational off-highway vehicles, UTV's, operated within the county shall be 45 miles per hour or the posted speed limit, whichever is less.

## **SECTION 5: PASSENGERS**

- A. A person operating a recreational off-highway vehicle shall ride only upon the permanent and regular seat attached thereto and such operator shall not carry any other person nor shall any other person ride on a recreational off-highway vehicle unless such vehicle is designed to carry more than one person, if designed for two persons, or upon another seat firmly attached to the recreational off-highway vehicle at the rear of the operator.
- B. A person under the age of eighteen shall not operate an all-terrain vehicle while carrying a passenger.
- C. A person shall ride an all-terrain vehicle only while sitting astride the seat, facing forward, with one leg on either side of the off-highway motor vehicle.
- D. No person shall ride upon an all-terrain vehicle while carrying any package, bundle, or other article which prevents him from keeping both hands on the handlebars.
- E. No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation of the all-terrain vehicle or the view of the operator.

**SECTION 6: OBEDIENCE TO TRAFFIC LAWS REQUIRED.** Any person operating an off-highway motor vehicle shall obey all traffic laws, rules and regulations and shall be subject to the provisions of Articles 1 through 8 of Chapter 66 NMSA 1968 [except 66-7-102.1 NMSA 1978].

**SECTION 7: SEVERABILITY.** In the event that any clause, sentence, paragraph, section, or other portion of this Ordinance is found by any Court of competent jurisdiction to be invalid, it is the intent of the Governing Body that the remaining portions of the ordinance be given full force

and effect. It is the expressed intent of the City Council to adopt each section, phrase, paragraph, and word of this Ordinance separately.

**SECTION 8 REPEAL.** All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent they conflict with this Ordinance.

Effective Date. This Ordinance shall become effective on the \_\_\_\_ day of \_\_\_\_\_, 2016.

PASSED, APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
T. Walter Jaramillo, Chairman

\_\_\_\_\_  
Robert Armijo, 1<sup>st</sup> Vice-Chairman

\_\_\_\_\_  
Jack Moleres, 2<sup>nd</sup> Vice Chairman

\_\_\_\_\_  
Patrick Simpson, Commissioner

\_\_\_\_\_  
Lloyd F. Felipe, Commissioner

Attest:

\_\_\_\_\_  
Elisa Bro, County Clerk



CIBOLA COUNTY  
BOARD OF COUNTY COMMISSIONERS  
ORDINANCE № 16-02

**An Ordinance Relating to Administration, Adopting a Personnel Policy; Setting forth  
Personnel Rules and Regulations Establishing Consistent, Basic Policies and Practices  
Concerning Relations between the County and its Employees**

**PREAMBLE**

**WHEREAS**, NMSA 1978, Section 3-18-1 provides that municipalities, and also counties pursuant to NMSA 1978, Section 4-37-1, have the power to “protect generally the property of its municipality and its inhabitants” and to “preserve peace and order”; and,

**WHEREAS**, NMSA 1978, Section 4-37-1 *et seq.* provides that counties may adopt ordinances, not inconsistent with statutory or constitutional limitations placed on counties, to discharge those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the county and its inhabitants; and,

**WHEREAS**, NMSA 1978, Section 3-13-4 (1965) allows municipalities and counties to establish a personnel merit system for the hiring, promotion, discharge and general regulation of municipal and county employees.

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## SECTION I: DEFINITIONS

- 1.1 ADMINISTRATIVE LEAVE WITH PAY. Leave with pay granted at the County Manager's discretion after considering the elected official's or department director's recommendation. Bereavement Leave will be considered Administrative Leave with pay. See Section 10.13.
- 1.2 ADMINISTRATIVE LEAVE WITHOUT PAY. Leave without pay granted at the County Manager's discretion after considering the elected official's or department director's recommendation.
- 1.3 ANNIVERSARY DATE. Anniversary date means the date of appointment or reemployment and is changed as of the date of promotion, demotion, reduction, or change to a different technical occupation group, group role, or manager category in the same pay band or pay opportunity.
- 1.4 ANNUAL LEAVE. Leave with pay granted to an employee, after accrual at a specific rate, with approval of the employee's supervisor.
- 1.5 APPEAL. Written request that a decision of a formal grievance be reconsidered at a further stage in the grievance procedure.
- 1.6 APPLICANT. A person who has made formal application on an official County personnel application form for a position with the County.
- 1.7 "AT WILL" EMPLOYEE. See definition of "Unclassified Employee".
- 1.8 BOARD. Board means the Board of County Commissioners.
- 1.9 CASUAL EMPLOYEE. An employee hired to fill a position paid by the hour that may be called on short notice and/or on an occasional basis. Casual employee may also be one who works less than twenty (20) hours a week. A casual employee is paid only for hours worked and does not receive any employment benefits. A casual employee does not have the right to grieve employment decisions.
- 1.10 CLASSIFIED EMPLOYEE. An employee who has served the prescribed probationary period and is eligible for the rights and privileges provided for under these Rules.
- 1.11 CONTINUOUS LENGTH OF COUNTY SERVICE. Continuous length of County service means the length of time for which there have been no breaks in employment as an employee spanning from the employee's Date of Hire, other than annual leave, sick leave, military leave authorized pursuant to Section 10.24 below, or authorized leave without pay for less than six (6) months.
- 1.12 CONTRACT EMPLOYEE. Contract employees are FLSA exempt and are unclassified employees and have a contract approved by the Board. Contract employees serve at the will and pleasure of the Board. Contract employees are not entitled to grievance procedures or holiday premium pay.
- 1.13 COUNTY BUSINESS. The performance of duties of a County employee at an employee's normal workstation or at a location authorized by the County.
- 1.14 COUNTY MANAGER. An individual appointed by the Board to conduct the business of the County and to act as the administrative assistant to the Board aiding and assisting the Board in the exercise of their duties and responsibilities. In the event there is no County Manager, the duties and responsibilities specified in these Rules shall be carried out by an appointed Acting County Manager or the chairperson of the Board.
- 1.15 DATE OF HIRE. Date of Hire is the date indicated as such on the employee's Personnel Action Form indicating New Hire as a regular employee, from which there is continuous length of County service. Alternatively, the Date of Hire may be from the date of Reinstatement if reinstatement occurs after a lapse of continuous length of County service.

- 1.16 DEMOTION. An employee may be demoted to a position for which the employee is qualified when the employee would otherwise be terminated. The demotion may be a result of funding shortages. An employee who does not possess the necessary ability to render satisfactory performance in the position presently held may be demoted. Employees may voluntarily request such a demotion. Demoted employees may receive a reduction in pay, per County Manager approval and department head recommendation. Only a regular employee demoted due to disciplinary action is entitled to grievance procedures under Section VIII, Grievance Procedures.
- 1.17 DEPARTMENT DIRECTOR. An employee hired to fill a position who has the responsibility of supervising and administering a department of County government as determined and designated by the Board.
- 1.18 DISMISSAL. Dismissal means the involuntary separation or dismissal from employment for disciplinary reasons.
- 1.19 DOMESTIC PARTNER. An individual who has an exclusive and committed relationship with a County employee and the relationship is the same as, or similar to, a marriage relationship in this state. For purposes of these Rules: 1) domestic partners must have shared a common, primary residence for twelve (12) or more consecutive months, 2) must jointly be responsible for each other's common welfare and share financial obligations, 3) neither can be married or a member of another domestic partnership, 4) both must be at least 18 years of age, and 5) are not related by blood to a degree of closeness that would prevent them from being married to each other in this state.
- 1.20 DUE PROCESS. The right granted to a regular employee to pre- and post disciplinary hearings for actions of suspension, demotion or dismissal.
- 1.21 ELECTED OFFICIAL. An individual elected by popular vote or appointed to fill vacancies in elective office, i.e., County Commissioner, County Clerk, County Treasurer, County Sheriff, County Assessor, and Probate Judge.
- 1.22 EXEMPT EMPLOYEES. All executive, administrative and professional employees as those terms are defined in the federal Department of Labor regulations relating to the Fair Labor Standards Act, and whose compensation is based on a fixed salary.
- 1.23 GRANT FUNDED EMPLOYEE. A full or part-time employee hired to fill a position that exists only upon receipt of grant funds. This position is terminable-at-will if funding is not received or upon expiration of the grant agreement.
- 1.24 GRIEVANCE HEARING. A formal hearing conducted at the request of an employee who is grieving a promotion, suspension, demotion, involuntary transfer, or dismissal as set forth in these Personnel Rules and Regulations.
- 1.25 GRIEVANCE. A formal complaint by an employee concerning actions taken by management which result in loss of pay to the employee and/or privileges to the employee including suspension, demotion, involuntary transfer or dismissal.
- 1.26 HEARING OFFICER. The individual who is charged with the responsibility of hearing and deciding allegations of improper promotion, post-disciplinary action matters of demotion, suspension and dismissal.
- 1.27 IMMEDIATE FAMILY. Spouses, domestic partners, children, parents, siblings, grandparents, grandchildren, like in-laws, and like step-relationships and persons with legal custodial relationships.
- 1.28 LAYOFF. The involuntary separation of an employee from County service without fault on the part of the employee, due to the abolition of a position, reorganization, lack of work, or lack of funds.
- 1.29 MEDICAL DISABILITY DISMISSAL. The dismissal of an employee from County employment when the employee is unable to perform the essential functions of the position

with reasonable accommodation(s) that do not impose undue hardship upon the County, due to a medical condition, when there is corroborating documentation of this condition from a licensed health-care professional. Although Medical Disability Dismissal is not disciplinary in nature, employees are nonetheless entitled to participate in the County's pre-determination and grievance procedures if they are subject to dismissal.

- 1.30 NONEXEMPT EMPLOYEES. All employees who are not exempt employees as defined in the federal Department of Labor regulations relating to the Fair Labor Standards Act.
- 1.31 PART-TIME EMPLOYEE. An employee who works more than twenty (20) hours and less than forty (40) hours per week. Employees working twenty (20) hours or more on a consecutive basis are eligible for fringe benefits.
- 1.32 PRE-DISCIPLINARY HEARING. A hearing conducted by the County Manager or his/her designee before the imposition of the disciplinary actions of suspension, demotion or dismissal.
- 1.33 PROBATIONARY EMPLOYEE. A full-time or part-time employee hired to fill a regular position that has not yet completed the nine (9) month probationary period of employment during which time the employee is terminable-at-will. During this probationary period the supervisor is required to evaluate the employee on a monthly basis.
- 1.34 PROMOTION. A promotion is the change of an employee from a position in one classification usually to a position in a classification with a higher salary range.
- 1.35 REGULAR EMPLOYEE, Full-time: An employee who has successfully completed probation with a work schedule of at least forty (40) hours per week. Part-time: An employee who has successfully completed probation with a work schedule of more than twenty but less than forty (40) hours per week.
- 1.36 RESIGNATION. Resignation means the voluntary separation of an employee from County service.
- 1.37 SAFETY-SENSITIVE or SECURITY-SENSITIVE POSITION. A safety-sensitive or security-sensitive position is a position approved as such by the elected official or department director and the County Manager, including a supervisory or managerial position in which impairment by drug or alcohol use would constitute an immediate and direct threat to public health or safety and includes, but is not limited to, law enforcement officers, detention officers, employees who are required to regularly carry a firearm, drivers required to have a CDL license, have access to confidential information and/or receive calls for public service and employees who regularly transport other people as their principal job or otherwise designated so by the County Manager.
- 1.38 SICK LEAVE. Leave with pay granted to employees when personal illness, injury, pre-arranged medical or dental examination, quarantine, therapy, counseling or other necessary treatment keeps the employee from performing the duties of the position or when a member of the immediate family is ill, injured or requires treatment for the described reasons.
- 1.39 SUSPENSION. An involuntary leave of absence, with or without pay, for disciplinary reasons, or pending investigation of allegations made against an employee, or for pending determination of the grievance procedure.
- 1.40 TEMPORARY EMPLOYEE. An employee hired to fill a position that will temporarily fill a position that is vacant due to the absence of an employee or for some other requirement. Temporary employment will not exceed a six (6) month period. All temporary employees are terminable-at-will, do not accrue leave, and do not receive employee benefits.
- 1.41 TERM EMPLOYEE. An employee that is hired to fill a position for a specific time period based on Board funding for a specified period of time, funding source or similar situation, not to exceed two years in duration.



- 1.42 TRANSFER. The voluntary or involuntary movement of an employee, from one department or office to another department or office in the County service.
- 1.43 UNCLASSIFIED EMPLOYEE (or At-Will Employee). An employee who can be dismissed at any time, with or without cause. The terminable-at-will employees in the County shall be: probationary employees; temporary employees; contract employees; and others designated by the Commission. Terminable-at-will employees are not entitled to the grievance procedures provided for in these Rules.

## SECTION II: EMPLOYMENT STATUS

**2.1 Position Specifications.** The County shall establish a set of position specifications for all positions. Position specifications shall include title, tasks, duties, responsibilities and minimum qualifications. They will also specify knowledge, skills, education, and abilities required of applicants. See Definitions for description of employee position. An employee may qualify for one or more of the following position descriptions:

- A. Probationary Employee. A full-time or part-time employee hired to fill a regular position that has not yet completed the nine (9) month probationary period of employment during which time the employee is terminable-at-will. During this probationary period, the supervisor is required to evaluate the employee on a monthly basis.
- B. Temporary Employee. An employee hired to fill a position that will temporarily fill a position that is vacant due to the absence of an employee or for some other requirement. Temporary employment will not exceed a six (6) month period. All temporary employees are terminable-at-will, do not accrue leave, and do not receive employee benefits.
- C. Regular Employee. **Full-time:** An employee who has successfully completed probation with a work schedule of at least forty (40) hours per week. **Part-time:** An employee who has successfully completed probation with a work schedule of more than twenty but less than forty (40) hours per week.
- D. Part-time Employee. An employee who works more than twenty (20) hours and less than forty (40) hours per week. Employees working twenty (20) hours or more on a consecutive basis are eligible for fringe benefits.
- E. Grant Funded Employee. A full or part-time employee hired to fill a position that exists only upon receipt of grant funds. This position is terminable-at-will if funding is not received or upon expiration of the grant agreement.
- F. Casual Employee. An employee hired to fill a position paid by the hour that may be called on short notice and/or on an occasional basis. Casual employee may also be one who works less than twenty (20) hours a week. A casual employee is paid only for hours worked and does not receive any employment benefits. A casual employee does not have the right to grieve employment decisions.
- G. Unclassified Employee. An employee who can be dismissed at any time, with or without cause. The terminable-at-will employees in the County shall be: probationary employees; temporary employees; contract employees; and others designated by the Commission. Terminable-at-will employees are not entitled to the grievance procedures provided for in these Rules.
- H. Classified Employee. An employee who has served the prescribed probationary period and is eligible for the rights and privileges provided for under these Rules.
- I. Contract Employee. Contract employees are FLSA exempt and are unclassified employees and have a contract approved by the Board. Contract employees serve at the



will and pleasure of the Board. Contract employees are not entitled to grievance procedures or holiday premium pay.

- J. Term Employee. An employee that is hired to fill a position for a specific time period based on Board funding for a specified period of time, funding source or similar situation, not to exceed two years in duration.
- K. Temporary Agency Employees. Individuals who perform work for the County through a contract with an independent third-party, like a temporary placement or employment agency. These individuals are not County employees are therefore not entitled to any benefits or rights detailed in this policy.

## **SECTION III: GENERAL PROVISIONS**

**3.1 Purpose.** The purpose of these Personnel Rules and Regulations (Rules) is to establish consistent, basic policies and practices concerning relations between the County and its employees. These Rules further establish the formal grievance procedure available to regular employees to hear their grievances with respect to promotions, demotions, suspensions, involuntary transfers and dismissal, and provide the method by which a personnel hearing officer is chosen to hear formal grievances. Independent contractors are not subject to the provisions of the Rules.

**3.2 Scope.** Definite rules and regulations cannot be readily formulated for every possible problem and situation. These Rules serves as a general basis and guide for the proper, efficient, and effective management and administration of personnel matters of the employees of the County. The Rules contained herein replace and supersede all previously issued personnel rules regulations and ordinances applicable to employees of the County as the subject matter is covered in the County Code of Conduct and these Rules.

**3.3 Amendment of Rules & Regulations.** There shall be no resolution or other action of the Board or other County officials, which is inconsistent with these Rules, except by amendment of these Rules. The Board reserves the right to amend these Rules at its discretion. The County Manager may issue interpretative memoranda or Administrative Instructions, not inconsistent with these Rules, which further detail the interpretation of these Rules.

**3.4 Employee Knowledge & Information of Rules & Regulations.** The elected official, department director, or Human Resources Manager shall provide a copy of these Rules to present employees and to all new employees with instructions to read and be familiar with all provisions of these Rules. Employees shall sign for a copy upon receipt.

**3.5 Equal Employment Opportunity Rules & Regulations.** Individuals will not be discriminated against on the grounds of race, age, religion, color, national origin, ancestry, sex, marital status, physical or mental handicap, medical condition, sexual orientation or gender identity, in consideration for employment, promotions, transfers, duration of employment, compensation, terms, conditions, or privileges of employment by the County.

**3.6 Administration by County Manager.** The County Manager or designee shall administer and interpret the personnel system and the terms of these Rules and its amendments, and all future approved operating procedures. The County Manager shall recommend to the Board any necessary amendments or revisions to the Rules.

**3.7 Duties of All Employees.** All employees shall adhere to the provisions of these Rules. Elected officials, department directors, division managers, Human Resources Manager and the County Manager further shall be responsible for seeing to the adherence and enforcement of these Rules.

**3.8 Chain of Command & Conflict Resolution.** In order to maintain open communication between County and its employees and to ensure that employees' general working concerns and conflicts are addressed quickly and efficiently, the County will utilize the chain of command protocol. An Organizational Chart, specifying the chain of command should be made available and updated periodically. Employees have the right to present or make known their complaints, free from interference, restraint, discrimination, coercion, or reprisal. This provision does not apply to serious complaints such as harassment, dangerous working conditions, workplace violence and discrimination, which are otherwise addressed by the policy.

It is required that an employee discusses his/her concerns first with his/her immediate supervisor. Departments should utilize alternative methods of dispute resolution, including mediation, wherever appropriate to resolve conflicts in the workplace and encourage positive working relationships between employees and management.

If the concern cannot be handled at this level, the employee may request a meeting with the next level supervisor, up to the elected official or department director of his/her department. If it becomes necessary to pursue the issue beyond the department director or supervisor level, or if the concern cannot be handled or remedied within the department due to supervisory conflict, it may be appealed to the County Manager within ten (10) calendar days of the department's final decision. The County Manager or designee may serve as a hearing officer and the County Manager's decision on the complaint shall be final and binding.

**3.9 Conflict with Collective Bargaining Agreements.** If any provision of this Resolution is in conflict with a written Employee Agreement duly adopted by the Board pursuant to the Public Employee Bargaining Act [NMSA 1978, §§10-7E-1 to 10-7E-26], the terms of the Collective Bargaining Agreement shall control.

### **3.10 Code of Ethics.**

A. The ethical county employee shall:

1. Properly administer the affairs of the county.
2. Promote decisions which only benefit the public interest.
3. Actively promote public confidence in county government.
4. Keep safe all funds and other properties of the county.
5. Conduct and perform the duties of the office diligently and promptly dispose of the business of the county.
6. Maintain a positive image to pass constant public scrutiny.
7. Evaluate all decisions so that the best service or product is obtained at a minimal cost without sacrificing quality and fiscal responsibility.
8. Inject the prestige of the office into everyday dealings with the public employees and associates.
9. Maintain a respectful attitude toward employees, other public officials, colleagues and associates.

10. Effectively and efficiently work with governmental agencies, political subdivisions and other organizations in order to further the interest of the county.
  11. Faithfully comply with all laws and regulations applicable to the county and impartially apply them to everyone.
- B. The ethical county official shall not:
1. Engage in outside interests that are not compatible with the impartial and objective performance of his or her duties.
  2. Improperly influence or attempt to influence other officials to act in his or her benefit.
  3. Accept anything of value from any source which is offered to influence his or her action as a public official.
  4. The ethical county official accepts the responsibility that his or her mission is that of servant and steward to the public.

## SECTION IV: RECRUITMENT AND SELECTION

**4.1 Purpose.** It is the policy of the County to select and recruit the best qualified and the best-suited persons for all positions in an open and competitive manner, to ensure no discrimination and to ensure equal employment opportunity for all applicants and employees. The County will comply with all applicable federal and state laws and regulations.

**4.2 Recruitment of Applicants.** The elected official or department director shall notify the County Manager and the Human Resources Manager of the position to be filled. The Human Resources Manager shall issue job announcements through such media deemed appropriate to ensure open and competitive recruitment of individuals with sufficient time to ensure reasonable opportunity for persons to apply. The Human Resources Manager shall submit announcements and receive all applications through the Administrative Office. All publications for job announcements shall include reference to Cibola County as *“An Equal Opportunity Employer”*.

**4.3 Temporarily Filling Vacant Positions.** Vacant positions may be filled without public announcement by temporary employees on a temporary basis to replace regular employees on leave and pending the selection of a regular employee for a position or otherwise for a period not to exceed six months.

**4.4 Best Qualified & Best-Suited Applicant Determination.** The best qualified and best-suited applicant is determined by the elected official or department director, in conjunction with the Human Resources Director, based on minimum qualifications of education, experience, abilities, skills and past work experience as specified in written position specifications for each position. Personal interviews shall be conducted with at least three (3) applicants, or if less than three applications are received, all applicants shall be interviewed.

**4.5 Promotion and Transfer Policy.** If a regular full-time or part-time employee is substantially equally best qualified and suited in accordance with Section 4.4 with another applicant or applicants, the employee should be given preference in hiring.

**4.6 Selection.** The elected official, department director or designated representative shall review all applications for positions in their departments, in conjunction with the Human Resources Director, and make their recommendation to the County Manager. Final appointment shall be made by the elected official/department director, in conjunction with the Human Resources

Director, with approval of the County Manager based on the best qualified and the best-suited applicant for the position and the status of the County budget.

**4.7 Pre-Selection Prohibited.** Posted and advertised positions shall not be promised to any person prior to recruitment and selection to ensure the integrity and fairness of the selection process.

**4.8 Ineligibility for Hire and Rehire.** Applicants shall be considered ineligible for hire or rehire by the county if the applicant has:

- A. knowingly made any false statement or omission on the employment application;
- B. not met the requirements of the position;
- C. failed to complete pre-employment drug and alcohol screening or physical examinations or other requirements as directed by the County, except that an applicant not meeting drug and alcohol screening testing may reapply after a one-year period. An applicant who has failed a physical exam due to a pre-existing correctable medical condition may reapply at any time after the condition is corrected;
- D. not met the criteria for insurance or bonding as required by County or state law;
- E. been dismissed from County service as a disciplinary measure in five (5) years prior to the date of application;
- F. not been certified by a physician that the applicant can perform the physical requirements or the essential requirements of the position;
- G. been convicted for driving while under the influence of alcohol or drugs in the three years prior to the date of the application, if a valid New Mexico driver's license and class is required for the position; or
- H. been convicted of a felony as described in NMSA 1978, §28-2-1, et seq. or convicted of a felony or infamous crime as defined in NMSA 1978, §10-1-3 and by its nature conflicts with the duties and responsibilities of the position;
- I. not meeting the requirements of state or federal funding agreements; and
- J. the above list is not necessarily exhaustive and may not include all of the reasons that would make an applicant ineligible for hire or rehire.
- K. resigned with pending employment charges pursuant to section 7 and 8 in five (5) years prior to the date of application.

**4.9 Testing.** The County may require an applicant to submit to testing for certain bona fide occupational qualifications to determine employment eligibility. This may include, without limitation pre-employment physical and drug and alcohol screening examinations for all but elected officials.

**4.10 Commencement of Work.** No applicant for employment shall commence work or be considered employed by the County until an approval of the selection is made in writing by the County Manager, Finance Director and Human Resources Director on a Personnel Action Form (PAF) and all pre-employment testing and relevant backgrounds checks have been completed. Payroll shall not enter the applicant into the County's system prior to receipt of a completed and signed PAF.

## SECTION V: CHANGES IN EMPLOYMENT STATUS

**5.1 Promotion.** The County encourages the professional growth of its employees and rewards the initiative, creativity, effort, commitment, and diligence of its employees through the promotional process. County employees are encouraged to take advantage of promotional opportunities and apply for higher paying positions for which they qualify.

**5.2 Evaluation Period.** Regular employees that are promoted or voluntarily transferred between Departments to a vacant position will be placed in an evaluation period. This is a period of evaluation and training of the employee in the new position. An evaluation period is for ninety (90) days. If performance while on the evaluation period is deemed unsatisfactory, in writing, by the department director or elected official, the employee may be returned to his/her previous position or that position, if available, placed in another vacant position for which the employee is qualified, if available, or dismissed at the discretion of the County Manager if no such positions are available. Employees being transferred back to previous positions receive the same pay received before their promotion.

**5.3 Demotion.** An employee may be, but is not required to be, demoted to a position for which the employee is qualified when the employee would otherwise be dismissed because the employee's position is being abolished due to lack of funds or lack of work and there are no appropriate vacancies at the same level; when the employee's job is being reclassified; when the employee does not demonstrate the necessary ability to render satisfactory performance in the position presently held; or when the employee voluntarily requests such a demotion, provided there is a position available.

### 5.4 Transfers

- A. General Transfer. Employees may be moved from one position to another of the same grade and pay range either voluntarily or involuntarily. An employee may be transferred if it is in the best interest of the County. Voluntary transfers are not grievable. Shifting department or office needs may require that an employee be temporarily or permanently transferred from one geographic location to another within a department or office. An employee may be transferred from one position to another position at the same salary range within a department or office. If such a transfer involves a probationary employee, time served in the former position shall be credited toward achievement of regular full-time status and salary increases, accumulated annual leave and sick leave shall be retained. The County Manager must approve all transfers.
- B. Voluntary Transfers between Departments. An employee who voluntarily transfers from one department to a vacant position in another department may be required to accept the new position at its entry level salary depending on his/her experience and qualifications required for the new position. The transferred employee will be subject to an evaluation period of ninety (90) days, as specified in Section 5.2.
- C. Medical Transfer. An employee who has been certified by a licensed physician as being physically unable to perform the duties of the employee's current position may be transferred as reasonable accommodation to an available position in which the physician certifies the employee is able to work, and for which the employee is qualified to perform. If no such position is available, the employee is subject to the leave without pay provisions of these Rules.

**5.5 Resignation.** An employee voluntarily resigning shall submit in writing to the department director or elected official and the Human Resources Manager, a two-week minimum notice of resignation. An employee's final paycheck may be withheld pending submission of a written notice of resignation. Unless unique circumstances exist, failure to provide timely written notice may be grounds for refusal of future employment with the County. Unauthorized absence from work for a period of three (3) consecutive regularly scheduled working days shall be considered a voluntary resignation.

**5.6 Layoff Procedure.** Upon directive of the Board, the County Manager shall make the determination for layoffs after consulting with elected officials and department directors. When layoffs of more than one employee are required, layoffs shall be determined using the following criteria:

- A. Position in order of priority:
  - 1. Temporary employees,
  - 2. Probationary employees,
  - 3. Casual employees,
  - 4. Part-time employees;
- B. Performance of the employee compared to other employees being laid off in the same or similar positions;
- C. Value of the employee's position to the critical operation of the County or department, such as safety-sensitive or security-sensitive positions;
- D. Length of continuous service with the County; and
- E. Funding source.

**5.7 Layoff Return Privileges.** Any full-time or part-time regular employee who is laid off and returns within twelve (12) months of layoff shall not have to serve a probationary period if the employee return to his/her previous position and the probationary period has been served. A laid off-returning employee will be credited for all unused sick leave remaining and not compensated for at the time of layoff if the employee returns within the twelve (12) month period. Layoff privileges end:

- A. Twelve (12) months after the effective layoff date;
- B. After an employee has refused employment in a position for which the employee is qualified and/or for which the pay rate is the same or higher than the position previously held; or
- C. When a laid off employee accepts another position with the County. A laid off employee accepting another position with the County shall serve the required evaluation period.

**5.8 Medical Disability Dismissal.** Employees shall be involuntarily terminated upon completion of the twelve week family/medical leave if the employee is physically unable to perform the essential duties of the employee's position with reasonable accommodation(s) that do not impose undue hardship upon the County, as certified by a qualified, licensed physician. The provisions of this subsection are subject to the provisions regarding Workers' Compensation laws and "On the Job Injury Leave" found in Sections 10.16 and 10.17 of these Rules.

**5.9 Reinstatement.** Individuals that are reinstated as regular employees to the same or like position are not entitled to any previous benefits such as sick leave which may have been accrued during previous employment with the County except as provided in Section 5.7. Officials who



were County employees prior to being elected to an office, with no discontinuance of service to the County, shall retain all accrued benefits prior to being elected and their years of service as elected officials shall be included for all other applicable benefits afforded under these Rules.

## **SECTION VI: CONDITIONS OF EMPLOYMENT**

**6.1 Probationary Period for New Hires.** An employee hired to fill a position shall serve a probationary period of nine (9) months, beginning on the first day of work, during which time the employee is terminable-at-will.

- A. Law enforcement officers in the Sheriff's Department and detention officers shall serve a one (1) year probationary period, beginning on the first day of work, during which time the employees are terminable-at-will. If a law enforcement officer is not certified prior to hiring, the law enforcement officer must obtain law enforcement certification within one year of employment. Uncertified law enforcement officers shall be terminated on the six-month anniversary of hire if they are not accepted or enrolled in a basic police officer training program certified by the Law Enforcement Academy Board.
- B. The probationary period is an integral part of the evaluation process and is utilized for observing the employee's performance and obtaining the most effective adjustment of a new employee to the position. Employees will be evaluated one-month prior to the completion of their probationary period. The employee must achieve a satisfactory performance or better by the end of the probationary period before the employee can become a regular employee entitled to all of the rights and benefits of that status.
- C. If the employee satisfactorily completes the probationary period, the employee will become a regular employee. If the employee does not satisfactorily complete the probationary period, the employee may be dismissed, or upon the recommendation of the department head or elected official and with final approval of the County Manager, the probationary period may be extended for a period of ninety (90) days.
- D. In the event a probationary employee is on extended leave for any reason, the probationary period will be extended in an amount equal to that leave period.
- E. Probationary employee provisions. A probationary employee:
  - 1. can be dismissed, without cause, at any point during the probationary period;
  - 2. is not eligible for personal holiday leave;
  - 3. cannot grieve disciplinary actions;
  - 4. is allowed to use sick and annual leave as soon as it is accrued with approval of supervisor;
  - 5. shall accrue annual leave and sick leave, consistent with provisions of these Rules upon being hired. Employees terminated during their probationary period are only entitled to payment of annual leave.
  - 6. is eligible for health insurance and other optional benefits, as provided in Section 9.6.

**6.2 Temporary Employee Hired to a Regular Position.** An employee who fills a temporary position and is subsequently hired to fill a regular position shall serve the required probationary period. The beginning date of the probationary period is the date the employee changes from temporary to regular status.

**6.3 Former County Employees Hired to a Position.** A former County employee re-hired in the same or like position, or re-hired at any time to fill a new position, shall serve the required probationary period.

**6.4 Permitted Political Activities.** All employees:

- A. may engage in political activity on their own time;
- B. are encouraged to register to vote, and to exercise the right to vote;
- C. have a right to express their opinion on all political subjects and candidates;
- D. may serve as convention delegates;
- E. may sign nominating petitions and make voluntary contributions to political organizations and candidates; and
- F. may serve as an election or poll official.

**6.5 Prohibited Political Activities.** All employees, department directors and elected officials are prohibited from:

- A. Using official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office, or for any other political purpose.
- B. Directly or indirectly coercing, attempting to coerce, commanding or advising a state or local official or employee to pay, lend, or contribute anything of value to a party, committee or organization, agency, or person for a political purpose.
- C. Threatening to deny promotions to or retaliating in any way any employee who does not vote for or support certain candidates, requiring employees to contribute to a political fund or candidate, influencing subordinate employees to buy tickets to political fund-raisers and similar events, advising employees to take part in political activity and matters of a similar nature.
- D. Engaging in political activity while on duty.
- E. Using any County-owned equipment, supplies, vehicles, space or property for political purposes.

**6.6 Public/Political Office**

- A. Employees covered by the provisions of the Hatch Act [5 U.S.C. Sections 1501 to 1508] may not be candidates for partisan political office elections.
- B. Being a local school board member or a member of any post-secondary educational institution's governing body shall not be construed as holding political office.
- C. Employees may not hold a County political office and be a regular full-time, or at-will full-time, employee with the County.

**6.7 Nepotism.** In order to avoid the practice or appearance of nepotism in employment, near-relatives shall not work in the same department when there is a supervisory relationship between them.

- A. Near-relatives, as used in this ordinance, includes father/mother and spouse, son/daughter and spouse, grandparents, grandchildren and spouse, uncle/aunt and spouse, first cousin and spouse, nephew/niece and spouse, brother/sister and spouse. This also includes unrelated persons sharing a spousal/domestic partner relationship as well as adopted, step relatives in the relationships listed above.

- B. When there is a change in assignment or relationships among County employees, which lead to the supervision of or by other near-relatives, the employee must inform the elected official or department director in writing within five (5) working days. The elected official and department director, subject to the approval of the County Manager, will remove the employee from the supervision of a near relative within five (5) working days (excepted in Section 6.7 D). Such action may include involuntary transfer of the employee to another position, demotion of the supervisor or termination of the employee.
- C. Any problem arising from such a situation should be referred to the County Manager by the elected official or department director for review.
- D. Removal of a supervisory relationship is excepted in the event a first cousin (or spouse of a first cousin) of a current county employee with over one-year employment with the department, is duly elected to a County Office over that employee's department.

**6.8 Conflict Ban.** No employee shall engage in any business or transaction or accept private employment or other public employment which is incompatible with the proper discharge of the employee's responsibilities, or which gives the appearance of impropriety, or is prohibited by federal, state or county law or county policy.

**6.9 Outside Employment.** Employees may not, directly or indirectly, engage in any outside employment or financial interest which may conflict, in the County's opinion, with the best interests of the County or interfere with the employee's ability to perform his/her assigned County job. Examples include, but are not limited to, outside employment which:

- A. Prevents the employee from being available for work beyond normal working hours, such as emergencies or peak work periods, when such availability is a regular part of the employee's job;
- B. Is conducted during the employee's work hours;
- C. Utilizes County telephones, computers, supplies, or any other resources, facilities or equipment;
- D. Constitutes employment, contractual commitment or self-employment which conflicts with Section 15.14, below; or
- E. May reasonably be perceived as a conflict of interest, gives the appearance of impropriety or otherwise discredits public service.

An employee who chooses to have an additional job, contractual commitment or self-employment, may do so provided he/she provides prior notification, on the prescribed form, to his/her elected official/department director and the County Manager, and obtains prior approval from his/her elected official/department director and the County Manager. Any outside employment that could potentially interfere with emergency call-out situations must be reported to the employee's department elected official/director. If, after accepting outside employment, situations arise which could interfere with the employee's job, the employee needs to immediately report these situations to his/her elected official or department director.

**6.10 Workplace & Sexual Harassment.** The County will not tolerate harassment or sexual harassment.

- A. Cibola County is committed to taking reasonable steps to provide a professional working environment free from all forms of harassment, whether based on sex, sexual orientation,

gender identity, race, color, religion, national origin, age, disability or any other protected classification. Although this policy focuses on sexual harassment, it applies equally to all forms of harassment based on a protected classification and the procedures described in this policy shall be followed for all such harassment. This policy also applies when a County employee is subject to harassment in the workplace by someone outside the County.

- B. All County employees and members of the public have a right to be free from harassment from employees on official duty for the County. County employees are forbidden from engaging in harassing conduct in the workplace. Employees are also forbidden from engaging in conduct outside of work that creates a hostile work environment at work. Any act of harassment based upon a protected classification is a violation of county policy.
- C. Harassment Definition: verbal or physical conduct by any employee that, bullies, torments, persecutes, disrupts or interferes with another employee's work performance or that creates an intimidating, offensive or hostile environment.
- D. Sexual Harassment Definition: According to the EEOC, sexual harassment is any unwelcome sexually oriented behavior, demand, comment or physical contact initiated by any individual at the work place when:
  - 1. Submission to such conduct is made either explicitly or implicitly, a term or condition of an individual's employment;
  - 2. Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions/opportunities affecting such individual, or
  - 3. Such conduct has the purpose or effect of substantially interfering with an individual's work performance, or creating an intimidating, hostile or offensive working environment.
- E. Examples. Sexual harassment can occur in a variety of forms. Harassing conduct based on gender often is sexual in nature but sometimes is not. This policy forbids harassment based on gender regardless of whether the offensive conduct is sexual in nature. Sexual harassment is unacceptable in the workplace itself and in other work-related settings such as business trips and business-related social events. The following are some common examples of behaviors or situations that constitute sexual harassment:
  - 1. Oral or written sexual statements, comments, jokes, questions or innuendoes;
  - 2. Display of sexually oriented visual items such as calendars, cartoons, photos or posters;
  - 3. Assault, molestation or unwelcome physical contact such as kissing, touching, patting, pinching, brushing against or hugging;
  - 4. Requests, demands or subtle pressure for sexual activity;
  - 5. Threats or retaliation against an employee who refuses unwelcome sexual attention or sexual behavior;
  - 6. Overt promises or practices that imply preferential treatment for any employee in exchange for dates, sexual attention or sexual behavior;
  - 7. Sexual insults and suggestions including, but not limited to, lewd remarks, obscene gestures and sexually suggestive materials;
  - 8. Any conduct that ridicules, or is malicious or abusive to, an individual because of the individual's gender;
  - 9. Pressuring an employee to go out on a date;

10. Consensual "romantic" or sexual relationships between a supervisor/manager and an employee; or
  11. Asking employee questions of a sexual nature.
- F. Responsibility to Report Harassment. Any employee, who believes they are a victim of harassment because of their protected classification, should first confront the person or persons responsible for the offensive behavior and indicate that it is unwelcome and should be stopped. The employee also has an obligation to promptly report the matter to the Human Resources Director or the County Manager. These are the individuals who are authorized by this policy to receive and act upon complaints of harassment or discrimination on behalf of the County. All employees who observe, or become aware of harassment, also have an obligation to bring the matter to the attention of the Human Resources Director or County Manager, even if they are not the victim of harassment.
- G. Investigation of Complaints. It is the County's intent to provide a fair process for investigating and resolving complaints of harassment. The County will investigate all reports of alleged harassment. Information associated with the investigation will be kept confidential, to the extent possible, and consistent with the County's obligation to investigate promptly and thoroughly. All employees are required to cooperate with any investigation by the County in response to an allegation of harassment. Refusal to cooperate in an investigation may result in disciplinary action, up to and including termination.
- H. Appeal. Any affected employee dissatisfied with the conclusion or results of an investigation, or with any corrective measures taken, may appeal the decision to the County Manager. Any such appeal should be in writing and must include the nature of the employee's dissatisfaction with the conclusions or results of the investigation. Any qualifying disciplinary appeal must follow the grievance process.
- I. Protection against Retaliation. The County will not retaliate against an individual who reports sexual harassment in good faith and such retaliation in and of itself is grounds for disciplinary action, up to and including termination without prior progressive discipline. Retaliation is a serious violation of this policy and should be reported immediately.
- J. Discipline. Anyone violating this section will be subject to corrective or disciplinary action up to, and including dismissal.
- K. Unlawful harassment, including sexual harassment, of employees, or members of the public, may be cause for dismissal. If the County determines that harassment has occurred or that counseling, training, disciplinary measures or termination are appropriate, it will take appropriate measures to correct the problem following County disciplinary procedures. Serious cases of harassment constitute cause for termination without prior progressive discipline. Employees who knowingly make false allegations of sexual harassment may be subject to disciplinary action.
- L. Mandatory Training. Periodic mandatory training for all employees, including supervisors, managers and elected officials, will be provided by the County to increase knowledge of the workplace harassment policy, state and federal laws and the process for enforcing the policy.
- M. Vendors and Customers. Employees should report sexual harassment from vendors, customers, other county employees and the general public utilizing this Policy.

## **6.11 Performance Evaluations.**

- A. Employees other than probationary employees shall be evaluated at least annually, and may be evaluated upon the following conditions:
  - 1. A change of status.
  - 2. Along with a recommendation of any type of salary increase, including step increases if available.
  - 3. Demotion, suspension or corrective action.
  - 4. Any other time that a department director or immediate supervisor wishes to make the performance of an employee a matter of record.
- B. **Contents of Evaluation.** A performance evaluation shall contain an overall appraisal of the employee's performance. Forms may be provided or approved by the Human Resources Manager. All evaluations will be signed by the employee, supervisor submitting the evaluation and the Human Resources Manager.
- C. **Employee Rebuttal.** The employee may submit a written rebuttal statement to the performance evaluation that will be attached to and become a part of the performance evaluation. The rebuttal shall be submitted within ten (10) days of the evaluation.
- D. **Unsatisfactory Evaluation.** In the event a regular employee receives an overall evaluation of unsatisfactory performance, the employee shall be warned that the failure to meet reasonable performance standards of the position within a set time period, not to exceed ninety (90) days, shall result in dismissal. This process does not apply to probationary evaluation.

## 6.12 Fitness for Duty.

The County endeavors to provide a safe and productive work environment for the benefit of its employees and the public they serve. Employees are expected to manage their health in such a way that they can safely and effectively perform their essential job functions and to discuss with their supervisor any circumstance that may impact their ability to do so. The County may require professional evaluation of an employee's physical or mental capabilities to determine his or her ability to perform essential job functions. Such evaluations are conducted by an independent third-party, licensed health care professional and are undertaken only after careful review by Human Resources. To the extent possible, the County will protect the confidentiality of the evaluation and results.

This evaluation process is for only those situation where reliable observation indicates that the employee may not be physically or mental able to perform the essential functions of his or her position due to a physical or mental condition. It is not intended to be a substitute for sick or medical leave request, workers' compensation claims, allegations of violence in the workplace, situations where there is an immediate threat of harm or for performance management disciplinary process.

- A. Procedures. If, by observation of an employee's behavior or by receipt of reliable information, the County has reason to believe that an employee may lack the ability to perform the essential functions of his or her position due to a physical or mental condition, the following steps will be taken:
  - 1. The department head or elected official will provide Human Resources with detailed information regarding the reason for and circumstances leading up to the fitness-for-



- duty referral, including information on essential job functions, evidence of the employee's inability to perform those functions effectively, and any attempts at resolving the matter.
2. The Human Resources Director will review the information provided in the referral, along with a current job description of the essential functions of the employee's position. If it is determined that a fitness-for-duty evaluation is necessary, the Human Resources Director or designee will notify the employee in writing.
  3. Human Resources will determine the independent, third-party, licensed health care professional who will perform the evaluation, send a written request for an evaluation to him or her, and will schedule the evaluation at the earliest opportunity.
  4. Failure on the employee's part to comply with a scheduled fitness-for-duty evaluation constitutes insubordination and will be cause for disciplinary action, including termination.
  5. All costs of the health care services performed by the health care professional as part of the evaluation will be paid by the County.
  6. If the County Manager deems it necessary, the employee may be placed on temporary, paid administrative leave until the evaluation is completed.
  7. The employee will be requested to sign a voluntary written authorization allowing the health care professional to provide certain information obtained through the evaluation to the County. If no authorization is executed, the County may nevertheless obtain a description of the functional limitations of the employee that may limit the employee's ability to perform the essential function of his or her job, but no statement of medical cause may be disclosed.
  8. Insofar as feasible, the results of the evaluation will be treated as confidential, kept in a separate file within Human Resources, and the minimum necessary information will be shared only with those who need to know the results for legitimate county business purposes.
  9. If it is determined that the employee is not able to perform the essential functions of his or her position, Human Resources will attempt to determine if there is a reasonable accommodation that will allow the employee to continue working. If an appropriate accommodation cannot be made other options will be identified and communicated to the employee as available.
  10. If it appears that any functional limitations on the employee's ability to perform the essential functions of his or her position are the result of a work-related injury, the matter will be referred to Workers Compensation for the processing of a worker's compensation claim.
  11. All actions taken in carrying out this policy will comply with state and federal laws, as well as County policies and procedures and applicable contractual provisions.
- B. Evaluation and Results. The fitness-for-duty evaluation will not be conducted for the purpose of diagnosis or treatment, but rather for the purposes of determining and evaluating the employee's ability to perform the essential functions of the job. Human Resources will provide the evaluator with a description of the essential function of the employee's position prior to the evaluation. The evaluator will be asked by Human Resources to release only that information as permitted under this policy or otherwise permitted or required by law. The evaluator will be asked to complete a written report containing only the following information.
1. A conclusion regarding the determination of fitness for duty;

2. A description of the nature and extent of any functional limitation on the employee's ability to perform his or her job;
  3. A description of the expected duration of each such functional limitation; and
  4. An opinion as to whether or not the functional limitation may be the result of a work-related injury as related by the employee; further medical examination or investigation may be necessary to determine if the functional limitation arises out of, or has been caused by, the employee's occupation.
- C. Insofar as feasible, the results of the evaluation will be treated as confidential, and will be shared only with those who need to know the results for legitimate county business purposes. However, where the employee has placed at issue his or her medical history, mental or physical condition, or treatment, the relevant information may be used and disclosed by the County in connection with such proceedings.
- D. The County Manager will make a decision regarding the employee's status, including but not limited to the employee's return to duty or removal of the employee from any duties pending treatment and re-evaluation, depending on the results of the evaluation and the recommendation of the evaluator. In certain circumstances the employee may be subject to medical disability termination pursuant to Section 5.8 of this Ordinance.

## **SECTION VII: BASIS FOR EMPLOYEE DISCIPLINE**

**7.1 Discipline.** Disciplinary actions for employees are based on just cause, in order to promote the efficiency of the services rendered by the County and the operation of its respective departments and offices. Disciplinary actions will be consistent with governing laws and regulations and will be taken without regard to race, age, religion, color, national origin, ancestry, sex, sexual orientation, physical or mental handicap or medical condition. No employee will be disciplined for refusing to perform an unlawful act.

**7.2 Definition of Just Cause.** Just cause is defined as any conduct, action or inaction arising from or directly connected with the employee's work, which is inconsistent with the employee's obligation to the County and reflects the employee's disregard of the County's interest. Just cause includes, but is not limited to, inefficiency, incompetence, misconduct, negligence, insubordination, performance which continues to be inadequate after reasonable efforts have been made to correct the performance problems, or conviction of a felony or misdemeanor involving moral turpitude and the misdemeanor conviction directly relates to the employee's particular job, trade, or profession.

**7.3 Disciplinary Action.** The County Manager, elected officials, department directors and supervisors have the authority to discipline an employee under their supervision. However, only the County Manager has the final authority to demote, suspend or terminate an employee for disciplinary reasons. Copies of any written disciplinary action must be furnished to the County Manager's office for placement in the employee's file, with evidence of the employee's receipt of the action.

**7.4 Consultation with County Attorney.** Dismissal, demotion, and suspension require consultation with the County Attorney before taking disciplinary action. Whenever such

consultation is not practical because of urgency, necessary action may be taken and the situations/ circumstances reviewed with the County Attorney as soon as practical.

**7.5 Progressive Discipline.** An employee shall be progressively disciplined whenever warranted. All actions involving substandard work performance, leading up to and including dismissal, require documented progressive discipline. The step of corrective action used depends on the severity of the infraction and the employee's previous work record. Because of the serious nature of some infractions, the first disciplinary action may be suspension or dismissal.

**7.6 Verbal Reprimand.** A verbal reprimand is used for minor infractions to inform the employee that his/her actions, behavior or conduct needs to change. Supervisors will keep written notations of verbal reprimands, and will place the written notation of the verbal reprimand in the employee's personnel file. Causes for verbal reprimands include, but are not limited to:

- A. substandard or unsatisfactory work performance;
- B. repeated absence or tardiness;
- C. misconduct on the job;
- D. failure to meet and/or maintain job requirements as set forth in the job description;
- E. violation any personnel Rules, other County rules, policies, regulations or supplemental rules;
- F. violation of a professional code of ethics accepted by those in the same profession as an employee and as stated in this policy;
- G. non-cooperation by an employee with fellow employees or other personal conduct which substantially interferes with the performance of his/her or another employee's work;
- H. failure to adhere to an established work schedule;
- I. excessive personal cell phone usage; and
- J. failure to obtain authorization for overtime.

**7.7 Written Reprimand.** An employee shall receive a written reprimand because the deficiency or infraction is of a greater degree than that for which a verbal reprimand may be used, or if a verbal reprimand was not effective. Causes for written reprimands include, but are not limited to:

- A. the causes listed for verbal reprimands;
- B. excessive absence or tardiness;
- C. sleeping on the job;
- D. negligence in the performance of duty including negligence in the operation of County vehicles or equipment;
- E. negligence or failure to adhere to established safety rules or regulations as well as willful unsafe conduct;
- F. insubordination and failure to comply with the lawful orders of a supervisor including the refusal to accept after hours assignments;
- G. refusal to perform tasks or duties assigned or detailed in an employee's job description;
- H. unauthorized absence from work;
- I. failure to report duty injuries, accidents or vehicle collisions;
- J. failure to follow the chain of command within a department;
- K. unauthorized use or abuse of County property (e.g. phones, cell phones, computers, vehicles, equipment, etc.).

- L. being untruthful when asked about any work related activities by a supervisor;
- M. abuse of sick leave, including use of sick leave on a day for which vacation or other leave has been denied;
- N. failure to follow a departmental SOP; and
- O. violation of the Code of Ethics (Section 3.10).

Written reprimands for an employee's work performance or conduct shall be placed in the employee's personnel file after providing the employee with a copy of the statement. The employee will be asked to acknowledge having read the comments by signing the statement. If the employee refuses to sign, said refusal to sign shall be noted on the document by the employee's elected official or department director, and a witness shall attest in writing that the statement was presented for signature to the employee, who refused to sign. The elected official or department director's signature, witness' signature, or employee's signature indicates that the employee received the statement, but does not necessarily indicate concurrence with its content. In addition, the elected official or department director may read the letter of reprimand to the employee. The employee may respond with a written rebuttal within ten (10) days after the document was entered into the personnel file, which shall also be placed in the employee's personnel file. The placement of a written reprimand in an employee's file is not grievable.

**7.8 Suspension.** An employee may be suspended without pay for a single serious offense or for continued inadequate job performance or misconduct after previous attempt(s) to correct the conduct have failed. Such suspension will not exceed two-hundred forty (240) hours. Suspension of an employee is subject to the formal grievance procedures. Causes for suspension include but are not limited to:

- A. the causes listed for verbal and written reprimands;
- B. continuous documented instances of poor performance;
- C. negligent damage to property and/or person(s);
- D. physical or mental unfitness for duty;
- E. consumption or possession of alcohol or controlled substances on-duty or on County property or in County vehicles;
- F. fighting while on-duty or on County property;
- G. harassment;
- H. sexual harassment;
- I. failure to report confiscation or loss of driver's license when required as condition of employment;
- J. operation of a County vehicle or a private vehicle while on County business without a valid driver's license; and
- K. unlawful carrying or possession of a firearm unless authorized by state law or county policy.
- L. being under the influence of alcohol or controlled substance including illegal drugs as well as abuse of prescription drugs. See Section 11.
- M. Knowingly making any false statement or omission to a supervisor regarding work-related activities.

**7.9 Demotion.** An employee may be demoted for continued inadequate job performance after previous attempt(s) to correct the conduct have failed, provided that there exists a lower job position in the County and the employee is capable of performing such a job. The demotion of an

eligible employee is subject to the formal grievance procedures. A demotion may require a decrease in salary, with approval of the County Manager.

**7.10 Dismissal.** Dismissal is the final consequence when progressive discipline has failed to change unacceptable behavior or performance, or when the employee has engaged in other behavior that is of a serious nature that is unacceptable for County employees. The dismissal of an employee is subject to the formal grievance procedures. Causes for dismissal include, but are not limited to:

- A. all causes listed for the previous disciplinary actions, if such causes continue after attempts or correction have failed;
- B. acceptance of a bribe, gratuity, gift, or kick-back;
- C. abuse of official position or authority for personal profit or advantage;
- D. theft, abuse or intentional destruction of County property, including electronic media or data;
- E. unauthorized disclosure of confidential information from County records or documents as set forth by applicable state law; falsification, destruction or unauthorized use of County records, reports, or other County data, including electronic media or data;
- F. being convicted of a felony or a misdemeanor involving moral turpitude and the criminal conviction directly relates to the particular job, trade, or profession;
- G. being convicted of a felony or a misdemeanor involving moral turpitude and the criminal conviction does not directly relate to the particular job, trade, or profession, if the County determines after investigation that the person so convicted has not been sufficiently rehabilitated to warrant the public trust.
- H. falsification of County employment application, health history forms or any other document used in the employment process;
- I. serious acts of negligence causing damage to County property, public or private property or injury to an employee or member of the public;
- J. intentional acts causing damage to County property, public or private property or injuring an employee or member of the public;
- K. conduct unbecoming an employee of the County;
- L. engaging in conduct prohibited under the County's Drug-Free Workplace Policy as provided in Section 11.4, below;
- M. insubordination or refusal to carry out reasonable directives;
- N. failure to meet standards of substance abuse rehabilitation programs;
- O. loss of license or certification necessary to legally perform the duties of the employee's position.
- P. determination of Hatch Act violation by Office of Special Counsel;
- Q. Behavior that demonstrates deliberate violations of policy, wrongful intent, evil design, or so as to reveal intentional and substantial disregard of the County's interests, or of employee's duties and obligations to the County of Cibola
- R. willful falsification of, or misrepresentation on, any work records; falsifying data or information requested by the County; forgery or inappropriate alteration of County records or other County documents (including written or audio or audio-visual media); and
- S. action or inaction that subjects the County to civil liability.

**7.11 Examples Not Inclusive.** The above examples are typical of the types of infractions sometimes encountered but are not inclusive of all situations that may arise. The County reserves



the right to exercise judgment and render disciplinary action or dismissal as deemed appropriate based on the circumstances of each case.

**7.12 Pre-Determination (Loudermill) Hearing.** Regular employees shall receive a pre-determination hearing prior to possible disciplinary action for cause or other action that may result in suspension without pay, demotion, and loss of pay, or involuntary transfer or dismissal. Prior to delivery of the written notice to the employee, the County Human Resources Director shall review the cause for such action and may require the proposed level of discipline be increased or decreased based on policy and past action. The hearing shall be held by the County Manager or his/her designee, for employees of each respective department.

**7.13 Written Notice.** The employee's supervisor, department director or elected official shall present the employee with written notification of their intent to conduct a pre-determination hearing at least five (5) working days in advance of the hearing date. The written notification shall explain the reasons for the hearing, the proposed discipline, the employee's right to attend the pre-determination hearing, a list of all evidence and/or witness to be introduced by the Department supporting the Department's position, the time, place and date of the pre-determination hearing and the employee's right to respond to the proposed action. The time, place and date of the pre-determination hearing can be revised upon the written agreement of the parties.

**7.14 Immediate Suspension with Pay.** In cases where County property, other employees or citizens or their property are at risk because of the employee's actions, the County Manager or in his/her absence, an appointed designee shall put the employee on administrative leave with pay until the pre-determination hearing is held and a decision is rendered. Any employee, who is placed on administrative leave pending disciplinary action, will be required to be away from their place of employment and will not be allowed to perform any job related duties or retain any County property during that time. Administrative leave pending disciplinary action shall not exceed thirty (30) calendar days, unless an extension of time is approved by the County Manager. Administrative leave with pay may also be granted by the elected official or department director, subject to the approval of the County Manager whenever circumstances warrant such leave.

**7.15 Pre-Determination Hearing Procedure.** The County Manager or his/her designee shall meet with the appropriate elected official or department director, and the employee if he or she chooses to participate, at the appointed time. The County Attorney may be present to assist the Hearing Officer/ County Manager but shall not advocate on behalf a County Department. Legal counsel for the employee and the department, if any, may also be present. At this hearing the employee will have an opportunity to respond to the reasons for the proposed action. Witnesses are permitted as determined relevant to the case by the County Manager or his/her designee. If an employee does not attend the pre-determination hearing and no good cause is shown for his/her absence, the hearing shall proceed as scheduled and a determination may be made.

**7.16 Pre-Determination Hearing Decision.** The County Manager or his/her designee will issue a decision in writing within ten (10) working days of the hearing. The decision will include the time, date and location of the meeting, persons present, and the determination. The written decision shall be either delivered to the employee (obtaining elected official or department director and witness', or employee's, signature of receipt of the decision) or be sent to the employee by certified mail, return receipt requested.



**7.17 Notice of Grievance.** Within five (5) working days of receipt of the written decision, the employee must notify the Human Resources Manager or his/her designee in writing of his/her intent to pursue a grievance hearing before a Personnel Appeals Hearing Officer.

## **SECTION VIII: GRIEVANCE PROCEDURES**

The formal grievance procedure is applicable for promotion, suspension, demotion, involuntary transfer or dismissal. A grievance shall not stay the implementation of the pre-determination hearing decision.

**8.1 Conditions or Actions Not Grievable.** The following matters are not grievable:

- A. disputes as to whether or not an established County practice or Rules are valid;
- B. matters in which a method of review is mandated by law;
- C. matters where the County is without authority to act or does not have the ability to provide a remedy;
- D. dismissal of temporary, casual or contract employees dismissed at any point during their employment with the County;
- E. preferences for employment, promotions, voluntary transfers, temporary assignments, and removal from temporary assignments, and layoffs;
- F. dismissal of a probationary employee prior to the expiration of the probationary period;
- G. letters of complaint when the employee's elected official or department director determines the letters are justified and appropriate to be placed in the employee's personnel file, so long as the procedure for written reprimands are followed including the employee's right to submit a rebuttal;
- H. written reprimands in the employee's file, although within ten (10) days the employee is allowed a rebuttal of the information contained in the reprimand which will be attached to the written reprimand;
- I. denial of permission for outside employment;
- J. performance evaluations;
- K. Suspension from employment for three days or less.
- L. Denial of educational rewards or tuition reimbursement funding.

**8.2 Employees Not Eligible for Grievance Procedure.** Unclassified, temporary, casual, probationary or contract employees are not eligible to request a grievance hearing. Additionally the following employees are not entitled to the grievance procedure: County Manager, the Assessor's Chief Deputy, the County Clerk's Chief Deputy, the County Treasurer's Chief Deputy, the Under-Sheriff, the Sheriff's Administrative Secretary and the County Fire Marshal.

**8.3 Grievance Procedure.** A regular employee may request, in writing, a hearing before a personnel Hearing Officer within five (5) working days of receiving the County Manager's decision resulting from the pre-disciplinary process or from other action as may be grievable under this Policy. The request will state with specificity the reason for the grievance and the remedy requested.

**8.4 Appointment of Personnel Hearing Officer.** Within fifteen (15) working days of the grievant's notification of intent to pursue a disciplinary hearing, the County Manager will provide the grievant with the name of the Hearing Officer.

**8.5 Hearing Officer Qualifications.** Hearing Officers shall be personnel professionals, be familiar with public or private personnel systems, or have pertinent experience in the fields of management, education or law. The Hearing Officer shall be disinterested in the subject matter of the hearing. The County Manager shall verify the qualifications of the hearing officer. The hearing officer is not required to reside in the County.

**8.6 Grievance Hearing Schedule.** The County Manager will schedule a hearing to be held within thirty (30) days of the notification that the employee wants to pursue a grievance hearing. In the event no qualified Hearing Officer is available within the thirty (30) day limit, the hearing will be held at the first opportunity. At this hearing, the grievant shall have an opportunity to present witnesses and physical evidence and cross-examine the County's witnesses before a neutral hearing officer. The grievant and the County may be represented by legal counsel.

**8.7 Grievance Hearing Procedures - Rules of Procedure.**

- A. The hearing will not be open to the public.
- B. The hearing officer shall:
  - 1. make rulings on procedural and substantial issues of the hearing;
  - 2. determine the admissibility of evidence and testimony, all of which must have a direct bearing on the issue before the hearing officer; and
  - 3. issue a written ruling, including findings of fact, which form the basis of the hearing officer's conclusions of law.
- C. The grievant, the grievant's legal representative, if any, and the County Attorney are required to be present at the hearing unless otherwise excused by the hearing officer or by agreement of the parties.
- D. At least five (5) working days prior to the hearing, the parties or their representatives shall prepare and provide copies of all exhibits and evidence for the hearing officer as well as the opposing party. Exhibits and evidence not supplied in the manner detailed above shall be excluded from consideration by the hearing officer.
- E. At least five (5) working days prior to the hearing, all parties must submit to the hearing officer a confidential statement identifying the issues to be heard, a witness list, and a complete list of documents to be admitted as evidence. Further, at least five (5) working days prior to the hearing, witness lists and exhibits shall be exchanged between the parties.
- F. Each party will be responsible for ensuring that their witnesses are present for the hearing.
- G. Witnesses in grievance hearings are not permitted in the hearing room until called upon to testify, unless the witness is a party (i.e., the grievant, the grievant's Elected Official or department director, the County Manager, Human Resources Manager, or County Attorney).
- H. An audio or audio-video record of all grievance hearings will be made.

**8.8 Conduct of Hearing.** The Grievant shall present an opening statement of issues involved in the case, followed by the County. Opening statements are limited to the pertinent issues of fact and law and shall not exceed ten minutes without the permission of the hearing officer.

**8.9 Order of Presentation.**

- A. The County will present first. Witnesses for the County may be called and questioned concerning their involvement in or knowledge of the case. Following each witness's testimony, the Grievant will have the opportunity to cross-examine the witness. The hearing officer will then have an opportunity to question the witness. The hearing officer shall restrict all questions to those necessary to clarify the testimony previously given. Follow up or redirect questioning will be allowed at the discretion of the hearing officer.
- B. Witnesses for the Grievant may be called and questioned concerning their involvement in or knowledge of the case. Following each witness's testimony, the County will have the opportunity to cross-examine the witness. The hearing officer will then have an opportunity to question the witness. The hearing officer shall restrict all questions to those necessary to clarify the testimony previously given. Follow up or redirect questioning will be allowed at the discretion of the hearing officer.
- C. Following the presentation of the County's and the Grievant's positions, rebuttals may be offered. Such testimony shall be brief and shall address only the issues brought forth in the County's or Grievant's presentation.
- D. The County's closing statement shall be presented followed by the Grievant's closing statement. These statements shall not exceed ten (10) minutes without the permission of the hearing officer and shall contain a request for the desired outcome.

**8.10 Communication of Hearing Officer's Decision.** The hearing officer's decision will be issued within thirty (30) working days of the hearing and will be signed by the hearing officer, and transmitted to the grievant, the County Manager and elected official/department director. The hearing officer may uphold, modify or reverse the decision of the County Manager, and may reinstate the employee and award back pay and benefits. No attorney's fees, costs or other damages may be awarded. The standard of proof in a grievance hearing is a preponderance of the evidence. The record of the proceedings will be retained by the County Manager's office for a period of not less than five (5) years from the hearing date along with all of the physical evidence admitted by the hearing officer. The verbal record may be transcribed only in the case of appeal to the District Court by one of the parties. The party requesting the transcription shall pay for the transcription.

**8.11 Appeal of Hearing Officer's Decision.** Either party may appeal the hearing officer's decision to the District Court by filing with the District Court and the Human Resources Manager a Notice of Appeal within thirty (30) calendar days of the Hearing Officer's decision. A party may cross-appeal within thirty (30) days of the date another party files a Notice of Appeal. Both parties shall be forever estopped from appealing the Hearing Officer's decision after thirty (30) calendar days from the Hearing Officer's decision if no Notice of Appeal is timely-filed.

- A. These Rules, if certified to be complete by the County Clerk, and in effect at the material times, may be included in the record on appeal at the request of any one of the respective parties at any time before forwarding the record to the District Court.
- B. The appeal shall be one of review of the record (transcript) along with all the exhibits as admitted. No trial de novo will be accorded.

## **SECTION IX: COMPENSATION & BENEFIT PROGRAM**

**9.1 Purpose.** The purpose of the compensation plan is to establish equitable compensation for all positions in the County. Such a plan may establish a salary schedule containing a minimum and

maximum wage or salary for each position. Pay ranges are intended to furnish administrative flexibility. However, all wages and salaries are approved by the Board during the budget process or otherwise. The Board has sole authority to budget and authorize wage and salary increases. The Board acknowledges all changes in compensation and may set pay schedules and Rules regarding any raises and promotional increases for the entire fiscal year for all County employees.

**9.2 Hours of Work.** Employees will work their scheduled hours pursuant to work schedules established by their department director or elected official. Full-time employees will work a minimum of forty (40) hours per week. Actual work periods may fluctuate at the discretion of the department director or elected official, with approval of the County Manager. Part-time employees are scheduled to work pursuant to scheduling set forth by their supervisors, the department director or elected official.

**9.3 Overtime Pay.** Only FLSA non-exempt employees shall be compensated for all time actually worked, whether or not the time is authorized. Failure to obtain authorization for overtime shall result in disciplinary action, up to and including dismissal. The rate shall be one and one-half (1½) times regular pay for each hour of overtime. Only actual time worked will be used to calculate overtime; holiday, annual, sick and other leave hours shall not be considered actual working hours. Holiday, annual, sick and other leave hours shall not be considered actual working hours.

- A. Regular employees: such payment shall be made only in cases when an FLSA non-exempt employee works over forty (40) “actual hours” in a normal work week.
- B. Law Enforcement and Detention Personnel: An FLSA non-exempt, law enforcement or detention employee shall be paid overtime according to FLSA regulations in excess of eighty-six (86) hours per pay period permitted by 29 U.S.C. Section 207(k).

**9.4 Consistency with Fair Labor Standards Act.** The provisions of Section 9.3 are subject to change or revision by the Fair Labor Standards Act and any federal regulation or revision thereof.

**9.5 P.E.R.A. Benefits.** All County employees, with the exception of those employees, who are subject to exclusion under P.E.R.A. rules, are required to join the Public Employees Retirement Association of New Mexico (P.E.R.A.).

**9.6 Insurance Benefits.** The County offers group insurance benefits to all employees as long as the employee is scheduled to work at least 30 hours per week and whose term of employment when hired is for six or more months. Independent contractors are not eligible under the County benefit plan. Insurance plans may be changed at the discretion of the Board or the insurance carrier.

**9.7 Fringe Benefits.** The County will follow the Internal Revenue Service’s rules with regard to fringe benefits. Taxable fringe benefits will be included on the employee’s W-2 form. (Examples of fringe benefits are: uniforms, uniform allowances, vehicle usage, County cell phones, etc.) If an employee has a question regarding what constitutes a fringe benefit and how that may affect him/her, the employee should contact the Human Resources Manager. Vehicles assigned as take-home vehicles must be properly identified with a logo as Cibola County vehicles.

**9.8 Compensatory Time.** The use of Compensatory Time is strongly discouraged and may only be awarded in accordance with the County's Compensatory Time policy.

- C. Compensatory time in lieu of cash compensation may only be given if there is no remaining overtime in the County Department's budget and shall be authorized only under emergency circumstances which call for immediate action or in special situations required by the nature of the operation or the status of the activity.
- D. Compensatory time in lieu of cash compensation may be given only if there is a current agreement entered into voluntarily between the employee, department head/elected official and the County Manager.
- E. The employee must have entered into this agreement before compensatory overtime work is performed. *(All requests must be made on the official county form attached to this policy and all lines must be completed)*
- F. Compensatory time off for FLSA non-exempt employees shall be at a rate equal to one and one-half (1.5) hours for each hour of employment for which overtime compensation is required. However, if the additional hours worked would not qualify as overtime (i.e. leave was taken during the work week), but the employee takes time off in lieu of payment such compensatory time would be accrued at the straight time rate.
- G. If compensatory time is authorized under this policy, it is the responsibility of that employee's department head to make every reasonable effort to schedule that employee time off during the same pay period so the employee does not work over a forty (40) hour work week so that compensatory time will accrue as straight time pursuant to section 5 above.
- H. The FLSA-covered employee who has accrued compensatory time off, and who has requested the use of compensatory time, shall be permitted to use the time within a reasonable period after making the request, if the use of compensatory time does not unduly disrupt the operations of the County as determined by the employee's supervisor.
- I. After accrual of 80 hours of compensatory time, any overtime worked must be paid. If compensation is paid to an employee for accrued compensatory time, such compensation shall be paid at the regular rate earned by the employee at the time the employee receives such a payment.
- J. A department head shall make every reasonable effort to schedule time off, for an employee to use accrued compensatory time, before June 30 of each year. Any accrued compensatory time off not used by an employee by June 30 shall be paid, to the employee two (2) weeks from the date the County's next fiscal year budget is approved by the New Mexico Department of Finance Administration, at the regular rate earned by the employee at the time the employee receives such a payment.

**9.9 Training & Certification Rewards Program.** Cibola County recognizes the benefit to the County and constituents when our employees work to obtain more knowledge in their field. Therefore, the County maintains a rewards program for those employees who do work toward certification. Only regular full-time employees are eligible for this program.

- A. Application for reward funds must:
  - 1. Be approved by the department head or elected office;
  - 2. Must be made prior to entering a program; and
  - 3. May be denied for non-availability of funds.
- B. Employees are not eligible for to receive reward money until all required coursework, testing, and completion of the any required project is approved and designated as



complete. The Human Resources Manager must also receive an official certificate for the employee's personnel file

- C. Rewards, not to exceed \$250 may be made for various training that meets the following criteria:
  - 1. The training is recognized nationally and testing is required, and
  - 2. It must be directly related to the employee's job or job series, and
  - 3. The training is not a part of the Minimum Qualification Requirements for the job or job series, and
  - 4. It cannot be post-secondary higher education, e.g., college hours and/or degrees and courses at secretarial or technical colleges (formerly called vocational-technical schools).
- D. Rewards not to exceed \$500 may be made to employees for attainment of a New Mexico Edge County College Core Certification or County College Affiliate Certification Program. However, employees are eligible for no more than two certifications within one fiscal year period. The maximum total reward amount an employee may be given for earning all NM Edge County College certifications is \$3000.00.
- E. Rewards of up to \$1000 may be made for attainment of a certification that
  - 1. Meets all the criteria listed in B.1 above
  - 2. If it is nationally recognized and a baccalaureate degree is required to apply for the certification.
  - 3. This certification requires a substantial amount of study and a comprehensive exam.
  - 4. This type of reward may be given only once to an employee.
- F. Payment of the reward will be made through the County's payroll system and may be subject to state or federal withholding taxes.

**9.10 Tuition Reimbursement Program.** It is the policy of Cibola County to assist employees wishing to improve their job knowledge by attending classes at an accredited academic institution. In keeping with such policy, the following tuition reimbursement program is available for all regular fulltime employees.

- A. Department heads/elected office must ensure the availability of financial resources within their department budgets to execute this program for an employee. Therefore, applications for reimbursement may be denied for non-availability of funds.
- B. Upon recommendation of the department head or elected official, the Human Resources manager may grant approval for tuition reimbursement if all the following requirements are met:
  - 1. The department head or elected official must certify the availability of funds in the department's budget;
  - 2. Approval for tuition reimbursement must be received by the Department Head and County Manager prior to the beginning of the any class;
  - 3. Tuition reimbursement shall be granted for courses taken that are job-related or degree-related in the field the employee is employed in and that will improve the employee's ability to perform at Cibola County;
  - 4. Employees must receive a final grade of "B" or better in order to be eligible to receive reimbursement and must present a certified final grade to the Human Resources Manager;
  - 5. Employees may receive reimbursement for required textbooks, if such textbooks are donated to the county at the completion of the course and the donation is approved by the department head or elected official; and



6. No employee shall receive more than \$800 in a fiscal year for tuition or book reimbursement.
- G. Upon the recommendation of the Human Resources Manager, tuition reimbursement will be made to the employee through the County's payroll system on the next pay period cycle. As a fringe benefit, this reimbursement may be subject to state or federal taxes.

## SECTION X: LEAVE AND HOLIDAYS

### 10.1 Holidays

- A. The County Commission shall approve holidays at their discretion during the first meeting in January of each year, for the calendar year. All employees, except temporary and casual employees, are eligible for holiday pay. Holiday pay is equal to an employee's basic hourly rate of pay.
- B. Holiday Pay. A paid holiday means up to eight (8) hours paid compensation for time off in recognition of each designated County Holiday. Under no circumstances shall holiday pay exceed 8 hours. Part time employees are eligible to receive an amount of holiday pay in direct correlation to their standard or average hours of work compared to a 40-hour work week.
- C. Holiday Premium Pay. FLSA non-exempt employees authorized and required to work on the day a holiday is observed, shall be compensated one and one half (1 ½) times their hourly rate of pay for all hours actually worked on the employee's first shift. Contract employees, chief deputies, unclassified employees, FLSA exempt employees and temporary and casual employees are not eligible for holiday premium pay.
- D. Employees taking authorized leave with pay during a holiday shall not be charged for leave time during that holiday. Employees scheduled to work on a holiday who call in sick will not be paid holiday pay and the time will be charged against their sick leave accrual. An employee who is on leave without pay or absent without leave shall not be paid for the holiday.

**10.2 Personal Holiday Leave.** All regular employees who have completed the probationary period will have an eight (8) hour personal holiday each calendar year in addition to the regular holiday schedule. The personal holiday may be taken at any time, upon approval by the employee's supervisor. The entire eight (8) hours must be taken when requesting personal holiday leave. Personal holiday time may not be taken in hourly increments. Personal holiday leave shall not carry over beyond the current calendar year.

**10.3 Annual Leave with Pay.** Annual leave may not be used before it is accrued and must be approved with at least seven (7) days or more notice by the employee's supervisor prior to being taken. Employees accrue annual leave with pay in accordance with the following schedule, based upon continuous length of County service:

*Table 10.1*

Full Years of Service	Annual Days Accrued	Annual Hours Accrued and Per Pay Period
Less than ten (10) years	16.25	130 / 5.0

Ten (10) years or more	19.50	156 / 6.0
Twenty (20) years or more	26	208/8.0

**10.4 Accrual Limitation.** Total number of accrued annual leave hours shall not exceed a maximum of 280 hours.

**10.5 Separation from Service or Change in Service Pay.** Employees shall be paid for all accrued annual leave upon separation from county service. Upon change from FLSA non-exempt to FLSA exempt status, employees shall be paid a lump sum for the unused portion of their accrued annual leave at their non-exempt rate of pay.

**10.6 Annual Leave Conversion.** Employees taking a minimum of forty (40) consecutive hours of annual leave (not to include any holidays) are entitled to convert eight (8) hours of sick leave to annual leave per year. Annual leave conversions are processed at the end of the fiscal year.

Employees may convert a maximum of 24 hours accrued vacation leave for cash payment each fiscal year. Payment will be made on the basis of seventy-five cents (\$.75) for each one dollar's (\$1.00) value of leave for the employee.

**10.7 Shared Leave Policy.** Cibola County employees are permitted to donate or receive annual or personal leave for county employees with severe or extraordinary illnesses, or to provide care for relatives or household members with severe or extraordinary illnesses. Requests to receive shared leave require County Manager approval. A certificate of illness or injury will be required from a physician in order to qualify to use donated hours. Under no circumstances, including termination, can these donated hours be converted into cash.

**10.8 Annual Sick Leave with Pay.** Employees shall accrue a maximum of eighty (80) hours of sick leave with pay annually. Part-time employees accrue sick leave at the rate of 2.0 hours per pay-period. Casual and temporary employees do not accrue sick leave.

- K. Sick leave shall be authorized by the employee's supervisor, when such leave is requested, when an employee is unable to perform normal job duties due to medical considerations such as, but not limited to, the following: illness, injury, prearranged medical or dental examination, quarantine, therapy, counseling, treatment, or when a member of the employee's immediate family is ill and requires the personal attention of the employee.
- L. A maximum of six hundred (600) hours of sick leave shall be accrued and any sick leave above and beyond the six hundred (600) hours will be forfeited. Upon separation or retirement of an employee who has served five (5) or more years, the County shall pay the employee a sum equal to twenty-five percent (25%) of the value of his accumulated and unused sick leave, based on his/her average rate of pay for the preceding twelve (12) months.

**10.9 Sick Leave Authorization.** Sick leave may not be used before it is accrued and must be authorized or denied according to County policy. Unless otherwise prescribed by separate department policy, the following procedures shall apply:

- A. Reporting Sick Leave. For shift scheduled employees: sick leave shall be reported as soon as possible but no later than one (1) hour prior to the employee's work shift unless

the nature of the illness or injury requires extended leave, certified by the employee's physician, and of which the employee's supervisor is notified. For all other employees: sick leave shall be reported as soon as possible, but no later than thirty (30) minutes following the start of their normal work day.

- B. Sick leave shall be requested on the prescribed form and the approval or disapproval must be in writing. If an employee uses any falsehood to support a request for leave, any leave authorized may be rescinded and the employee may be subject to disciplinary action. Leave may be granted contingent upon the employee presenting sufficient justification.

**10.10 Use of Sick Leave During Probationary Period.** Probationary employees accrue sick leave as set forth in 6.1 D and may use sick leave if accrued.

**10.11 Certification of Illness for Sick Leave.** A physician's written certification may be required prior to receipt of sick leave pay at the discretion of the elected official or department director.

**10.12 Sick Leave Incentive.** A Cibola County employee who uses twenty (20) hours or less of sick leave per fiscal year will be able to convert eight (8) hours of sick leave to annual vacation leave. Exempt employees are not entitled to participate in this sick leave incentive.

**10.13 Bereavement Leave.** In the event of a death in the employee's immediate family, he or she will be entitled to bereavement leave. Up to three (3) days may be granted for an employee to attend the funeral of a member of his/her immediate family. These days will be charged against an employee's accrued sick leave. An additional two (2) days of sick leave may be authorized by the Elected Official or Department Head for extenuating circumstances.

#### **10.14 Family Medical Leave**

- A. The County provides family medical leave of absence without pay to eligible employees who wish to take time off from work duties to fulfill family obligations relating directly to the birth or adoption of a child or the illness of a child, spouse, domestic partner, parent or the employee themselves. Regular full-time and part-time employees are eligible to request family leave as described in these Rules.
- B. Eligible employees are allowed family/medical leave according to provisions of the Family Medical Leave Act (FMLA). As soon as an eligible employee becomes aware of the need for a family medical leave of absence, the employee shall request leave from their supervisor. Employees requesting family medical leave related to the illness of a child, spouse, domestic partner, parent or the employee themselves shall be required to provide a healthcare provider's certification of employee/family member's serious health condition. Eligible employees who do not request family medical leave in advance of a qualifying event will automatically be placed on family medical leave as soon as it is determined by the Human Resources Director that their leave qualifies for protections under FMLA.
- C. The County may require an employee to submit to a fitness for duty return to work exam when the need for FMLA leave is based on the employee's own serious health condition that may affect the essential functions of the employee's job. The County must notify the employee of this requirement at the beginning of the leave.
- D. Eligible employees are allowed up to twelve (12) weeks of family medical leave or up to twenty-six (26) weeks of leave, in a single 12-month period, to care for a covered service

member recovering from a serious injury or illness incurred in the line of duty on active duty. Eligibility for leave will be determined on a twelve (12) month rolling-back calendar. The employee will be required to take any available annual or sick leave as part of the approved period of leave. If the family medical leave is unpaid, the employee is subject to all rules pertaining to leave without pay, section 10.20.

- E. Subject to the terms, conditions and limitations of the applicable plans, the County will continue to provide health insurance benefits for the full period of the approved family/medical leave, subject to all rules pertaining to leave without pay, Section 10.20.
- F. When family medical leave ends, every reasonable effort will be made to return the employee to the same position, if it is available, or to a similar available position for which the employee qualifies. The County guarantees reinstatement to all eligible employees who are not key employees. If the employee fails to return to work or contact their supervisor on or before their expected date of return, the County will assume that the employee has abandoned their job. The following appointed positions as listed in the Personnel Policy ordinance are key employees within the County and may or may not be eligible to take family medical leave:
  - 1. County Manager
  - 2. Under-Sheriff
  - 3. Deputy Assessor
  - 4. Deputy Clerk
  - 5. Deputy Treasurer
  - 6. Sheriff's Administrative Secretary
- G. According to FMLA, key employees are not guaranteed reinstatement; however, the Board (for contract and unclassified employees), and a department director or elected official may authorize reinstatement, as appropriate subject to approval by the County Manager.

**10.15 Administrative Leave.** Administrative leave with pay may be granted by the elected officials or department director pending an investigation or disciplinary action, subject to the approval of the County Manager as subject to all rules pertaining to Immediate Suspension with Pay, Section 7.14.

**10.16 Workers' Compensation Program.** [§§52-5-1 et. seq., NMSA 1978]

- A. The County provides a comprehensive worker's compensation insurance program at no cost to employees. This program covers any injury or anyone suffering from occupational diseases sustained in the course of employment as approved by the insurance carrier. Subject to applicable legal requirements, Workers' Compensation insurance provides benefits after a short waiting period, or if the employee is hospitalized immediately.
- B. Employees who sustain work-related injuries or occupational diseases must inform their supervisor immediately. No matter how minor an on-the-job injury may appear, it is important that it be reported immediately. This will enable an eligible employee to qualify for coverage as quickly as possible. A "First Report of Injury" shall be filed with the Human Resources Manager following the work-related injury. The report shall be signed by the employee and the employee's supervisor. In addition, the supervisor's "Accident Investigating Report" will be filed on the following work day. All accidents shall be reported, however minor.
- C. Neither the County nor the insurance carrier will be liable for the payment of workers' compensation benefits for injuries that occur during an employee's voluntary

participation in any off-duty recreational, social, athletic activity, or similar events off-duty.

- D. Subject to the terms, conditions and limitations of the applicable plans, the County will continue to provide health insurance benefits while the employee is receiving worker's compensation benefits, subject to the provisions of Section 10.16 C. Eligible employees will automatically be placed on family/medical leave as soon as the Human Resources Manager determines that their leave qualifies for protection under the Act.

**10.17 On-The-Job Injury Leave.** An employee injured on the job may use accrued sick leave until exhausted and then the use of annual leave is permissible for each regularly scheduled working day after the injury occurs for all such days that are not paid by Workers' Compensation Insurance. If the employee is on worker's compensation time for more than four (4) weeks, and is entitled to compensation for the first seven (7) days and has used accrued leave for the first seven (7) days of injury, the workers' compensation payments received for all such days shall be paid directly to the County by the workers' compensation carrier. In the event an employee uses accrued leave, in lieu of workers' compensation, the leave used shall be re-credited to the employee upon the County's receipt of the reimbursement by the Workers' Compensation carrier after the expiration of the statutory waiting period.

**10.18 Voting Leave.** For purposes of national, state or local election, an employee who is registered to vote will be granted up to two (2) hours paid leave for voting, between the time of opening and the time of closing of polls. The employee's supervisor may specify the hours for the leave. This leave will not be granted to any employee whose work day begins more than two (2) hours subsequent to the time of the opening of the polls, or ends more than three (3) hours before the closing of the polls.

**10.19 Court Service Leave with Pay.** Pay for jury duty shall be authorized only for those days that the employee is scheduled to work. If excused by the court during a working day, the employee shall return to work. Employees serving as jurors shall file for jury pay and turn in any pay received to the County. Any jury duty worked beyond their regular work hours shall be refunded back to the employee.

A. Procedures for Jury Duty Time:

1. Juror Service Verification form from the Court must be attached to the Leave Request Form.
2. Reconciliation of time by Payroll will include matching Jury Hours Summary Sheet received by the Court to time sheet, leave form and Juror Service Verification form.

- B. Court Appearance Time. When required by County duties and subpoenaed to appear before a Court, personnel Hearing Officer, public body or the Board for the purpose of testifying in regard to County matters, the employee will be compensated as regular work time.

**10.20 Leave Without Pay.** The department director or elected official, with the approval of the County Manager, may grant an employee leave without pay for a period not to exceed six (6) months, when the department director or elected official deems that such leave without pay is in the best interest of the County. Reasons for such leave may include, but are not limited to, medical disability, pregnancy, birth or adoption of a child, and the need to care for a family member. Leave without pay is subject to the following conditions:



- A. Re-employment upon Return. If an employee returns to work within three (3) months, the employee will be returned to the same position. If the employee is on leave without pay for more than three (3) months but less than six (6) months, the County will attempt to return an employee to the same or similar position for which the employee is qualified. The position of an employee on leave without pay for more than three (3) months shall not be guaranteed. If there is not a position for the employee at the end of six (6) months, the employee shall be dismissed.
- B. Physician's Certificate. Leave without pay requested due to medical reasons or pregnancy-related purposes must be accompanied by a physician's written statement indicating the estimated time disability or recommended time for post-natal leave. An employee returning to work from leave without pay due to medical or pregnancy-related reasons must be released by the employee's physician to return to work.
- C. Temporary Filling of Position. Temporary employees may be hired to fill vacancies created by an employee who is on leave without pay.
- D. Benefits at Employee's Expense. An employee on leave without pay does not accrue leave or County benefits. The employee wishing to continue receiving insurance benefits may do so at the employee's expense by submitting the employee's and the county's share of the premium to the Human Resources Manager on or before the regular pay day.
- E. Failure to Report Timely. Failure on the part of the employee to report to work immediately to the assigned shift following the last day of the request, upon the expiration of approved leave without pay, shall be subject to disciplinary action.

**10.21 Life Threatening Illnesses in the Workplace.** Employees with life-threatening illnesses, such as cancer, heart disease, and AIDS, often wish to continue their normal pursuits, including work, to the extent allowed by their condition. The County supports these endeavors as long as employees are able to meet acceptable performance standards. As in the case of other disabilities, the County will make reasonable accommodations in accordance with all legal requirements, to allow qualified employees with life-threatening illnesses to perform the essential functions of their jobs.

- A. Medical information on individual employees is treated confidentially. The County will take reasonable precautions to protect such information from inappropriate disclosure. Management, as well as other employees, has a responsibility to respect and maintain the confidentiality of employee medical information. Anyone inappropriately disclosing such information is subject to corrective or disciplinary action up to and including dismissal of employment.
- B. The Health Insurance Probability and Accountability Act (HIPAA) and the Americans with Disabilities Act (ADA) require the County to maintain the privacy of protected health information. A copy of the County's HIPAA Notice of Privacy Practices can be obtained from the Human Resources Manager's office.

**10.22 Inclement Weather.** The County Manager may close offices, authorize late reporting or early release due to inclement weather, and all employees will be compensated for normal work hours as administrative leave with pay and shown on a Leave Report Form. Inclement weather leave with pay will not exceed eight (8) hours in one work day.

**10.23 Leave For Unforeseen Circumstances.** The County Manager may close individual offices, authorize late reporting or early release due to unforeseen conditions beyond the



County's control that prevent the employees from performing their duties as administrative leave with pay and shown on a Leave Report Form.

#### **10.24 Military Leave.**

- A. The Uniformed Services Employment and Reemployment Rights Act (USERRA) protects the job and benefits, for up to five years (or more in some cases), of a service member who must leave his or her civilian job because of military orders to report for training or active duty, voluntary or involuntary, in peacetime or wartime.
- B. Military Leave for Reserve or National Guard Activities (§ 20-1-1 NMSA 1978). USERRA requires service members, or a responsible representative of the military unit, to provide advance written or verbal notice to their employers for all military duty unless giving notice is impossible, unreasonable, or precluded by military necessity. Paid Military leave is granted for authorized reserve or National Guard activities for a maximum of fifteen (15) working days with pay during a one (1) year period based on the federal government's fiscal year from October 1 to September 30. Military leave must be requested twenty (20) working days in advance, unless a national or state emergency exists and an immediate call-up is initiated in which case notice as soon as possible is required. The employee must furnish proof of duty orders or other documentation prior to leave being granted unless the leave is for emergency purposes.
- C. Extended Unpaid Military Leave. Employees voluntarily or involuntarily serving on active duty for more than fifteen (15) working days may use accrued annual leave. When military leave has been exhausted, employees have the option of being placed on leave without pay (LWOP) or using accrued leave. Employees may use all of their annual leave on consecutive days or use up to twenty-seven (27) hours per pay period in order to maintain their group insurance benefits. Employees who exhaust their annual leave shall then be placed on LWOP for the remainder of time they are on active duty. Employees shall not receive pay or accrue leave while on LWOP. Employees wanting to maintain insurance benefits while on military duty will be required to pay the employee's share of their premium.
- D. Service members are entitled to return to their County job and receive pay raises, promotions, pension credit and other seniority benefits as if you had been continually employed, provided certain eligibility criteria are met. Protection under the USERRA applies if:
  - 1. The job the employee left was for more than a brief, non-recurrent period, with no reasonable expectation that such employment would continue indefinitely or for a significant period.
  - 2. The employee left this job for the purpose of entering active duty.
  - 3. The employee is discharged under honorable conditions.

AND

- 4. The employee applied for reemployment within the applicable time limit.
- E. If these criteria are met, the USERRA provides the following protections:
  - 1. The employee is entitled to return to the prior position with the same seniority, benefits, pay, and, additionally, any promotion or raise which could have been

reasonably expected if the employee had remained continuously on the civilian job.

2. The County is required to offer disabled veterans the "nearest approximation" of the job the service member could have reasonably expected with continuous employment.
  3. Service members are protected from being discharged for the protected time period allotted by USERRA according to the time served on active duty, unless the County proves misconduct or violation of policies.
  4. To be re-employed in the same position, the employee's return to work must occur within the following guidelines:
    - i. For a service period of 1-30 days, the employee must report to work immediately by the first regularly scheduled work day;
    - ii. For a service period of 31-180 days, the employee must make application for re-employment within 14 calendar days after he/she is relieved from training or duty;
    - iii. For a service period of 181 days or more, the employee must make application for re-employment ninety (90) calendar days after he/she is relieved from training or duty;
    - iv. An employee who is released from hospitalization of a service-related injury, continuing after discharge for a period of not more than one (1) year, must make application for re-employment ninety (90) calendar days after he/she is relieved from training or duty.
- F. Employees may qualify for up to twelve (12) weeks of leave for certain qualifying exigencies arising out of a covered military member's active duty status, or notification of an impending call or order to active duty status, in support of a contingency operation under the FMLA.

**10.25 Light Duty Return-To-Work.** Employees who are on leave due to an injury or illness may be eligible to return to work on light duty status after their physician certifies their fitness to do so. The department director or elected official and the Human Resources Manager will determine if there is a position or duties suitable for an employee to perform light duty work. The County retains full discretion as to whether or not an employee is eligible for light duty status.

- A. **Coordination with Attending Physician.** An employee on leave due to a work-related disability can return to work only when the County receives the attending physician's written medical release authorizing such return. The Human Resources Manager is responsible for providing the physician with a copy of the employee's job description, copies of job descriptions for potential restricted duty assignments, and written information explaining the County's return-to-work program.
- B. **Return-to-Work Options.** Arrangements to facilitate an employee's early return to work are made in consultation with the employee's attending physician and/or other qualified medical professionals retained by the County or its insurance carrier. The following options will be explored:
  1. **Return to prior position.** An employee is offered the opportunity to return to his or her prior position if the attending physician certifies that the employee can perform the essential functions of the job with or without reasonable accommodations. The Human Resources Manager or his/her designee is responsible for working with the employee's supervisor and attending physician

(and third-party consultants, as necessary) to provide any reasonable accommodations.

2. Restricted duty. Any employees who are not yet able to return to their former duties are offered, subject to the restrictions set out in Section 5.2 of these Rules, a temporary restricted duty assignment that has been approved by the employee's attending physician. The Human Resources Manager is responsible for working with the employee's supervisor, and the employee's attending physician to develop and implement the restricted duty assignment. The assignment can consist of the employee's regular job, with reduced working hours or reduced activities, or an alternative restricted duty position.

C. Limitations on Restricted-Duty Assignments. The following limitations apply to restricted duty assignments:

1. No guarantee of work. As provided in Section 5.9 of these Rules, the County will endeavor to return employees to gainful employment as soon as possible by exploring possible restricted duty assignments. However, the County does not guarantee the availability of restricted duty work.
2. Pay rates and Workers' Compensation benefits. Employees on restricted duty are not guaranteed the rate of pay they received for the position they held at the time they sustained their work-related injury or illness. The pay rate for a restricted-duty assignment is based on the knowledge, skills, and abilities required for the job as well as general market conditions. Employees who return to work before they have reached maximum medical improvement (MMI) may be eligible for temporary partial disability benefits under the state Workers' Compensation program, if they earn less than they earned in the position held at the time they sustained the work-related accident or illness. Employees in restricted duty positions are not permitted to supplement their workers' compensation benefits by using their accrued annual, personal, or medical/sick leave.
3. Four (4) week limit. Restricted duty assignments are temporary arrangements intended to complement and facilitate the healing process. Restricted-duty assignments cannot exceed four (4) weeks without approval from the department director or elected official and approved by the County Manager.

D. Employee Refusal of Work/Training. In the event that an employee refuses to return to regular or restricted duties in response to a written, bona fide offer of employment by the County sent via certified mail, the employee is separated from the County and his/her position will be filled permanently (NOTE: An exception to this rule applies in the case of employees who have not yet exhausted their FMLA leave entitlement, refer to subsection F.).

A written offer of employment shall be on a form promulgated by the County Manager and must clearly state:

1. The position offered and the duties of the position;
2. The County's agreement to any limitations or conditions set out in the attending physician's certification of the employee's fitness to return to work;
3. The job's essential functions; and
4. The job's start date, wage, working hours, supervisor and location;
5. Length of assignment and required training.

E. Coordination with FMLA. Nothing in these Rules should be construed as denying employees their rights under the FMLA or any other federal or state law.

- F. It is the County's policy to designate an employee's absence from work due to a work-related injury or illness as FMLA leave to the extent allowed by federal law. Employees entitled to FMLA leave can voluntarily accept restricted duty assignments while they are recuperating, but they cannot be required to do so. Employees who lose their workers' compensation benefits as a result of declining a restricted duty assignment are required to substitute any available paid leave, such as accrued annual, personal, or medical/sick leave, for unpaid FMLA leave.
- G. Until employees have exhausted their twelve (12) week FMLA entitlement, they have the right to be reinstated to their original job or an equivalent job providing they are able to perform the job's essential functions.

### **10.26 Change in FLSA Status**

- A. Upon change from FLSA non-exempt to FLSA exempt status, employees shall be paid a lump sum for the unused portion of their accrued compensatory leave, overtime, sick leave and vacation leave.
- B. The lump sum payment shall be calculated based on the non-exempt salary rate.
- C. Upon change from non-exempt to exempt status and transfer to a new department, employees shall be paid the lump sum for the unused portion of their accrued compensatory leave by their previous department.
- D. If an employee's change in status is contingent upon a 90 day trial period, pursuant to section 5.2 of this Ordinance, the lump sum payment shall not be made until successful completion of the trial period.

## **SECTION XI: SUBSTANCE ABUSE POLICY**

### **11.0 Purpose**

- A. The Cibola County Commission has adopted this employee substance abuse policy and a drug and alcohol testing policy for the County of Cibola, Sheriff's Department, Road Department, Detention Center Department, Solid Waste Department and all other safety sensitive employees. A safety sensitive employee is an employee who performs duties for the County of Cibola which have safety ramifications for themselves, fellow employees and the general public. These positions may include but are not limited to employees who operate equipment/vehicles, have access to confidential information and/or receive calls for public service.
- B. The purpose of this policy is to assure worker fitness for duty and to protect our employees and the public from the risks posed by the misuse of alcohol, the use of prohibited drugs and the misuse of legal drugs. The County is concerned only with those situations where use of alcohol and other drugs seriously interferes with any employee's health, his job performance and adversely affects the job performance of other employees or is considered to be so serious as to be detrimental to the County's operations and the safety of himself/herself and others. There is no intent to intrude upon the private lives of employees.

**11.1 Safety Sensitive Employees.** This policy applies to all safety-sensitive positions within the County of Cibola. All safety sensitive employees for the County of Cibola are covered by this policy. Adherence to this testing policy is a condition of employment for all safety-sensitive positions. Safety-sensitive functions refer to any functions contained within an employee's realm

of responsibilities that have an impact upon the safety and general welfare of the public. It has been determined by the County of Cibola that there are positions within the County of Cibola, which are of a safety sensitive nature and as such, create the need for compliance with this policy.

**11.2 Policy.** The County of Cibola is dedicated to providing safe, dependable and economical services to our public. County of Cibola employees are our most valuable resource and it is our goal to provide a healthy, satisfying working environment, which promotes personal opportunities for growth. In meeting these goals, it is our policy to (1) assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) create a workplace environment free from the adverse effects of drug abuse and alcohol misuse; (3) prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and (4) to encourage employees to seek professional assistance anytime personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.

- A. All safety-sensitive employees will receive training on the effects and consequences of prohibited drug or alcohol use on personal health, safety and the work environment, and the signs and symptoms which may indicate prohibited drug or alcohol use. The County will schedule mandatory classes but it is ultimately the responsibility of the employee to attend a class provided for by the County.
- B. All department heads and supervisors designated to determine whether reasonable suspicion exists to require a covered employee to undergo alcohol/drug testing will receive training on the physical, behavioral, speech and performance indicators of probable prohibited drug or alcohol misuse.

**11.3 Prohibited Substances.** “Prohibited substances” addressed by this policy include the following:

- A. Illegally used controlled substances or drugs. Includes, but is not limited to: marijuana, amphetamines, methamphetamines, opiates, phencyclidine (PCP), and cocaine, as well as drugs not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. The collection agency shall adhere to all requirements outlined in 49 CFR, Part 40 DOT Guidelines in determining what constitutes a positive test.
- B. Legal Drugs. The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected shall be reported by the employee to supervisory personnel and medical advice shall be sought by both the employee and supervisor, as appropriate, before performing safety-sensitive functions. A legally prescribed drug means that an individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient’s name, the name of the substance, quantity/amount to be taken, frequency and the period of authorization. The misuse or abuse of legal drugs while performing official business is prohibited.
- C. Alcohol. The use of beverages or medications containing alcohol, subject to Paragraph 11.3(B) above.



## 11.4 Prohibited Conduct

- A. **Manufacture, Trafficking, Possession, and Use.** Employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or sale of prohibited substances while on duty on County premises, or in County vehicles. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.
- B. **Intoxication/Under the Influence.** Any safety-sensitive employee who fails a drug test or has a breath alcohol concentration of 0.04 or greater shall be removed from their safety-sensitive position and referred to an SAP (substance abuse professional). A safety-sensitive employee with a breath alcohol concentration of 0.02 or greater, but less than 0.04 shall be immediately removed from their safety-sensitive position for a minimum of 8 hours or until they can pass an alcohol test with a BAC of less than 0.02. If a breath analyzer is unavailable, testing will be conducted via blood test.
- C. **Alcohol Use.** No safety-sensitive employee should report for duty or remain on duty when his/her ability to perform assigned safety-sensitive functions is adversely affected by alcohol or when his/her breath alcohol concentration is 0.04 or greater. No safety-sensitive employee shall use alcohol while on duty, or while performing a safety-sensitive function. No safety-sensitive employee shall use alcohol within four hours of reporting for duty; or during the hours that they are scheduled on call; or up to eight hours following an accident or until tested; or anytime during a period when that employee may have to perform safety-sensitive functions. Employees, who are not scheduled on call, shall upon being notified to report to duty, acknowledge alcohol use and their inability to perform his/her safety-sensitive function and shall be excused from doing so without further consequences. No County employee under the age of 21 shall have a breath alcohol concentration of .02 or greater at any time while performing duties for the County. Violation of these provisions is prohibited and punishable by termination.
- D. **Compliance with Testing Requirements.** All safety-sensitive employees shall be subject to urine drug testing and breath alcohol testing. Refusal to comply with a request for testing, refusal to sign the drug testing chain of custody form, refusal to sign Step #2 on the alcohol breath testing form, inability to provide sufficient quantities of breath or urine to be tested without a valid medical explanation, tampering with or attempting to adulterate the specimen or collection procedure or not reporting to the collection site in the time allotted, shall constitute a verified positive test result.

## 11.5 Testing Which Results In a Dilute Specimen

### A. Definitions:

Dilute Drug Screen – A drug screen which is identified by the testing lab as an irregular specimen pertaining to the specimen's specific gravity and creatinine concentration. (The irregularity in specific gravity minimizes the reliability of the testing procedure and therefore reduces the reliability in the results.)

Primary Test – A test which is conducted under Sections 11.10, 11.11 or 11.12.

Monitored Tests – The County of Cibola will offer all employees who are required to take a second level test the opportunity to have the test monitored by a supervisor.



B. Dilute Drug Screen Procedure:

A dilute drug screen for Sheriff Department, Road Department, Detention Center Department and all other safety sensitive County employees who are covered by this policy will be handled as follows:

1. Primary Test:

Identified as Dilute

- a. The employee shall enter into a re-entry contract as defined in Section 11.17 and 11.18 or
  - b. If the employee's physician certifies in writing that there is a valid medical cause for the dilute result, unrelated to illegal drug use or prescription drug abuse, the employee may submit to a hair sample test, at the County's expense, to contest the results.
  - c. The employee without a physician's certification, may submit to a hair sample test to contest the results if the employee pays, in advance, for the cost of the test.
2. Second Level Test (test for re-entry purposes or follow-up tests defined within a re-entry contract):
- a. Monitored Dilute – The County will accept the test results as provided by the lab (a test will be monitored only at the request of the employee)
  - b. Unmonitored Dilute – Shall result in termination as stated in the re-entry contract.

C. Dilute Specimen Test for Employment Applicants: Any applicant for employment with Cibola County whose pre-employment drug and alcohol screen test is identified as dilute, shall not be eligible for employment and is precluded from re-application for employment for:

1. a period of six (6) months from the date of the test or
2. The applicant may submit to a hair sample test to contest the results if the applicant pays, in advance, for the cost of the test. In the event the hair sample test results are negative, the applicant will be eligible for immediate hire.
3. If the employee's physician certifies in writing that there is a valid medical cause for the dilute result, unrelated to illegal drug use or prescription drug abuse, the employee may submit to a hair sample test to contest the results.

**11.6 Treatment Requirements.** All employees are encouraged to make use of the available resources for treatment for alcohol misuse and illegal drug use problems. Under certain circumstances, employees may be required to undergo treatment for substance abuse or alcohol misuse. Any employee who refuses or fails to comply with County of Cibola requirements for treatment, after care, or return to duty will be subject to termination. The cost of any treatment or rehabilitation services will be paid for directly by the employee or their insurance provider. Employees will be allowed to take accumulated sick leave and vacation leave to participate in the prescribed rehabilitation program.

**11.7 Proper Application of the Policy.** The County of Cibola is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, department heads/supervisors are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any department head/supervisor who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, will be subject to disciplinary action, up to and including termination.

**11.8 Testing Procedures.**

- A. All safety-sensitive employees of the County of Cibola shall be subject to drug (urine) and alcohol testing for reasonable suspicion, return to duty, follow-up or random and may be subjected to testing following an accident. Follow-up testing will be conducted for a period of one to five years, with up to six tests performed during the first year and as many as four in subsequent years. The Substance Abuse Professional (SAP) may determine the frequency and duration of follow-up testing.
- B. Testing shall be conducted using techniques, equipment and certified laboratory facilities to ensure a high degree of accuracy and reliability. Alcohol testing may only occur during or immediately before/after performing safety sensitive duties and up to eight hours following an accident. Drug testing may occur any time while performing duties for the County of Cibola and up to 32 hours following an accident.

**11.9 Pre-Employment Drug & Alcohol Screening.** All applicants for employment with Cibola County shall be required to take a drug and alcohol screening test when they report for their pre-employment medical examination or when otherwise directed by the County Manager or his/her designee. Any applicant for employment with Cibola County who's pre-employment drug and alcohol screen test is identified as positive, shall not be eligible for employment and is precluded from re-application for a period of one (1) year from the date of the test.

**11.10 Employee Requested Testing.** Any safety-sensitive employee who questions the result of a required drug test under paragraphs 11.10 through 11-15 of this policy may request that an additional test be conducted. This test will be conducted at a different certified laboratory. The test will be conducted on the split sample that was provided by the employee at the same time as the original sample. The method of collecting, storing, and testing the split sample will be consistent with acceptable testing standards. The employee's request for a split sample test must be made to the Medical Review Officer\* within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee. An employee requested test will be at the expense of the employee.

**11.11 Reasonable Suspicion Testing.** All employees shall be subject to urine and/or breath testing when there is reasonable suspicion to believe the employee is under the influence of prohibited substances. A reasonable suspicion referral for testing will be made on the basis of articulatable objective facts and circumstances, which are consistent with the short-term effects of substance abuse. Examples of reasonable suspicion include, but are not limited to the following:

- A. Physical signs and symptoms consistent with prohibited substance use.
- B. Evidence of the manufacture, distribution, dispensing, possession, or use of controlled substances, drugs, alcohol, or other prohibited substances.

- C. Occurrence of an accident that may have been caused by use of a prohibited substance or alcohol misuse.
- D. Fights (to mean physical contact), assaults, and flagrant disregard or violations of established safety, security, or other operating procedures.

**11.12 Post-Accident Testing.** Any County employee involved in an accident occurring on County property or involving County equipment/vehicle may be subject to a drug or alcohol test at the request of the Department Head and approval of the County Manager.

\* Medical Review Officer – See DEFINITIONS Section 11.21.

### **11.13 Random Testing**

- A. Employees in safety-sensitive positions shall be subjected to random, unannounced drug testing. The selection of safety-sensitive employees for random drug testing will be made using a scientifically valid method that ensures each covered employee that they will have an equal chance of being selected each time selections are made. The random tests will be unannounced and spread throughout the year on all days and during all hours of operation.
- B. When a safety-sensitive employee is informed of a random drug test they must be tested as soon as is practicably possible but in a time not to exceed 3 hours. All employees who have been randomly selected or are testing in conjunction with Rule 11.11 will be notified, in writing, by the County Manager a department head or supervisor. All tests will be collected as a split sample giving the employee the opportunity to exercise his/her right to an additional test (Section 11.10) on the sample which was collected. Should the County's agent not collect a split sample, the results of the test, for which a split sample was not collected, will be disregarded by management and the employee will not be required to re-test for this specific testing period.
- C. All safety sensitive employees shall be placed in a selection pool and random drug testing shall come from this predetermined pool. The individual pools shall be defined as follows:
  - 1. Sheriff's Department
  - 2. Road Department
  - 3. Detention Center
  - 4. Waste Management Department
  - 5. All other safety-sensitive employees
- D. Shift employees, or employees who are not at work on the day of the scheduled test (random or otherwise), and who have been selected for testing, will be required to test immediately upon their return to work/duty and will be notified and expected to adhere to the rules as described above.

**11.14 Return-To-Duty Testing\*.** A return-to-duty test is required of an employee who has had a positive drug or alcohol test and must be passed (negative non-dilute) before they can return to a safety-sensitive position. The SAP must first clear the employee to return-to-regular-duty after the evaluation and insure the employee has consented to treatment. The return-to-duty test may be for drugs and/or alcohol as required. Any work missed due to a positive drug/alcohol test or

due to treatment shall be charged to the employee's sick leave and/or annual leave (employee's choice) or leave without pay if the employee has no leave balances.

**11.15 Follow-Up Testing\*.** Once allowed to return to duty, safety-sensitive employees shall be subject to unannounced follow-up testing for at least 12 but not to exceed 60 months. The frequency and duration of the follow-up testing may be recommended by the SAP as long as not more than six tests are preformed during the first 12 months after the employee returns to duty. Follow-up testing is separate from and in addition to the random testing program.

**11.16 Employment Assessment.** An SAP may refer any safety-sensitive employee who tests positive for the presence of illegal drugs or alcohol above the minimum thresholds for evaluation. An SAP is a licensed or certified physician, psychologist, social worker, employee assistance professional, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related and drug-related disorders. The SAP may evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited drug use or alcohol misuse. Employees may select the SAP of their choice as long as the criteria above is met.

**11.17 Departmental Rule for Positive Drug/Alcohol Test.**

- A. Any probationary employee who, as a result of this policy tests positive for drugs and/or alcohol, will be terminated immediately.
- B. Any employee who has been placed on time for improvement and who tests positive for drugs/alcohol as defined by this policy will be terminated from employment.
- C. Sheriff's Department & Detention Center (includes certified law enforcement officer, dispatchers, administrative personnel, detention center officers and animal control officers).
  - 1. A positive prohibited substance/alcohol test for an officer or dispatcher shall be reported to the New Mexico Law Enforcement Academy Director as outlined in the NMLEA Handbook Subsection B4 of 10.29.1.11 NMAC.
  - 2. Any certified or uncertified law enforcement officer, dispatcher, administrative personnel, detention center officer or animal control officer who tests positive for prohibited substances and/or alcohol under this policy shall be terminated from employment with the County of Cibola, Section 7.10.
  - 3. Any County of Cibola Deputy, Dispatcher, Animal Control Officer, Detention Center Officer or Sheriff Administrative Personnel whose primary test is determined to be a dilute test will be subject to the terms and conditions as defined below (this does not include tests taken as a result of a re-entry contract which are monitored tests and are determined to be dilute):
- D. Road Department and Solid Waste Department covered employees (any employee who operates machinery, heavy equipment or has a CDL)
  - 1. Any Road Department and Solid Waste Department covered employee who tests positive for prohibited substances and/or alcohol under this policy shall be terminated from employment with the County of Cibola, Section 7.10.
  - 2. Any Road Department and Solid Waste Department covered employee whose primary test is determined to be a dilute test will be subject to the terms and conditions as defined below (this does not include tests taken as a result of a re-entry contract which are monitored tests and are determined to be dilute):

- E. Any County of Cibola Sheriff Department, Detention Center, Road Department and Solid Waste Department employees (as defined above) who are covered by this policy and whose primary test is determined to be dilute as herein defined, shall be subject to the terms and conditions of:
  - 1. The re-entry contracts defined below;
  - 2. Rule 11.13 of this policy, and;
  - 3. Rule 11.14 of this policy.
  - 4. If applicable, any CDL provisions that may apply.
- F. County of Cibola safety sensitive employees shall be terminated upon violation of any of the terms and conditions of the individual's re-entry contract (defined below). An unmonitored dilute, second level test for Sheriff Department, Detention Center, Road Department and Solid Waste Department employees (subject to a re-entry contract) shall result in termination of employment

#### **11.18 Re-Entry Contracts** (general safety sensitive employees).

- A. Employees who re-enter the workforce must agree to a re-entry contract. That contract may include, but is not limited to:
  - 1. A release to work statement from the Substance Abuse Professional.
  - 2. A negative test for drugs and/or alcohol. (Section 11.14)
  - 3. An agreement to unannounced frequent follow-up testing for a period of one to five years with up to six tests performed the first year (Section 11.15).
  - 4. A statement of expected work-related behaviors.
  - 5. An agreement to follow specified after care requirements with the understanding that violation of the re-entry contract is grounds for termination.
  - 6. County of Cibola safety sensitive employees shall be terminated upon violation of any of the terms and conditions of the individual's re-entry contract (defined below). An unmonitored dilute, second level test for Sheriff Department, Detention Center Department Road Department or Solid Waste Department employees (subject to a re-entry contract) shall result in termination of employment.
- B. Any safety sensitive employees not covered above shall be terminated upon violation of any of the terms and conditions of the individual's re-entry contract (defined below).

**11.19 Detection.** The County reserves the right to inspect, at any time, all County property and all County vehicles and equipment for the presence of prohibited substances or alcohol. All inspections will be scheduled as deemed necessary by the County Manager or his/her designee and conducted by the Cibola Sheriff's Department.

#### **11.20 Voluntary Request for Assistance.**

- A. The County of Cibola intends to give the same consideration to persons who voluntarily request assistance (prior to being randomly selected or selected for cause) with chemical dependencies as it does to employees having other diseases.
- B. Early recognition and treatment of chemical (drug and alcohol) dependency problems is important for successful rehabilitation and reduced personal, family and social disruption. The County supports sound treatment efforts and an employee's job will not be jeopardized for conscientiously seeking assistance prior to random selection or selection

for cause. Normal County benefits, such as sick leave and the group medical plan, are available to give help in the rehabilitation process to any employee who voluntarily requests assistance for chemical dependencies.

### **11.21 Definitions**

Medical Review Officer (MRO) – The MRO is a licensed physician who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate positive drug test results. The List of primary responsibilities below is followed by standard operating procedures necessary to carry out those responsibilities:

- A. Receive test results from the laboratory
- B. Review all drug testing results prior to reporting
- C. Verify that the laboratory report and assessment are correct
- D. Review and interpret each confirmed lab tested positive result
- E. Conduct a medical interview, providing an opportunity for the employee to discuss a positive test result
- F. Notify employer of verified positive test
- G. Process employee request for re-test
- H. If necessary, re-analyze the original specimen to determine the accuracy of the test result

### **11.22 Records**

- A. All records of the controlled substance abuse prevention program must be kept in a secure location with controlled access in the County Manager's Office. Regulation requires that certain records according to their importance be maintained for varying lengths of time, from one (1) to five (5) years.
- B. Records must be kept confidential and be made available for inspections by the County Manager within two (2) business days following a request by an authorized representative of the Federal Highway Administration. These records should not be made a part of a driver's personnel file.
- C. The following are entitled access to these records through approval of the County Manager:
  - 1. CDL Issuer or his/her representative;
  - 2. The Secretary of Transportation;
  - 3. Any Department of Transportation Agency;
  - 4. Any State or Local Official with regulatory authority over the employee;
  - 5. Any prospective employer with the employee's written permission.

**11.23 Confidentially.** No laboratory reports or test results shall appear in the employment personnel file unless they are a part of a disciplinary action, but shall be placed in a special locked file.

## **SECTION XII: EMAIL & INTERNET USE**

**12.0 Access.** Access to the Internet through the Cibola County is a privilege. Users granted this privilege must adhere to strict guidelines concerning the appropriate use of this information resource. Users who violate the provisions outlined in this document are subject to disciplinary action up to and including termination. In addition, any inappropriate use that involves a criminal



offense will result in legal action. All users are required to acknowledge receipt and understanding of guidelines contained in this document.

**12.1 Purpose & Scope.** To define policies and procedures for access to the Internet through the Cibola County network infrastructure. This policy applies to all personnel with access to Internet and related services through the Cibola County network infrastructure. Internet Related services include all services provided with the TCP/IP protocol, including but not limited to Electronic Mail (e-mail), File Transfer Protocol (FTP), and World Wide Web (WWW) access. Internet access includes connections via DSL subscriptions, phone modem access, server-to-Internet access or T1 line access.

**12.2 Acceptable Use.** Access to the Internet is specifically limited to activities in direct support of official Cibola County business.

- A. In addition to access in support of specific work related duties, the Cibola County Internet connection may be used for educational and research purposes.
- B. If any user has a question of what constitutes acceptable use he/she should check with their supervisor for additional guidance. Management or supervisory personnel shall consult with the County Manager for clarification of these guidelines.

**12.3 Inappropriate Use.** Cibola County Internet access shall not be used for any illegal or unlawful purposes. Examples of this would be the transmission of violent, threatening, defrauding, pornographic, obscene or otherwise illegal or unlawful materials

- A. Use of Cibola County electronic mail or messaging services shall be used for the conduct of Cibola County, business only. These services shall not be used to harass, intimidate or otherwise annoy another person.
- B. The Cibola County, Internet access shall not be used for private, recreational or other non-Cibola County related activity.
- C. The Cibola County Internet connection shall not be used for commercial or political purposes.
- D. Use of the Cibola County, Internet access shall not be used for personal gain such as selling access of a Cibola County user login. Internet access shall not be used for or by performing work for profit with Cibola County resources in a manner not authorized by Cibola County.
- E. Users shall not attempt to circumvent or subvert security measures on Cibola County's network resources or any other system connected to or accessible through the Internet.
- F. Cibola County users shall not use Internet access for interception of network traffic for any purpose unless engaged in authorized network administration.
- G. Cibola County users shall not make or use illegal copies of copyrighted material, store such copies on Cibola County equipment, or transmit these copies over the Cibola County network.

**12.4 Internet & E-Mail Etiquette.** Cibola County employees shall ensure all communication through Cibola County email or messaging services is conducted in a professional manner. The use vulgar or obscene language is prohibited.

- A. Cibola County users shall not reveal private or personal information without specific approval from management.

- B. Users should ensure that e-mail messages are sent to only those users with a specific need to know. The transmission of e-mail to large groups or messages with large file attachments should be avoided.
- C. Electronic Mail is not guaranteed to be private. Messages transmitted through the Cibola County e-mail system or network infrastructure are the property of Cibola County and are therefore subject to inspection.

## **12.5 Security**

- A. Cibola County users who identify or perceive an actual or suspected security problem shall immediately contact the Cibola County Information Systems Security Manager.
- B. Users shall not reveal account passwords or allow another person to use their account. Similarly, users shall not use the account of another user.
- C. Access to the Cibola County network resources shall be revoked for any user identified as a security risk or a demonstrated history of security problems.

**12.6 Penalties.** Any user violating these policies is subject to the loss of network privileges and any other Cibola County disciplinary actions as detailed in Section 7 of this ordinance.

**12.7 No Expectation of Privacy.** Users should not expect any information transmitted via Cibola County's systems to remain private or confidential.

- A. Cibola County may monitor use of any part of County Systems at any time, without notice, at its discretion. Such monitoring may include, but is not limited to limiting size, accessing, listening to, reading, or retrieving voice mail messages, e-mail, Internet communications, or local files.
- B. Users should be aware that deleted files or other communications may be retrieved and review by Cibola County Management.
- C. Users are prohibited from, among other things, accessing, listening to, reading or retrieving other team members' e-mail, voice mail, or Internet communications unless specifically authorized to do so by Management.

**12.8 User Compliance.** All terms and conditions as stated in this document are applicable to all users of the network and the Internet connection.

**12.9 Protection & Handling of Sensitive Information.** It is the responsibility of every County employee to ensure the protection of sensitive information and comply with all information technology policies. This includes but is not limited to ensuring such information does not leave the County network, making a reasonable effort to redact sensitive information when sharing records and protecting security account information.

## **SECTION XIII: PAY POLICY**

**13.1 Purpose.** This Section outlines the provisions for the County's system of comparing and classifying positions according to their relative equivalence for the purpose of establishing fair and equitable promotion and pay compensation for employees. The Board approves all positions and salaries as part of the fiscal year budget process.

**13.2 Applicability.** The provisions of this section shall apply to all employees except that Contract Employees and unclassified employees are subject to wage increases as negotiated and approved by the Board.

- A. Elected officials who include Commissioners, Clerk, Treasurer, Assessor, Sheriff, and Probate Judge are subject only to the statutory provisions of law subject to budget availability and determination by the Board as to the amount to be paid annual to any elected official as determined in the budget process.
- B. Chief deputies shall receive 85% of the related elected official's salary as their fixed salary and shall serve at the pleasure of the elected official. The Sheriff's Administrator serves at the pleasure of the Sheriff and shall receive a fixed salary of 70% of the Sheriff's fixed salary. In addition to their fixed salary Chief Deputies and the Sheriff's Administrator shall be eligible to receive longevity pay as appropriated by the Board of County Commissioners.

**13.3 Pay Compensation Process Overview.** The pay compensation system includes provisions for:

- A. entry level wages;
- B. transfers;
- C. demotions;
- D. cost of living wage increases;
- E. promotion wage increases;
- F. performance merit increases.

The Board may at their discretion amend the general wage and classification plan and the general wage schedule by resolution or motion of the Board when deemed appropriate.

**13.4 Entry Level Wages.** All new employees are normally hired at the Entry level position for the level of position that has been vacated or otherwise approved for hire by the elected official or department director, subject to budgetary constraints and the approval of the County Manager.

**13.5 Cost of Living Wage Increases.** The Board may consider an across the board cost of living wage increase concurrent with approval of the budget each fiscal year or as otherwise approved by the Board. Cost of living increases will normally become effective the first pay period proceeding July 1 of each fiscal year or as otherwise approved by the Board.

**13.6 Position Specifications Requirements.** Each position has a written Position Specification which includes specifications for minimum qualifications, education, experience, abilities, skills, license, or certification requirements, and a description of duties and responsibilities required for the position.

**13.7 Grandfather Clause.** Any employee whose position specification is revised is subject to the experience, education, or certification requirements of the new position specification shall show satisfactory progress to meet the new standards within six (6) months or may be subject to reclassification, transfer or dismissal.

**13.8 Contents of Personnel File.** Subsequent to hiring, a separate record file shall be prepared and maintained for each employee. These records shall be kept in the Human Resources

Manager's office. It is the responsibility of each elected official or department director to ensure that the records of the employees are complete and up-to-date. The file shall contain a minimum of the following records:

- A. the original application form;
- B. the originating personnel action showing occupation, position classification, date of beginning employment and salary and a signed receipt, evidence of receiving these Rules;
- C. copies of personnel action forms.
- D. copies of all performance evaluations, if applicable;
- E. copies of all favorable or unfavorable letters or memorandums such as letters or certificates of appreciation or records of other outstanding achievements regardless of origination, so long as the procedure applicable to written reprimands is followed;
- F. records or certificates of educational training or orientation achievement completion;
- G. records of disciplinary actions such as reprimands, suspensions, demotions or dismissal; and
- H. application for retirement program.

**13.9 Access to Personnel Files.** Personnel files are the property of the County and access to the information they contain is restricted. Generally, only immediate supervisors and management personnel of the County who have a legitimate reason to review information in a file are allowed to do so. Employees who wish to review their own file should contact the Human Resources Manager's office. With reasonable advance notice, employees may review their own personnel files in County's offices and in the presence of an individual appointed by the County to maintain the files.

## **SECTION XIV: EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PLAN**

**14.1 Purpose.** The purpose of this section is to recruit, employ and promote the most qualified applicants or employees to work in County employment. Employment and promotional opportunities shall be based solely upon ability and demonstrated competence, not upon extraneous factors. Age, sex, marital status, national origin, religion, race, sexual preference, political affiliation and handicaps not related to ability to perform the job sought, are declared extraneous factors that shall have no bearing on employment or promotional opportunities within County service.

**14.2 Statement of Policy.** It is the policy of the County to comply with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, amended by the Equal Employment Opportunity Act of 1972 and Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990, in all employment and programs administered by the County. The County affirms that individuals will be considered for employment or promotion on the basis of bona-fide occupational qualification only. Each employee or prospective employee will be advised of this policy. All announcements or notices regarding position openings or opportunities will contain the words "An Equal Opportunity Employer".

**14.3 Management Responsibility.** The Human Resources Director will counsel elected officials and department directors as they investigate and resolve internal complaints of employment

discrimination filed by County employees or employment applicants. The Human Resources Director shall be the referral officer for the County to receive notice of alleged unlawful employment practices from the Equal Employment Opportunity Commission (EEOC) as provided for in Public Law 88-352, Title VII, Section 706(C); 78 Stat. 241 (42 USC 2000e-5).

**14.4 Complaint Procedures.** Any employee or person refused employment or who believes he/she has been subjected to a discriminatory employment act or practice prohibited by federal or state law shall file with the Human Resources Director a written and signed statement of facts setting out the basis of the complaint.

- A. Upon receiving a written and signed complaint or upon receiving notice of an alleged unlawful employment practice from an individual, the Human Resources Director shall immediately conduct an investigation and attempt to resolve such complaint informally and forward copies of the investigation and results to the elected official/department director and County Manager.
- B. If the complaint is not resolved informally by the process set forth in subsection A above, it will go before a Hearing Officer appointed by the County Manager. The Hearing Officer shall conduct a hearing not more than forty-five (45) days after the complaint has been received by the Human Resources Manager. The complainant, complainant's attorney (if any), the County Manager, Human Resources Director, County Attorney, elected official or department director, and the employee allegedly responsible for the discriminatory act or practice, shall be given five (5) days written notice of the hearing, together with a copy of the complaint filed with the Human Resources Director.
- C. At the hearing, the complainant and respondent shall have the right to be represented by counsel; all testimony shall be received under oath, and the Hearing Officer shall have the authority to issue administrative subpoenas for the attendance of any County employee as a witness.
- D. The Hearing Officer shall report findings and recommendations in writing to the County Manager and elected official or department director not more than twenty (20) days after hearing the complaint. A full record of the proceedings shall be kept either by audio media or in writing by the Human Resources Director in a confidential file.

**14.5 Remedies.** In the event the County Hearing Officer determines that a discriminatory act or practice has occurred, the County Manager may take appropriate action including, but not limited to, reinstatement, hiring or promotion of the aggrieved individual, with or without back pay, or any other equitable administrative relief necessary to correct and rectify the discriminatory act or practice. Nothing in this policy prohibits any aggrieved party from seeking remedy through the state or federal agency responsible for such actions.

## **SECTION XV - MISCELLANEOUS**

**15.1 Designated Work Areas.** All employees are to be at their designated work areas on time and ready to work. They shall work until the scheduled quitting time, unless permission of the supervisor has been obtained for different work hours. Employees shall not litter work areas and will keep such areas neat and clean.

**15.2 Personal Business.** Personal business shall not be conducted during work hours.

**15.3 Safety.** The County is committed to having all work conducted in a safe manner. All safety precautions shall be followed in accordance with federal, state, or county policies.

**15.4 County Property.** Employees shall not misuse or destroy County property, records, or other material in their care, control, or custody; nor shall any County property, records, or other material be removed from the premises of the County offices unless written permission by the department director or elected official has been given. Employees shall not use County property, records or equipment for personal use.

**15.5 County Vehicles.** No County vehicle will be taken out of the County without permission of the elected official or department director and employees shall notify the elected official or department director of their destinations and itineraries. County vehicles shall be used for County business only. County vehicles may not be taken home unless designated permissible as defined in the Accident Prevention Program Policy and adheres to Section 9.7 Fringe Benefits. The Cibola County Vehicle Accident Prevention Policy Program adopted by the Board of County Commissioners June 27, 2006 as may be amended from time to time is hereby adopted and incorporated into this Ordinance by reference.

- A. County vehicles shall not be used for personal business, except as is incidental in commuting. Employee family members or passengers not on official County business are not allowed to ride in a County vehicle and strict adherence to this policy is directed to all employees operating a County vehicle.
- B. No Smoking in Vehicles or Motorized Equipment. Smoking in all county vehicles or motorized equipment is prohibited.

**15.6 Personal Appearance.** Dress, grooming, and personal cleanliness standards contribute to the morale of all employees and affect the business image the County presents to customers and visitors.

- A. During business hours, employees are expected to present a clean and neat appearance and to dress according to the requirements of their positions. Employees who meet the public, both internal and external, must dress in appropriate business attire at all times. Employees may observe casual dress on Friday if the above stipulation does not apply. Examples of questionable work attire are sun dresses with bare backs and/or shoulders, men's undershirts, excessively baggy, short, or tight clothing, sweatpants and shorts, for men or women, bare midriffs or excessively sheer fabrics unless adequate cover-up (jacket, sweater, etc.) is worn throughout the work day, and low-cut tops/blouses/shirts/dresses (e.g., if they expose "cleavage" when the employee is standing or sitting in a normal manner). Employees who appear for work inappropriately dressed will be sent home and directed to return to work in proper attire. Under such circumstances, employees will not be compensated for the time away from work.
- B. Employees are required to maintain personal cleanliness by bathing daily; maintaining daily oral hygiene (brushing of teeth); using deodorant/antiperspirant to minimize body odor; refraining from the use of heavily scented perfumes, colognes and lotions; maintaining clean and trimmed fingernails; and washing hands after eating or using the restrooms.
- C. An employee should consult their elected official or department director if they have questions as to what constitutes appropriate attire.



**15.7 Weapons in the Work Place.** It is the policy of the County that employees are strictly prohibited from introducing, possessing, using, buying, or selling weapons, firearms, ammunition, explosives, or other items constituting deadly weapons pursuant to NMSA 1978, § 30-1-12 (B) (1963), as amended, said weapons are prohibited on any premises controlled by the County.

- A. The aforementioned policy statement regarding the possession of firearms or other dangerous items does not pertain to deputies commissioned by and for the Sheriff's Department, Animal Control officers or those Detention officers authorized to carry firearms by the director of the Detention Center, when said employees are in the lawful performance and discharge of their duties.
- B. The aforementioned policy statement regarding the possession of firearms does not prohibit an employee who lawfully possesses a firearm and/or ammunition from transporting or storing a firearm or ammunition in a locked privately owned motor vehicle in a county parking lot or parking area.
- C. The aforementioned policy statement regarding the possession of firearms does not prohibit an employee with a valid concealed handgun license to carry a handgun consistent with the limitations imposed by NMSA 1978, Section 29-19-1 *et seq.*
- D. If an employee has questions about this policy, or becomes aware of anyone acting in violation of this policy, the employee shall contact the elected official or department director immediately.
- E. Failure to abide by the terms of this policy may result in discipline up to and including dismissal.

**15.8 Searches & Surveillance.** The County's employees should not expect privacy in their personal effects while on County property or on County time. Employee workplaces may be subject to video surveillance. The County may search lockers, desks, toolboxes, lunch sacks, clothing, County internet, County e-mail or County computer accounts and County electronic media/storage, a County vehicle, and any other item in which an unauthorized weapon or other contraband may be hidden. To the extent that an employee refuses to permit a search, such refusal may constitute grounds for disciplinary action.

**15.9 Workplace Violence.** The County provides a safe work place for all employees. To ensure a safe workplace and to reduce the risk of violence, all employees should review and understand all provisions of this Workplace Violence policy. All employees, including managers and supervisors, are responsible for using safe work practices, for following all directives, policies and procedures, and for assisting in maintaining a safe and secure work environment.

- A. **Prohibited Conduct.** The County does not tolerate any type of workplace violence committed by or against employees. Employees are prohibited from making threats or engaging in violent activities. This list of behaviors, while not inclusive, provides examples of conduct that is prohibited.
  - 1. Causing physical injury to another person;
  - 2. Making threatening remarks;
  - 3. Aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress;
  - 4. Intentionally damaging County property or property of another employee;
  - 5. Possession of a weapon (refer to Section 15.7) while on County property or while on County business;

6. Committing acts motivated by, or related to, sexual harassment, harassment or domestic violence.
- B. Reporting Procedures. Any potentially dangerous situations must be reported immediately in writing to a supervisor or the County Manager's office. All reported incidents will be investigated. Reports or incidents warranting confidentiality will be handled appropriately and information will be disclosed to others only on a need-to-know basis. All parties involved in a situation will be counseled and the results of investigations will be discussed with them. The County will actively intervene at any indication of a possibly hostile or violent situation.
- C. Risk Reduction Measures. Hiring: The County takes reasonable measures to conduct background investigations to review candidate's backgrounds and reduce the risk of hiring individuals with a history of violent behavior.
- D. Safety: The risk management carrier conducts annual inspections of the premises to evaluate and determine any vulnerability to workplace violence or hazards. Any necessary corrective action will be taken to reduce all identified risk areas.
- E. Individual Situations: While the County does not expect employees to be skilled at identifying potentially dangerous persons, employees are expected to exercise good judgment and to inform their supervisor or department director if any employee exhibits behavior which could be a sign of a potentially dangerous situation. Such behavior includes:
  1. Discussing the use of weapons in a threatening manner related to the workplace, or bringing them to the workplace;
  2. Displaying overt signs of extreme stress, resentment, hostility, or anger;
  3. Making threatening remarks;
  4. Sudden or significant deterioration of performance;
  5. Displaying irrational or inappropriate behavior.
- F. Dangerous/Emergency Situations. Employees who are confronted by or encounter an armed or dangerous person should not attempt to challenge or disarm the individual.
- G. Enforcement. Threats, threatening conduct, or any other acts of aggression or violence in the workplace will not be tolerated. Any employee determined to have committed such acts will be subject to corrective or disciplinary action, up to and including dismissal. Non-employees engaged in violent acts on the County's premises will be reported to the proper authorities.

**15.10 Final Paycheck.** An employee who resigns shall receive a final paycheck on the first regularly scheduled payday following the employee's effective date of resignation. Any employee who is dismissed shall receive a full paycheck by 5:00 p.m. on the fifth (5<sup>th</sup>) working day following dismissal or on the next payday, whichever occurs first, or as required by law. In the case of death, final salary and compensation for unused annual leave shall be paid to the employee's named beneficiary or, if unnamed, to the employee's estate, on the next regularly scheduled payday.

**15.11 Uniforms.** An employee in a designated job with the County may be required to wear special clothing to perform the job function with patches, badges or other distinctive items as approved by the elected official, department director or the County Manager.

- A. Employees whose job calls for a uniform and who receive a uniform allowance or a uniform must wear the uniform whenever they are on duty. Uniforms are to be worn in the manner that they were intended to be worn and are not to be modified to satisfy

personal desires. For example, you cannot cut off sleeves or collars or remove patches, etc. Section supervisors or foremen are responsible for insuring that each employee wears the uniform in a neat and clean condition.

- B. The selected top wear of the uniform must be a shirt and **must** have the appropriate patches sewn on. At the time uniforms are selected, field employees and mechanics may select a pair of coveralls in lieu of a set of regular uniforms, unless the job prohibits wearing coveralls. Management may choose to provide insulated coveralls where warranted by working conditions.
- C. Safety Shoe/Boot Program. Drivers, mechanics, and other employees designated by the department to participate in the safety shoe/boot program will be required to wear this safety footwear while on duty. Shoes or boots purchased as safety shoes/boots shall be ANSI-approved (ANSI Z41-1991 standards) and shall be steel-toed in order to qualify for departmental reimbursement. Prior approval from the department director or his designee must be obtained before purchase of another type of safety shoe/boots.
- D. Other Safety-Related Attire. The County emphasizes safety as a primary focus of our activities and will provide necessary safety attire when needed or requested by the employee and approved by the department director or elected official. Safety attire, such as gloves, safety vests, hearing protection devices, safety glasses, disposable coveralls for spraying, and respirators, are important work items and are to be used and maintained by the employee once issued. These items should be maintained as required and turned in for replacement or when no longer needed for the intended activity.
  - 1. *Gloves*: Employees who need gloves (canvas, leather, palm, or all leather) to perform their assigned work shall be furnished gloves by the department at no charge to the employee, providing they turn in their old worn out gloves.
  - 2. *Badges*, if issued to security service employees, will be provided by the department at the department's expense. Any misuse of the badge may lead to corrective/disciplinary action being taken against the individual who misused his/her badge.
- E. Caps or Hats. Employees who work outdoors are encouraged to wear a cap or hat to protect them from the elements, including sun rays. Departments are granted authority, if for safety or security purposes, to promulgate additional policies regarding the wearing of caps or hats in specific work environments. It is encouraged that caps with the County and Department emblem be worn whenever possible, but this is not a mandatory requirement unless for safety or security purposes.

**15.12 Return of Uniforms, Equipment & County Property.** Upon severance from County service, all County issued uniforms, equipment, keys, cellular phones, laptop computers, etc. shall be returned to the County. Failure to do so shall result in a deduction for cost of replacement of the items from the employee's final paycheck and possible legal action to recover return of security sensitive items.

**15.13 Gifts, Gratuities or Kickbacks.** All employees are prohibited from accepting gifts or other considerations from anyone given with intent of modifying the employee's performance of duties or encouraging the employees to make purchases from the individual or business involved. Employees will maintain the highest moral standards and any attempt to influence employee's performance by a vendor or other person will be reported to the department director or elected official and to the County Manager.

- A. It is unlawful for any County employee, as defined in §13-1-28 NMSA 1978, to participate directly or indirectly in a procurement when the employee knows that the employee or any member of the employee's immediate family has a financial interest in the business seeking or obtaining a contract. An employee or any member of an employee's immediate family who holds a financial interest in a disclosed blind trust shall not be deemed to have a financial interest with regard to matters pertaining to that trust. (§13-1-190 NMSA 1978)
- B. Contingent fees prohibited. It is unlawful for a person or business to be retained or for a business to retain a person or business to solicit or secure a contract upon an agreement or understanding that the compensation is contingent upon the award of the contract, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business and persons or businesses employed by the County which are providing professional services to the County in anticipation of the receipt of federal or state grants or loans (§13-1-192 NMSA 1978).
- C. Contemporaneous employment prohibited. It is unlawful for a County employee who is participating directly or indirectly in the procurement process to become or to be, while such an employee, the employee of any person or business contracting with the County by whom the employee is employed (§13-1-193 NMSA 1978).
- D. Use of confidential information prohibited. It is unlawful for any County employee or former employee knowingly to use confidential information for actual or anticipated personal gain or for the actual or anticipated personal gain of any other person (§13-1-194 NMSA 1978).

**15.14 Normal Work Hours.** Normal work hours will be based on a forty (40) hour work week. All County offices shall be open from 8:00 a.m. to 5:00 p.m. Monday through Friday; unless a different forty (40) hour work schedule is approved by the elected official/department director and the County Manager. During a normal work day, the department director or elected official may authorize an unpaid full one-hour lunch breaks in accordance with departmental scheduling needs.

**15.15 Reduced Work Hours.** The Board may reduce the number of work hours by resolution if the Board determines that the County budget will not sustain the normal work hours. Reduced work hours will apply to all full time employees of the County, with the possible exception of those employees in safety-sensitive or security-sensitive positions.

**15.16 Separation from Service with the County.** Upon an employee's termination or resignation from the County, he or she will be entitled to an exit interview process with the Human Resources Director, and the elected official and/or the department director.

## **SECTION XVI: AUTHORITY**

**16.1 Rules.** These rules are promulgated on the authority granted in state and federal law and the Ordinance providing for these Rules.

**16.2 Savings Clause.** If any article, section, paragraph, clause, word or phrase of this Ordinance is held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance.

## SECTION XVII: REPEAL OF FORMER PERSONNEL POLICY

Cibola County Ordinance 2006-02 is repealed, as well as all other Cibola County Ordinances or Resolutions relating to personnel which are in conflict with the above provisions, by the adoption of this Ordinance.

APPROVED, ADOPTED, AND PASSED on this 22nd day of June, 2016.

EFFECTIVE: \_\_\_\_\_, 2016

### BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Robert Armijo  
Commissioner, District I

\_\_\_\_\_  
T. Walter Jaramillo  
Commissioner, District II

\_\_\_\_\_  
Jack Moleres  
Commissioner, District III

\_\_\_\_\_  
Patrick Simpson  
Commissioner, District IV

\_\_\_\_\_  
Lloyd F. Felipe  
Commissioner, District V

Attest:

\_\_\_\_\_  
Elisa Bro  
Cibola County Clerk





# EMPLOYEE ACKNOWLEDGEMENT FORM

CIBOLA COUNTY EMPLOYEE RECEIPT OF PERSONNEL POLICY ORDINANCE 16-02.

I \_\_\_\_\_ acknowledge that on \_\_\_\_\_  
(print name of employee) (date)

I received an electronic/hard copy of the Cibola County Personnel Policy Ordinance 16-02. I understand that the Personnel Policy is the law that controls, explains and provides the terms of and conditions of my employment with the County of Cibola. I further understand that I am responsible for compliance with all Cibola County Policies, which can be found on the County's website at <http://cibolacountynm.com/>. I further understand that this receipt will be placed in my employment file as evidence of my having been given a copy the policy.

\_\_\_\_\_  
(Signature of Employee)

**CIBOLA COUNTY  
ORDINANCE 16-03**

**AN ORDINANCE PROHIBITING ILLEGAL TIRE DUMPSITES, THE  
IMPORTATION OF SCRAP TIRES INTO CIBOLA COUNTY AND PROVIDING  
FOR THE ABATEMENT OF ILLEGAL TIRE DUMPSITES**

**PREAMBLE**

**WHEREAS**, NMSA 1978, Section 3-18-1 (1972) provides that municipalities, and also counties pursuant to NMSA 1978, Section 4-37-1 (1995), have the power to “protect generally the property of its municipality and its inhabitants” and to “preserve peace and order”; and,

**WHEREAS**, Section 4-37-1 et seq. NMSA 1978 provides that counties may adopt ordinances, not inconsistent with statutory or constitutional limitations placed on counties, to discharge those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the county and its inhabitants; and,

**WHEREAS**, the Board of County Commissioners has found that the illegal dumping and disposal of scrap tires has become an environmental, public safety, and health threat as well as blight on the landscape and that illegal tire dumping poses a substantial present or potential hazard to human health and/or the environment; and,

**WHEREAS**, the Board of County Commissioners has found that the greatest danger posed by illegal tire dumpsites is the possibility of a catastrophic fire occurring due to the large quantities of petroleum and other chemicals in tires since a burning tire pile creates thick, black, toxic smoke as well as large discharges of contaminated oil. The contaminated oil can enter surface water or groundwater, causing serious pollution problems. Once a tire pile is burning, the fire is extremely difficult to extinguish. Furthermore, the shape of a tire allows for easy entrance and containment of rainwater. This creates an ideal breeding habitat for mosquitoes. In addition to the nuisance caused by clouds of mosquitoes generated by scrap tire piles, mosquitoes can carry serious diseases such as eastern equine encephalitis; and,

**WHEREAS**, the Cibola County Board of Commissioners has determined that the health, safety and general welfare of the residents of Cibola County would best be served by the adoption of this ordinance;

**NOW THEREFORE BE IT ORDAINED** that the Cibola County Board of Commissioners does hereby establish a Tire Importation and Illegal Tire Dumping Ordinance, as follows:

## **GENERAL PROVISIONS**

### **SECTION I. TITLE.**

This Ordinance and any amendment hereto shall be known and may be cited as the Cibola County Tire Importation and Illegal Tire Dumping Ordinance.

### **SECTION II. AUTHORIZATION AND SCOPE.**

This Ordinance is hereby enacted pursuant to NMSA 1978, Sections 4-37-1 et seq. and NMSA 1978, Section 3-18-1 (1972) and applies to the unincorporated areas of Cibola County.

### **SECTION III. GENERAL PURPOSE.**

This Ordinance is designed to protect the health and welfare of current and future residents of Cibola County by providing for the prevention and abatement of illegal tire dumpsites and prohibiting the importation of scrap tires into Cibola County.

### **SECTION IV. DEFINITIONS**

- A. "abatement" means to reduce in amount, degree or intensity or to eliminate;
- B. "agricultural use" means the beneficial use of scrap tires in conjunction with the operations of a farm or ranch that includes construction projects and aids in the storage of feed;
- C. "board" means the Board of County Commissioners of Cibola County;
- D. "civil engineering application" means the use of scrap tires or other recycled material in conjunction with other aggregate materials in engineering applications;
- E. "county manager" means the person appointed by the Board pursuant to NMSA 1978, Section 4-38-19 (B) (1973);
- F. "composting" means the process by which biological decomposition of organic material is carried out under controlled conditions and the process stabilizes the organic fraction into a material that can be easily and safely stored, handled and used in an environmentally acceptable manner;
- G. "department" means the New Mexico Department of Environment;
- H. "dispose" means to deposit scrap tires into or on any land or water;
- I. "hazardous waste" means the storage and/or dumping of scrap tires in a quantity and concentration that may cause or significantly contribute to an increase in mortality or an

increase in serious irreversible or incapacitating reversible illness or that may pose a substantial present or potential hazard to human health or the environment, or as otherwise defined by the Hazardous Waste Act;

J. "hazardous waste act" means NMSA 1978 Section 74-4-1 *et seq.*;

K. "household" means any single and multiple residence, hotel or motel, bunkhouse, ranger station, crew quarters, campground, picnic ground or day-use recreation area;

L. "illegal dumping" means disposal of scrap tires in a manner that violates Recycling and Illegal Dumping Act and/or this Ordinance;

M. "illegal dumpsite" means a place where illegal dumping has occurred except as stated in Subsection A of Section V of this Ordinance;

N. "import" means to carry, transport or bring scrap tires, for the purpose of disposal, from outside of the jurisdictional boundaries of Cibola County into the jurisdictional boundaries of Cibola County.

O. "motor vehicle" means a vehicle or device that is propelled by an internal combustion engine or electric motor power that is used or may be used on the public highways for the purpose of transporting persons or property and includes any connected trailer or semitrailer;

P. "processing" means techniques to change physical, chemical or biological character or composition of solid waste but does not include composting, transformation or open burning;

Q. "recycling" means any process by which recyclable materials are collected, separated or processed and reused or returned to use in the form of raw materials or products;

R. "Recycling and Illegal Dumping Act" means NMSA 1978 74-13-1 *Et Seq.*;

S. "scrap tire" means a tire that is no longer suitable for its originally intended purpose because of wear, damage or defect;

T. "scrap tire baling" means the process by which scrap tires are mechanically compressed and bound into block form;

U. "scrap tire generator" means a person who generates scrap tires, including retail tire dealers, retreaders, scrap tire processors, automobile dealers, automobile salvage yards, private company vehicle maintenance shops, garages, service stations and city, county and state government, but does not include persons who generate scrap tires in a household or in agricultural operations;



V. “scrap tire hauler” means a person who transports scrap tires for hire for the purpose of recycling, disposal, transformation or use in a civil engineering application;

W. “secretary” means the secretary of environment;

X. “tire” means a continuous solid or pneumatic rubber covering that encircles the wheel of a motor vehicle;

Y. “tire-derived fuel” means whole or chipped tires that produce a low sulfur, high-heating-value fuel;

Z. “tire-derived product” means a usable product produced from the processing of a scrap tire but does not include baled tires;

AA. “tire recycling” means a process in which scrap tires are collected, stored, separated or reprocessed for reuse as a different product or shredded into a form suitable for use in rubberized asphalt or as raw material for the manufacture of other products; and

BB. “tire recycling facility” means a place operated or maintained for tire recycling but does not include:

(1) retail business premises where tires are sold, if no more than five hundred loose scrap tires or two thousand scrap tires, if left in a closed conveyance or enclosure, are kept on the premises at one time;

(2) the premises of a tire retreading business, if no more than one thousand scrap tires are kept on the premises at one time;

(3) premises where tires are removed from motor vehicles in the ordinary course of business, if no more than five hundred scrap tires are kept on the premises at one time;

(4) a solid waste facility having a valid permit or registration issued pursuant to the provisions of the Solid Waste Act or regulations adopted pursuant to that act or registration issued pursuant to the Environmental Improvement Act; or

(5) a site where tires are stored or used for agricultural uses.

## SECTION V. PROHIBITED ACTS

A. A person shall not store or use in a civil engineering application, except for agricultural use, more than one hundred scrap tires anywhere in Cibola County, unless the person has a valid permit or registration from the department.

B. A person shall not operate or maintain a tire recycling facility unless the facility has a valid permit issued pursuant to the provisions of the Recycling and Illegal Dumping Act

or is a facility where tires are stored and used for agricultural uses and complies with rules enacted pursuant to the Recycling and Illegal Dumping Act.

C. A person shall not transport scrap tires for hire to a place other than a tire recycling facility unless the place is specifically excluded from the definition of a "tire recycling facility".

D. A person shall not transport scrap tires for hire either for disposal or recycling purposes without being registered as a scrap tire hauler by the department pursuant to rules adopted in accordance with the Recycling and Illegal Dumping Act.

E. A person shall not import scrap tires into the County of Cibola for any reason.

F. A scrap tire generator shall not release scrap tires to a person other than a registered scrap tire hauler pursuant to the Recycling and Illegal Dumping Act.

G. A person shall not engage in the open burning of scrap tires.

H. A person shall not store or dispose of scrap tires or tire-derived products in a manner that creates a public nuisance, promotes the breeding or harboring of disease vectors, creates a hazardous waste or creates a potential for fire or other health or environmental hazards.

G. Except for agricultural uses, a person shall not store scrap tires or tire-derived products for a period exceeding twelve months unless specifically authorized by the Secretary.

H. A scrap tire hauler shall not transport scrap tires without possessing a New Mexico scrap tire manifest approved by the Department.

I. A person shall not engage in, maintain or allow illegal dumping.

## SECTION VI. DECLARATION OF PUBLIC NUISANCE

Illegal dumpsites are declared to be public nuisances as defined by NMSA 1978, Section 30-8-1 (1963).

## SECTION VII. ABATEMENT OF ILLEGAL DUMPSITE

The Board or the County Manager on behalf of the Board may bring an abatement action pursuant to the provisions of NMSA 1978 Section 30-8-8 (1963) to eliminate an illegal dumpsite.

## SECTION IX. CONTINUED FAILURE TO ABATE

Each day an offending condition remains unabated beyond the time allowed for abatement by an appropriate court shall constitute a separate violation of this Ordinance.



SECTION X. PENALTIES

A. Persons violating this Ordinance shall, upon conviction, be subject to a fine not to exceed THREE HUNDRED DOLLARS (\$300.00) and/or NINETY (90) days in jail for.

B. Persons violating this Ordinance by illegally dumping scrap tires on public or private property shall upon conviction, be subject to a fine not to exceed ONE THOUSAND DOLLARS (\$1,000.00) and/or NINETY (90) days in jail for each separate offense.

C. Persons violating this Ordinance by illegally disposing of scrap tires in a quantity or manner that violates the Hazardous Waste Act, NMSA 1978 Section 74-4-1 *et seq.* shall upon conviction be subject to a fine not to exceed; FIVE THOUSAND DOLLARS (\$5,000.00) and/or NINETY (90) days in jail for each separate offense.

SECTION XI. ENFORCEMENT

The County Manager, or his/her designee and the County Sheriff shall enforce the provisions of this Ordinance.

SECTION XII. SAVINGS CLAUSE

If any article, section, paragraph, clause, word or phrase of this Ordinance is held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance.

APPROVED, ADOPTED, AND PASSED on this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

EFFECTIVE: \_\_\_\_\_, 2016

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Robert Armijo  
Commissioner, District I

\_\_\_\_\_  
T. Walter Jaramillo  
Commissioner, District II

\_\_\_\_\_  
Jack Moleres  
Commissioner, District III

\_\_\_\_\_  
Patrick Simpson  
Commissioner, District IV

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Lloyd F. Felipe  
Commissioner, District V

Attest:

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Elisa Bro  
Cibola County Clerk

**CIBOLA COUNTY  
ORDINANCE 16-04  
WASTE, LITTERING & REFUSE**

**AN ORDINANCE PROHIBITING THE ACCUMULATION OF REFUSE, SOLID WASTE & LITTER AND PROVIDING FOR PENALTIES, CIVIL REMEDIES, SEVERABILITY, AND EFFECTIVE DATE.**

**WHEREAS**, the Cibola County Board of Commissioners finds that the unsightly and unhealthy conditions caused by littering, the improper disposal and dumping of refuse, the dumping of refuse upon public rights of way and public lands, the poor maintenance and repair of property, and the proliferation of unscreened salvage yards result in a significant detriment to the health, safety, and prosperity of Cibola County and its residents; and

**WHEREAS**, the Cibola County Board of Commissioners deems it necessary and desirable to prescribe standards to help maintain property values and the property tax base in Cibola County, and to provide an aesthetically pleasing community; those are necessary to supplement voluntary anti-litter and beautification measures to abate unsightly and unhealthy accumulations of debris and trash; and

**WHEREAS**, the Cibola County Board of Commissioners finds it necessary and desirable to prescribe regulation to guide the future growth and development of the County and to protect natural resources in accordance with the Cibola County Comprehensive Plan.

**ARTICLE 1: GENERAL PROVISIONS**

**1.1 Short Title**

This ordinance shall be known and may be cited as the “Cibola County Solid Waste Ordinance” and shall be referred to elsewhere as “this Ordinance”.

**1.2 Jurisdiction**

This Ordinance shall be enforceable in the unincorporated areas of the County.

**1.3 Purpose**

A. The Board of County Commissioners has determined, pursuant to NMSA 1978, § 4-37-1 et seq., and NMSA 1978, § 4-56-3(C), that it is in the interest of public health, safety, and welfare that the subject matter of this chapter be regulated as provided herein.

B. The purpose of this chapter is to preserve and protect the health, safety, and quality of life of the inhabitants of Cibola County and to preserve and improve the environmental quality of the County.

**1.3 Interpretation and Conflict**

The regulations provided herein are held to be the minimum standards necessary to carry out the purposes of this Ordinance. This Ordinance is not intended to interfere with, or abrogate or annul any other valid

ordinance or statute. In the event the provisions of this Ordinance conflict with other County rules, regulations or ordinances pertaining to the subject matter herein, the provisions of this Ordinance shall prevail.

## **ARTICLE 2: DEFINITIONS**

For the purpose of this chapter, the following terms, phrases, words and their derivatives shall have the meanings stated herein:

### **ACCUMULATION**

To gather or collect into a mound, heap, mass, or coverage; forming a steadily increasing quantity.

### **ARROYO**

Includes any canyon, draw or wash or any other earthen channel with visible evidence of the occasional flow of water.

### **ASHES**

Fire residue of any kind, including, but not limited to, fireplace ashes, barbecue grill briquettes, wood chips, wood stove ashes, campfire ashes, hot waste or other material susceptible to spontaneous combustion.

### **CONSTRUCTION OR DEMOLITION DEBRIS**

Materials generally considered water-insoluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt, roofing materials, pipe, gypsum wallboard, and lumber from the construction or destruction of a structure, and includes rocks, soil, tree remains, trees, and other vegetative matter that normally results from land clearing. If such debris is mixed with any other type of solid waste, it loses its classification as construction and demolition debris.

### **COUNTY MANAGER**

The chief administrative assistant to the Board of County Commissioners of Cibola County.

### **DEBRIS**

All waste building material, including, but not limited to, bricks, concrete blocks, shingles, roofing material, lumber, pipe, commercial construction wastes, and any other matter that is commonly known as "debris."

### **DISMANTLED OR PARTIALLY DISMANTLED VEHICLE**

Any motor vehicle or trailer from which some parts or parts which are ordinarily a component thereof have been removed or are missing.

### **FLOODPLAIN**

The relatively flat area or low land adjoining the channel of a watercourse or a body of standing water which has been or may be covered by floodwaters, and which has a one-percent chance of occurring in a given number of years, the limits of which are shown on a National Flood Insurance Program (NFIP) Flood Insurance Rate Map (FIRM).

### **GARBAGE**

Includes all waste food, swill, carrion, slops, and all waste from the preparation, cooking and consumption of food and from the handling, storage and sale of food products and the carcasses of animals.

#### GROUNDWATER

Interstitial water which occurs in saturated earth material and which is capable of entering a well in sufficient amounts to be utilized as a water supply.

#### HAULER

Any person who collects refuse or debris from any property not owned by that person.

#### INOPERATIVE OR INOPERABLE MOTOR VEHICLE

A motor vehicle from or on which the engine or motor, the transmission or transaxle, drive shaft, differential, steering mechanism, axles, wheels, body, doors, windshield, headlights, taillights, or any other part of the vehicle is removed, damaged, wrecked, partially dismantled, or in such a state of disrepair that the vehicle cannot be either moved under its own power, driven, licensed or operated on a public road, street, highway, or any other public thoroughfare.

#### LANDFILL

A facility designed for the disposal of refuse and solid waste permitted in accordance with EID Regulation EID/SWMR-2 and this chapter.

#### LITTER

Any quantity of improperly discarded solid waste, decaying or nondecaying solid or semisolid waste, including but not limited to discarded furniture and appliances, overflowing residential and commercial trash cans, construction debris, fast-food packages, candy wrappers, cigarette butts, and/or plastic, glass, trash, debris, rubbish, refuse, garbage, or junk parts and scrap materials found in public areas or generated while traveling in a motor vehicle.

#### MOTOR VEHICLE

Any wheeled vehicle which is self-propelled or intended to be self-propelled.

#### PERSON

Any individual, partnership, company, corporation, firm, association, trust, estate, state and federal agency, government instrumentality or agency, institution, county, city, town, village, or municipality or other legal entity, however organized.

#### PUBLIC AREA

Any land owned by the community or open to common use, such as streets, roads, sidewalks, alleys, arroyos, or other public ways, and any and all public parks, spaces, grounds, and buildings.

#### REFUSE

Includes garbage and rubbish.

#### RUBBISH

Includes, but is not limited to, all dismantled or partially dismantled motor vehicles, inoperable motor vehicles, dismantled or partially dismantled mobile homes or trailers, waste paper, metal, paper

cartons, cardboard, tree branches, yard waste, wood, glass, plastic, discarded furniture, signs, and appliances or parts thereof, tin cans, dirt, ashes, bottles, liquid petroleum waste, such as motor oil and similar items, and all other unwholesome material of every kind, not including garbage.

#### **SOLID WASTE**

Means, but is not limited to, any garbage, litter, refuse, debris, rubbish, yard waste, appliances, inoperable vehicles, construction and demolition debris, or other discarded material originating from residential, industrial, or commercial sources.

#### **WATER TABLE**

The surface in unconfined groundwater at which the pressure is atmospheric and which is defined by the levels at which water stands in wells that penetrate the water just far enough to hold standing water.

#### **WELL**

A bored, drilled or driven shaft or a dug hole whose depth is greater than the largest surface dimension of the hole.

#### **YARD WASTE**

Vegetative matter resulting from landscaping, land maintenance and land-clearing operations.

### **ARTICLE 3: ACCUMULATION OF REFUSE, SOLID WASTE & LITTER; REMOVAL; PENALTY**

A. No person shall be permitted to accumulate any solid waste, litter or C & D debris on property owned, leased or occupied by that person within two-hundred (200) feet of another occupied premises, except in covered water-tight containers made of metal or plastic.

B. No person shall throw, place, dump, or dispose of any solid waste, litter, or C & D debris on any road, street, gutter, sidewalk or alley, or on any public property or another's private property.

C. No person (whether owner, tenant, lessee, manager or other person) shall permit any solid waste, litter or C & D debris or any composition or residue thereof which is in an unsanitary condition or hazardous to public health to remain upon the property under the person's control.

D. No person shall cast, place, sweep or deposit any solid waste, litter, or C & D debris in such a manner that it may be carried or deposited by the elements upon any road, street, sidewalk, alley, sewer, parkway or other public place or private property within the County.

E. Any accumulation of solid waste, litter, or D & D debris is a violation of the terms of this Ordinance and is hereby declared to be a nuisance and is unlawful.

F. Subject to any limitations or otherwise provided by law, the Sheriff or County Code Enforcement Officer is authorized, upon issuance of a warrant, to inspect any property where he has probably cause to suspect that unlawful accumulations of solid waste, litter or C & D debris may exist, and to enforce this chapter.



(1) If, upon the basis of such inspections, the Sheriff or County Code Enforcement Officer finds that any of Subsections A through E of this section have not been complied with or that a violation exists, he/she shall notify the person in charge of the premises (whether owner, tenant, lessee, manager, or other person), where the unlawful refuse, solid waste, or litter accumulations exist, to properly correct such conditions within a designated period of time from 10 days up to 30 days.

(2) Upon the failure, neglect, or refusal of any person, owner, tenant, lessee, manager, or occupant to properly correct any such conditions as set forth herein within the time prescribed (or within five days of the return of such prescribed notice undeliverable if the notice is served by mail), the Board of County Commissioners may contract for the correction of unlawful accumulation or order its correction by the County, at the expense of the person, owner, tenant, lessee, manager, or occupant in charge of the property.

(3) The cost for correction shall be a lien upon the property and shall remain in full force and effect for the amount due plus interest at the legal rate from the date of filing of the lien until paid, and all other costs, including attorneys' fees.

G. Costs for correction of unlawful accumulation of refuse, solid waste, or litter shall be determined on the basis of man-worked hours, equipment at a customary rental rate per day, plus any direct cost paid by the County to correct the accumulation.

H. Nothing in Subsection F of this section shall be construed to require any notice before the filing of a Magistrate Court action for a civil or criminal violation of this section.

I. If the Sheriff finds that the unlawful accumulation of solid waste, litter or C & D debris presents a clear and present danger to the public health, safety and welfare, and immediate measures are required to alleviate this clear and present danger, the County Manager may waive the ten (10) day notification period.

J. The County Sheriff and the County Manager shall maintain files of the inspections, notices and actions taken pursuant to this Section. Costs incurred by the County in undertaking corrective actions shall be documented and the files shall be open for public review during normal business hours.

I. Penalty. Violation of this section, in addition to any other cost assessed for the cleanup of illegal stored or deposited refuse, solid waste, or litter, shall be punished under the provisions of Article 6 of this chapter.

#### **ARTICLE 4: OWNERSHIP OF SOLID WASTE**

All solid waste generated within or brought into the County is owned by and is the responsibility of the generator until such time as the waste is deposited in a landfill or approved solid waste facility or removed by a licensed private contractor, except where state or federal requirements prohibit transfer of ownership. Any person who removes solid waste from a property shall take ownership of the waste until it is taken to a convenience center, transfer station, or landfill.

#### **ARTICLE 5: COLLECTION OF SOLID WASTE**

A. Dumping. No person shall discard solid waste, rubbish, or refuse anywhere outdoors within the boundaries of the County except at a time and place approved for collection of that person's solid waste under the terms of this chapter and regulations authorized by said sections or other provisions of this Code or ordinances of the County. No person shall place solid waste in the solid waste receptacle of another person, business or institution without permission.

B. Unauthorized accumulation. It shall be unlawful to allow any solid waste, rubbish, or refuse to collect or accumulate on any property or other premises within the County. Any such unauthorized accumulation is hereby declared to be a nuisance and is prohibited.

C. Accumulation of construction and demolition debris. Debris resulting from construction or demolition of structures may be collected within an active construction site only if the solid waste is contained in such a manner that it will not be carried or deposited by the elements upon any road, sidewalk, parkway, sewer, ditch, arroyo, other public place, vacant lot, private property, or into any premises within the County.

D. Illegal use of convenience centers. No person shall place solid waste, rubbish, or refuse on the premises of a Cibola County convenience center or landfill except during the regular posted operating hours.

E. Hazardous accumulations and conditions. It shall be unlawful for any person to allow the following conditions to exist on any premises he owns, rents or occupies:

(1) The existence of three or more or any combination of nonoperational motor scooters, motorcycles, cars, trucks, buses or other vehicles regulated by the New Mexico Department of Motor Vehicles, unless the vehicle owner, property owner, or property lessee can show substantial progress in restoration or repairs to the nonoperational vehicle in the last 30 days or purchase orders, invoices or estimates for repair work to be done in the next 30 days; provided, however, that this section shall have no application where:

(a) A person is engaged in a New Mexico Department of Motor Vehicles licensed vehicle dismantling business and any nonoperational vehicles are enclosed by a fence of solid construction of wood, brick, metal, or other similar materials, not less than seven feet in height above the level of the ground and maintained in a sightly, safe and secure condition; or

(b) Any inoperable vehicles are not visible to the public from any road or street abutting such property, or, if visible, any nonoperational vehicles are enclosed by a fence of solid construction of wood, brick, metal, or other similar materials, not less than seven feet in height above the level of the ground and maintained in a sightly, safe, and secure condition.

(2) The existence of nonoperational refrigerators or freezers or any other type of appliance, furniture, vehicle or other container that has a space large enough for a person of any age to enter into with a door, hatch, lid, or cover of any kind capable of closing or sealing which could prevent the escape of any person, not within a licensed sanitary landfill or a licensed commercial salvage business registered with the State of New Mexico.

(3) The existence of piles of rubbish, refuse, household trash, debris, grass, weeds, tree limbs, or any other type of material(s) which are or may be susceptible to infestation by rodents, reptiles, insects, or

noxious weeds or any other type of animal or plant that is or can be injurious to people, animals or the environment, not within a licensed sanitary landfill or New Mexico Environment Department or other regulatory agency regulated facility.

**ARTICLE 6: PENALTIES AND REMEDIES**

Any person violating or failing, or refusing to comply with the provisions of this Ordinance and the Codes adopted may be prosecuted in any court of competent jurisdiction within the County, and shall be punished by (1) a fine of not more than three hundred dollars (\$300) or imprisonment for not more than ninety (90) days, or both; (2) no more than one thousand dollars (\$1,000) for discarding or disposing of refuse, litter or garbage on public or private property in any manner other than by disposing it in an authorized landfill; (3) no more than five thousand dollars (\$5,000) for the improper or illegal disposal of hazardous materials or waste in any manner other than as provided for in the Hazardous Waste Act [Chapter 74, Article 4, NMSA 1978]; and in accordance with Section 4.37-3 NMSA 1978. Each violation shall constitute a separate offense. Each day an offense continues shall also constitute a separate offense. The Board of County Commissioners may apply to the District Court for appropriate injunctive relief to compel compliance by any person within the provisions of this Ordinance. After the effective date of this Ordinance, all violations are subject to issuance of a citation.

**ARTICLE 7: SEVERABILITY**

If any article, section, subsection, paragraph, sentence, clause, phrase, provision, standard or any portion thereof of this Ordinance is, for any reason, held to be unconstitutional, invalid or void, the remaining portions shall not be affected since it is the express intention of the Board of County Commissioners to pass such article, section, subsection, paragraph, sentence, clause, phrase, provision, standard and every part thereof separately and independently from every other part.

**ARTICLE 8: EFFECTIVE DATE AND REPEAL**

This Ordinance shall be recorded and authenticated by the County Clerk following adoption by the Board of County Commissioners. The effective date of this Ordinance shall be thirty (30) days after the Ordinance has been recorded.

PASSED, APPROVED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Robert Armijo  
Commissioner, District I

\_\_\_\_\_  
T. Walter Jaramillo  
Commissioner, District II

\_\_\_\_\_

\_\_\_\_\_

Jack Moleres  
Commissioner, District III

Patrick Simpson  
Commissioner, District IV

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Lloyd F. Felipe  
Commissioner, District V

Attest:

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Elisa Bro  
Cibola County Clerk

**CIBOLA COUNTY**  
**ORDINANCE № 16 - 05**

**ABATEMENT OF DANGEROUS OR ABANDONED BUILDINGS, STRUCTURES,  
MOBILE OR MANUFACTURED HOUSING, WRECKAGE AND DEBRIS**

GENERAL PROVISIONS

SECTION I. TITLE.

This Ordinance and any amendment hereto shall be known and may be cited as the Cibola County Abatement of Dangerous or Abandoned Buildings, Structures, Mobile or Manufactured Housing, Wreckage and Debris Ordinance.

SECTION II. AUTHORIZATION AND SCOPE.

This Ordinance is hereby enacted pursuant to NMSA §§ 4-37-1 et seq. and NMSA § 3-18-5 and applies to the unincorporated areas of Cibola County.

SECTION III. GENERAL PURPOSE.

This Ordinance is designed to promote the public health, safety and general welfare; to secure safety from fire hazard and health hazards; and to promote the environment and preserve and improve the environmental quality of the county. This Ordinance is further designed to provide a just, equitable and practical method, to be cumulative with and in addition to any other remedy provided by the County, or otherwise available by law whereby dangerous or abandoned or ruined buildings, structures, mobile or manufactured housing, wreckage, rubbish, debris and other items creating a public nuisance may be required to be repaired, vacated or demolished and removed.

SECTION IV. INTERPRETATION.

- (A) The provisions of this Ordinance shall be held to be minimum requirements.
- (B) Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, the more restrictive or that imposing the higher standards shall govern.

DEFINITIONS AND RULES OF CONSTRUCTION

SECTION V. RULES OF CONSTRUCTION.

For the purposes of this subchapter, all words, terms and expressions contained herein shall be interpreted in accordance with the following rules of construction, unless the context requires otherwise.

- (A) The particular controls the general.
- (B) The word SHALL is mandatory, the word MAY is permissive.
- (C) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- (D) The words PERSON includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.
- (E)
  - (1) Any words, terms or phrases not defined herein shall be used with a meaning of common standard use.
  - (2) Any words, terms or phrases not defined herein, shall be construed according to their common, ordinary and accepted meaning.

## SECTION VI. DEFINITIONS.

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

**BUILDING CODE.** The Uniform Building Code promulgated by the International Conference of Building Officials, as adopted by this jurisdiction.

**COMMISSION.** The Board of Commissioners of Cibola County, New Mexico.

**CONTRACTOR.** An entity retained by the county as provided by law to remove abandoned structures, manufactured or mobile homes, wreckage, rubbish or debris.

**COUNTY.** Cibola County government.

**COUNTY CLERK.** The Cibola County Clerk.

**COUNTY OFFICIAL.** The Fire Marshal or his/her designee.

**DAYS.** All references to DAYS shall refer to calendar days.

**FIRE CHIEF.** The Cibola County Fire Marshal or his or her designee.

**INSPECTOR.** The Fire Marshal or Building Inspector any subsequently titled position charged with the responsibility of making inspections to enforce the provisions of the



Uniform Building Code, the New Mexico Building Code or any Cibola County Building Regulations.

LIEN. Any unpaid assessment for costs associated with removal of any property as identified in this Ordinance, together with interest and penalties on all of the foregoing and cost in connection therewith, which is a lien on real property duly recorded in the land records of the County Clerk.

MANAGER. Cibola County Manager or his or her authorized designee.

OWNER. The property owner, whether or not residing in the premises.

PERSON. Any natural person or any firm, partnership, association, corporation, company or organization of any kind and as identified in § V(D) herein.

PREMISES. An improved or unimproved structure, designed for private or commercial use.

PUBLIC NUISANCE. A nuisance shall include any nuisance as defined in this Ordinance including but not limited to the Cibola County Public Nuisance Ordinance 2009-001.

SHERIFF. The Cibola County Sheriff or his or her authorized deputy.

## ENFORCEMENT

### SECTION VII. GENERAL ENFORCEMENT.

#### (A) Administration.

(1) The Cibola County Fire Marshal's office and its inspectors and the Cibola County Sheriff's Department office and its deputies are hereby authorized to enforce the provisions of this Ordinance.

(2) The Fire Marshal (hereinafter referred to as county official) shall have the power to render interpretations of this Ordinance and to adopt and enforce rules and supplemental regulations in order to clarify the applications of its provisions. These interpretations, rules and regulations shall be in conformity with the intent and purpose of this Ordinance.

(B) Inspections. The Fire Marshal and his/her designated inspectors the County Sheriff and his/her deputies are hereby authorized to make inspections and take action as may be required to enforce the provisions of this Ordinance.

#### (C) Right of entry.

(1) When it is necessary to make an inspection to enforce the provisions of this Ordinance, or when the county official has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violations of this

Ordinance which makes the building or premises unsafe, dangerous, hazardous or otherwise a public nuisance, the county official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this Ordinance, provided that if the building or premises are occupied that credentials be presented to the occupant and entry requested. If the building is unoccupied, the county official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If the entry is refused, the county official shall have recourse to the remedies provided by law to secure entry.

(2) Authorized representative shall include the officers named in § VII (A) and their authorized inspection personnel.

(D) Liability.

(1) The county official charged with the enforcement of this Ordinance, acting in good faith and without malice in the discharge of the duties required by this Ordinance or other pertinent law or ordinance shall not thereby be rendered personally liable for damages that may accrue to persons or property as a result of an act or by reason of an act or omission in the discharge of these duties. A suit brought against the county official because of an act or omission performed by the building official or employee in the enforcement of any provision of any codes or other pertinent laws or ordinances implemented through the enforcement of this Ordinance or enforced by the county official shall be defended by the county until final termination of the proceedings, and any judgment resulting there from shall be assumed by this jurisdiction.

(2) This Ordinance shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any building or structure for any damages to persons or property caused by defects, nor shall the Ordinance enforcement agency or its parent jurisdiction be held as assuming any liability by reason of the inspections authorized by this Ordinance or any permits or certificates issued under this Ordinance.

## SECTION VIII. ABATEMENT OF DANGEROUS OR ABANDONED BUILDINGS.

All buildings or structures within the scope of this Ordinance which are determined after inspection by the county official to be dangerous as defined in this Ordinance and all abandoned buildings, structures, mobile or manufactured housing, wreckage, rubbish or debris as defined in this Ordinance is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition and/or removal in accordance with the procedures specified in §XV of this Ordinance.

## SECTION IX. VIOLATIONS & PENALTIES.

(A) It shall be unlawful for any person, firm or corporation to maintain dangerous or abandoned buildings, structures, mobile or manufactured housing, wreckage, rubbish or debris or otherwise maintain a public nuisance in violation of this Ordinance.

(B) Each violation of this Ordinance shall be punishable by a fine of no more than three hundred dollars (\$300) pursuant to NMSA 1978 Section 4-37-3 (1993).

## SECTION X. DANGEROUS BUILDING.

For the purpose of this Ordinance, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that the conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered.

(A) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.

(B) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.

(C) Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than 1-1/2 times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location.

(D) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to an extent that the structural strength or stability thereof is materially less than it was before the catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.

(E) Whenever any portion or member or appurtenance thereof is likely to fail, or become detached or dislodged, or to collapse and thereby injure persons or damage property.

(F) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of 1/2 of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for the buildings.

(G) Whenever any portion thereof has wrecked, warped, buckled or settled to an extent that walls or other structural portions have materially less resistance to wind or earthquakes than is required in the case of similar new construction.

(H) Whenever the building or structure, or any portion thereof, because of:

- (1) Dilapidation, deterioration or decay;
- (2) Faulty construction;

(3) The removal, movement or instability of any portion of the ground necessary for the purpose of supporting the building;

(4) The deterioration, decay or inadequacy of its foundation; or

(5) Any other cause, is likely to partially or completely collapse.

(I) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

(J) Whenever the exterior walls or other vertical structural members list, lean or buckle to an extent that a plumb line passing through the center of gravity does not fall inside the middle 1/3 of the base.

(K) Whenever the building or structure, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members, 50% damage deterioration of its non-supporting members, enclosing or outside wall or coverings.

(L) Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become:

(1) An attractive nuisance to children;

(2) A harbor for vagrants; or criminals; or

(3) As to enable persons to resort thereto for the purpose of committing unlawful acts.

(M) Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirements or prohibition applicable to the building or structure provided by the building regulations of the jurisdiction, as specified in the Building Code, or of any law or ordinance of this state of jurisdiction relating to the condition, location or structure of buildings.

(N) Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50%, or in any supporting part, member or portion less than 66% of the:

(1) Strength;

(2) Fire-resisting qualities or characteristics; or

(3) Weather-resisting qualities or characteristics required by law in the case of newly constructed building of like area, height and occupancy in the same location.

(O) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or, otherwise, is determined by the health officer to be insanitary, unfit for human habitation or in a condition that is likely to cause sickness or disease.

(P) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive

construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Fire Marshal to be a fire hazard.

(Q) Whenever any building or structure is in a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

(R) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period on excess of 6 months so as to constitute the building or portion thereof an attractive nuisance or hazard to the public.

## SECTION XI PROCEDURES.

The Board of County Commissioners shall decide on resolutions, appeals, decisions or determinations made by the county official relative to the application and interpretation of this Ordinance.

### NOTICES OF COUNTY OFFICIAL

## SECTION XII. GENERAL NOTICES.

(A) Commencement of proceedings. When the county official has inspected or caused to be inspected any building or premises and has found and determined that the building or premise is dangerous or abandoned, contains wreckage, rubbish or debris or is otherwise a public nuisance the county official shall commence proceedings to cause the repair, vacation, demolition and/or removal of the premises in violation of this Ordinance.

(B) Service.

(1) Any notice including resolutions, and any amended or supplemental notice or resolution, shall be served upon the record owner and posted on the property; and 1 copy thereof shall be served on each of the following if known to the county official or disclosed from official public records:

(a) The holder of any mortgage or deed of trust or other lien or encumbrance of record; and

(b) The owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located.

(2) The failure of the county official to serve any person required herein to be served shall not invalidate any proceeding hereunder as to any person duly served or relieve any person from any duty or obligation imposed by the provisions of this section.

(C) Method of service. Service of the notice or resolution shall be made upon all persons entitled thereto either personally or by mailing a copy of the notice and order by certified mail, postage prepaid, return receipt request, to each person at their address as it appears on the last equalized assessment roll of the county or as known to the county official. If no address of any person so appears or is known to the county official, then a

copy of the notice and order shall be so mailed, addressed to the person, at the address of the building involved in the proceedings. The failure of any person to receive the notice shall not affect the validity of any proceeding taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

(D) Proof of service. Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of the notice retained by the county official.

(E) Notice.

(1) The county official shall issue a notice directed to the record owner of the property.

(2) The notice shall contain:

(a) The street address and a legal description sufficient for identification of the premises upon which the dangerous or abandoned building, manufactured or mobile home wreckage, rubbish or debris or public nuisance is located.

(b) A statement that the county official has found the property contains on the premises a dangerous or abandoned building(s), manufactured or mobile home(s), wreckage, rubbish or debris with a brief concise description of the conditions found to render the building or premise a public nuisance under § VIII of this Ordinance.

(c) A statement of the action required to be taken as determined by the county official.

(d) If the building official has determined that the building or structure must be repaired, the notice shall require that all required permits be secured therefore and the work physically commenced within the time (not to exceed 60 days from the date of the order) and completed within the time as the building official shall determine is reasonable under all the circumstances.

(e) If the county official has determined that the building or structure must be demolished, the notice shall require that the property be vacated within the time as the building official shall determine is reasonable (not to exceed 60 days from the date of the order); that all required permits be secured therefore within 60 days from the date of the notice; and that the demolition and removal be completed within the time as the county official shall determine is reasonable.

## SECTION VIII. ENFORCEMENT.

(A) Failure of the record owner of the property to comply with any notice issued by the county official shall result in the county official to submit a report to the manager with the department's findings.

(B) In the event that the county official's findings determine that any building or structure is ruined, damaged and dilapidated, or a premise is covered with ruins, rubbish, wreckage or debris the Manager shall cause the matter to be presented to the Commission at a regularly scheduled Commission meeting.



(C) The findings of the county official shall be presented to the Commission who may then, by resolution, find that the dangerous or abandoned building, manufactured or mobile home, wreckage, rubbish or debris is a public nuisance to the health, safety and welfare of Cibola County and requires the renovation or the removal by the county of the building, structure, ruins, rubbish, wreckage or debris.

(D) (1) A copy of the resolution shall be served upon the property owner(s) (such as mortgage company) and posted on the property; and 1 copy thereof shall be served on each of the following if known to the county official or disclosed from official public records:

(a) The holder of any mortgage or deed of trust or other lien or encumbrance of record;

(b) The owner or holder of any lease of record; and

(c) The holder of any other estate or legal interest of record in or to the building or the land on which it is located.

(2) The failure of the county official to serve any person required herein to be served shall not invalidate any proceeding hereunder as to any person duly served or relieve any person from any duty or obligation imposed by the provisions of this Ordinance. If the owner, as shown by the above records cannot be served within the confines of Cibola County, a copy of the resolution shall be posted on the building, structure or premise and a copy of the resolution shall be published in a newspaper of general circulation at least 2 weeks prior to the meeting of the Commission.

(E) Within 10 days of the receipt of a copy of the resolution or of the posting and publishing of a copy of the resolution, the owner or occupant or agent in charge of the building, structure or premise shall commence repairing the premise or removing the building, structure, wreckage, rubbish, or debris, or file a written objection to the Manager requesting a public hearing before the Commission.

#### SECTION XIV. OBJECTIONS AND APPEALS.

(A) Objection.

(1) Any aggrieved property owner or occupant may file a written objection to the notice issued by the county official. The objection shall be filed in the office of the Manager.

(2) If a written objection is filed as required in this section, the Commission shall:

(a) Fix a date for a hearing on its resolution and the objection;

(b) Consider all evidence for and against the removal resolution at the hearing under oath or affirmation; and

(c) Determine if its resolution should be enforced or rescinded.

(B) Appeal.

(1) Any person aggrieved by the determination of the Commission may appeal to the District Court by:

(a) Giving notice of appeal to the Manager within 30 days after the determination made by the Commission; and

(b) Filing a petition in the District Court within 30 days after the determination made by the Commission.

(2) The District Court shall hear the matter as provided by law and enter judgment in accordance with its findings.

(C) Failure to act.

(1) If the property owner or occupant or agent in charge of the building, structure or premise fails to commence removing the building, structure, ruins, rubbish, wreckage or debris:

(a) Within 10 days of being served a copy of the resolution or of the posting and publishing of the resolution;

(b) Within 5 days of the determination by the Commission that the resolution shall be enforced; or

(c) After the District Court enters judgment sustaining the determination of the Commission, the county may remove the building, structure, ruins, rubbish, wreckage or debris at the cost and expense of the property owner.

(2) (a) The reasonable cost of the removal shall constitute a lien against the building, structure, ruin, rubbish, wreckage or debris so removed and against the lot or parcel of land from which it was removed.

(b) The lien shall be foreclosed in the manner provided in NMSA §§ 3-16-1 et seq. and 4-37-1 et seq.

(c) The resolution adopted by the Commission shall be filed and recorded with the County Clerk.

(d) Whenever the repairs ordered shall have been completed or the building(s) demolished and removed from the property so that it no longer exists as an abandoned buildings, structures, mobile or manufactured housing, wreckage or debris on the property described in the resolution, the county official shall file a new certificate with the County Clerk certifying that the building or premise has been demolished and disposed of from the premises or all required repairs have been made so that the building or premise is no longer a public nuisance, whichever is appropriate.

(D) Effective date of decision. The effective date of the decision shall be the date of the formal vote of the Board of Commissioners.

(E) Effect of failure to appeal. Failure of any person to file an appeal in accordance with the provisions of this Ordinance shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or any portion thereof.

## REPAIR, DEMOLITION AND REMOVAL

### SECTION XV. GENERAL REPAIR, DEMOLITION AND REMOVAL.

(A) The following standards shall be followed by the county official (and by the Board of County Commissioners, if an appeal is taken) in providing notice to the repair, demolition and removal of any abandoned buildings, structures, mobile or manufactured housing, wreckage or debris on property.

(B) Any premises declared a public nuisance under this Ordinance shall be made to comply with 1 of the following:

- (1) The building shall be repaired in accordance with the current building code or other current code application to the type of substandard conditions requiring repair; or
- (2) The premises shall be demolished and debris removed by the property owner.

(C) Upon receipt of an application from the person requires to conform to the order and an agreement by the person that he or she will comply with the order if allowed additional time, the building official may, in his or her discretion, grant an extension of time, not to exceed an additional 120 days, within which to complete the repair, rehabilitation or demolition, if the building official determines that an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The Buildings Official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect the time to appeal his or her notice and order.

#### SECTION XVI. NOTICE TO VACATE.

(A) Posting. Every notice to vacate shall in addition to being served as provided in §XII shall be posted at or upon each exit of the building and shall be in substantially the following form:

**DO NOT ENTER  
UNSAFE TO OCCUPY  
IT IS A MISDEMEANOR TO OCCUPY THIS BUILDING,  
OR TO REMOVE OR DEFACE THIS NOTICE.  
COUNTY OFFICIAL \_\_\_\_\_ OF CIBOLA COUNTY.**

(B) Compliance. Whenever the notice is posted, the county official shall include a notification thereof in the notice and resolution issued under §VIII, reciting the findings and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove the building under permit or permission of the county. No person will remove or deface any notice after it is posted until the required repairs, demolition or removal have been completed without the consent of the county. In a renovation of the building a building permit must be issued pursuant to the provisions of the Uniform Building Code.

#### SECTION XVII. ENFORCEMENT OF THE ORDER THE BOARD OF COMMISSIONERS.

(A) Generally. After any order of the court or resolution of the Commission made pursuant to this Ordinance will have become final, no person to whom any order is directed will fail, neglect or refuse to obey any order. Any person who fails to comply with any order is guilty of a misdemeanor.

(B) Failure to obey order. If, after any resolution or order of the Commission made pursuant to this Ordinance has become final, the person or persons to whom the order is directed shall fail, neglect or refuse to obey the order, the county official may:

- (1) Cause the person to be prosecuted under division (A) above; or
- (2) Institute any appropriate action to abate the building or premise as a public nuisance.

(C) Failure to commence work. Whenever the required demolition and removal is not commenced within 30 days after any notice and resolution issued under this Ordinance becomes effective:

- (1) The county official shall cause the building or premises described in the notice and order to be vacated by posting at each entrance thereto a notice reading:

**DANGEROUS BUILDING  
DO NOT OCCUPY**

**IT IS A MISDEMEANOR TO OCCUPY THIS BUILDING, OR  
TO REMOVE OR DEFACE THIS NOTICE.**

**BUILDING OFFICIAL\_\_\_\_\_OF CIBOLA COUNTY.**

(2) No person shall occupy any building which has been posted as specified in this section. No person shall remove or deface any notice so posted until the repairs, demolition or removals ordered by the building official have been completed and a certificate of occupancy issued pursuant to the provisions of the Building Code.

(3) The county official may, in addition to any other remedy herein provided, if the notice and resolution required demolition, cause the building to be demolished and the materials, rubble and debris therefrom removed and the lot cleaned. Any repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this Ordinance. Any surplus realized from the from the demolition thereof, over and above the cost of demolition and of cleaning the lot, shall be paid over to the person or persons lawfully entitled thereto.

**SECTION XVIII. INTERFERENCE WITH REPAIR OR DEMOLITION  
WORK PROHIBITED.**

No person will obstruct, impede or interfere with any officer, employee, contractor or authorized representative of this jurisdiction or with any person who owns or holds any estate or interest in any building which has been ordered demolished or removed under the provisions of this code; or with any person to whom the building has been lawfully sold pursuant to the provisions of this code, whenever the officer, employee, contractor or authorized representative of this jurisdiction, person having an interest or estate in the building or structure, or purchaser is engaged in the work of demolishing and removal of debris of any building, pursuant to the provisions of this Ordinance, or in performing any necessary act preliminary to or incidental to the work or authorized or directed pursuant to this Ordinance. Any person found guilty under this provision shall be subject to a misdemeanor offense and sentenced as provided by law.

## PERFORMANCE OF WORK OF REPAIR OR DEMOLITION

### SECTION XIX. GENERAL PERFORMANCE OF WORK OF REPAIR OR DEMOLITION

- (A) Procedure. When any work of demolition is to be done pursuant to § XVII of this Ordinance, the Manager or his or her designee may issue a directive therefore to the road superintendent and the work will be accomplished by personnel of this county or by private contract under the direction of the Manager. If any part of the work is to be accomplished by private contract, procurement procedures shall be followed.
- (B) Costs. The cost of the work will be paid from the demolition and removal account, and may be made a special assessment lien against the property involved.
- (C) Compensation of contractor. The county may pay for the costs of removal of any abandoned building, manufactured or mobile home, wreckage, rubbish or debris as provided in §XVII.
- (D) Conditions of removal. Any person or firm removing any abandoned building, manufactured or mobile home, wreckage, rubbish or debris shall leave the premises from which the material has been removed in a clean, level and safe condition, suitable for further occupancy or construction and with all excavations filled. The person or firm shall be responsible for disposal of the building and the like. The failure of the person or firm removing the above item(s) to comply with these conditions shall provide cause for the county to withhold payment for costs of removal until the above conditions have been satisfied in the opinion of the Manager.

### SECTION XX. DEMOLITION AND REMOVAL ACCOUNT.

- (A) Generally. The Cibola County Commission will establish a special revolving account to be designated as the demolition and removal account. Payments will be made out of the account upon the demand of the Manager or his or her designee to defray the costs and expenses which may be incurred by this jurisdiction in doing or causing to be done the necessary work of demolition and removal of abandoned buildings, manufactured or mobile homes, wreckage rubbish and debris from the premises.
- (B) Maintenance of fund. The Commission may at any time transfer to the repair and demolition account, out of any money in the general fund of this jurisdiction, the sums as it may deem necessary in order to expedite the performance of the work of demolition, and any sum so transferred shall be deemed a loan to the repair and demolition account and shall be repaid out of the proceeds of the collections hereinafter provided for. All funds collected under the proceedings hereinafter provided for shall be paid to the treasurer of this jurisdiction who shall credit the same to the demolition and removal account. Any donations received from private sources shall only be used for the intended purpose of the fund and shall not revert to the general fund for any reason.

## RECOVERY OF COST OF DEMOLITION AND REMOVAL

### SECTION XXI. ENFORCEMENT OF LIEN.

(A) (1) The Manager or his or her designee shall file in the office of the County Clerk any notice of property lien created by ordinance or under authority of law.

(2) The notice of lien shall include:

- (a) The number of the ordinance under which the lien is established;
- (b) The fact that a lien is established;
- (c) The general purpose of the lien;
- (d) The name of the owner of the property against which the lien is established as determined from the records of the county assessor/ clerks;
- (e) The description of the property against which the lien is established;
- (f) The amount of the lien; and
- (g) If the lien is for more than 1 period of time, the date for which the lien is established.

(B) (1) A lien for charges or assessments including publication costs, which are provided for or fixed by any 1 ordinance or under authority of law may be included in the same notice of lien.

(2) The lien shall be attested in the name of the County Clerk under the seal of the county.

(C) The principal amount of any lien imposed for a county assessment shall bear interest at the rate of 12% per year or as provided by law from the date of filing the notice of the lien unless otherwise provided by law.

(D) After the filing of the notice of lien in the office of the County Clerk, the county shall have a lien upon the property described in the notice of lien. The filing of the notice of lien shall be valid notice of the existence of the lien and of the contents of the lien. No lien shall affect the title or rights to or in any real estate, of any purchaser, mortgagee in good faith or judgment lien creditor, without knowledge of the existence of the lien, unless the notice of the lien is filed in accordance with NMSA § 3-36-1 in the office of the County Clerk of the county in which the real estate affected thereby is situated. All county liens filed in conformity with NMSA §§ 3-36-1 et seq. and § 4-37-1 shall be first and prior liens on the property subject only to the lien of general state and county taxes. All foreclosure proceeding on delinquent liens shall follow the statutory requirements as set forth in NMSA §§ 3-36-1 et seq. and as authorized by NMSA § 4-37-1.

(E) The County Clerk may release a lien against any specific property by:

(1) Entering and signing a receipt of payment upon the notice of the lien filed in the office of the County Clerk; or

(2) Issuing a separate receipt which recites that payment of the lien with any accrued interest and penalty has been made.



SECTION XXII. AUTHORITY FOR INSTALLMENT PAYMENT OF LIEN ASSESSMENTS WITH INTEREST.

- (A) The Manager or his or her designee, in his or her discretion, may determine that assessments in amounts of \$500 or more shall be payable in not to exceed 5 annual installments.
- (B) The determination to allow payment of the assessments in installments, the number of installments, interest as provided by law shall be in writing and verified by the parties.

SECTION XXIII LIEN ON ASSESSMENT.

- (A) Priority.
- (1) Immediately upon its being placed on the assessment roll, the assessment lien shall be deemed to be complete, the several amounts assessed shall be payable, and the assessment shall be a lien against the lots or parcels of land assessed, respectively.
  - (2) The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state, county and property taxes with which it shall be upon a parity.
  - (3) The lien shall continue until the assessment and all interest due and payable thereon are paid.
- (B) Interest. All assessments remaining unpaid after 30 days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate of 12% per annum from and after the date or as provided by law.

SECTION XXIV COLLECTION OF ASSESSMENT AND FORECLOSURE.

- (A) The amount of the assessment shall be collected at the same time and in the same manner as ordinary property taxes are collected and shall be subject to the same penalties and procedure and sale in case of delinquency as provided for ordinary property taxes.
- (B) All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to the assessment including foreclosure proceedings as provided by law.

SECTION XXV. REPAYMENT OF DEMOLITION AND REMOVAL ACCOUNT.

All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure sale shall be paid to the treasurer of the county, who shall credit the same to the demolition and removal account.

SECTION XXVII. EFFECTIVE DATE

The effective date of this Ordinance shall be \_\_\_\_\_, 2016.

**ORDAINED, ADOPTED, AND APPROVED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Robert Armijo  
Commissioner, District I

\_\_\_\_\_  
T. Walter Jaramillo  
Commissioner, District II

\_\_\_\_\_  
Jack Moleris  
Commissioner, District III

\_\_\_\_\_  
Pat Simpson  
Commissioner, District IV

\_\_\_\_\_  
Lloyd Felipe  
Commissioner, District V

Attest:

\_\_\_\_\_  
Lisa Bro  
Cibola County Clerk



Laura Jaramillo  
City Manager

Robert C. Hays  
Fire Chief

Martin W. Hicks  
Mayor

Michael Lewis  
Mayor Pro-Tem

June 1, 2016

Tony Boyd, County Manager  
515 W. High Street  
Grants, New Mexico 87020

Mr. Boyd,

I would like to formally request to be placed on the June 2016 agenda of the Cibola County Commission to present an ordinance to allow a tax proposal to be placed on the November 2016 general election ballot. According to the New Mexico Taxation & Revenue Department this adoption has to be 62 days prior to a general election and the time line suggests I present and request this at your June 2016 meeting.

I have attached the proposed Ordinance for your consideration.

Robert Hays  
Fire Chief

620 West High Street – Station #1  
Post Office Box 879  
Office (505) 876-2245

700 Truman Avenue – Station#2  
Grants, New Mexico 87020  
FAX (505) 287-4529

CWECCEMST - 2016 Countywide Emergency Communications and Emergency Medical and Behavioral Health Services Tax Adopting a Tax Increment

ORDINANCE NUMBER \_\_\_\_\_

ADOPTING A COUNTYWIDE EMERGENCY COMMUNICATIONS AND EMERGENCY MEDICAL AND BEHAVIORAL HEALTH SERVICES TAX

BE IT ORDAINED BY THE GOVERNING BODY OF CIBOLA COUNTY:

Section 1. Imposition of Tax. There is imposed on any person engaging in business in the county for the privilege of engaging in business in the county an excise tax equal to one-fourth of one percent (.25%) of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act as it now exists or as it may be amended. The tax imposed under this ordinance is pursuant to the County Local Option Gross Receipts Taxes Act as it now exists or as it may be amended and shall be known as the "countywide emergency communications and emergency medical and behavioral health services tax."

Section 2. General Provisions. This ordinance hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

Section 3. Specific Exemptions. No countywide emergency communications and emergency medical and behavioral health services tax shall be imposed on the gross receipts arising from:

- A. transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the county to another point outside the county;
- B. direct broadcast satellite services.

Section 4. Dedication. Revenue from the countywide emergency communications and emergency medical and behavioral health services tax shall be dedicated to any of the following purposes:

Operation of an emergency communications center that has been determined by the Local Government Division of the Department of Finance and Administration to be a consolidated public safety answering point.

Section 5. Effective Date. The effective date of the countywide emergency communications and emergency medical and behavioral health services tax shall be either January 1 or July 1, whichever date occurs first after the expiration of three months from the date when the results of the election are certified to be in favor of the ordinance's adoption and the adopted ordinance is delivered or mailed to the Taxation and Revenue Department.

ADOPTED BY THE GOVERNING BODY OF CIBOLA COUNTY THIS DAY OF 2016.

ATTEST:

\_\_\_\_\_  
T. WALTER JARAMILLO, CHAIRMAN

\_\_\_\_\_  
Lisa Bro, County Clerk

**ORDINANCE No. 16-07**  
**PUBLIC NUISANCE ORDINANCE OF CIBOLA COUNTY**

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PREAMBLE

**WHEREAS**, the growth of population in Cibola County has been accompanied by an increase in growth of residential and commercial land use in Cibola County; and,

**WHEREAS**, this situation has produced an increase in the number of and potential for conflicts between incompatible land uses; and,

**WHEREAS**, NMSA 1978, Section 3-18-1 (1972) provides that municipalities, and also counties pursuant to NMSA 1978, Section 4-37-1 (1995), have the power to “protect generally the property of its municipality and its inhabitants” and to “preserve peace and order”; and,

**WHEREAS**, Section 4-37-1 et seq. NMSA 1978 provides that counties may adopt ordinances, not inconsistent with statutory or constitutional limitations placed on counties, to discharge those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the county and its inhabitants; and,

**WHEREAS**, the Cibola County Board of Commissioners has considered and now determines that the creation of certain conditions which tend to disturb the public peace or to be detrimental to the health, safety, welfare, comfort or repose of others within Cibola County constitutes a public nuisance; and,

**WHEREAS**, the Cibola County Board of Commissioners has determined that the health, safety and general welfare of the residents of Cibola County would best be served by the adoption of a public nuisance ordinance;

**NOW THEREFORE BE IT ORDAINED** that the Cibola County Board of Commissioners does hereby establish a public nuisance ordinance for Cibola County, as follows:

## **ARTICLE 1. TITLE**

This ordinance may be cited as the “Public Nuisance Ordinance of Cibola County” (hereinafter, “this Ordinance”).

## **ARTICLE 2. INTENT**

The intent of this Ordinance is to define conditions that constitute a public nuisance and to provide for the abatement of those conditions.

## **ARTICLE 3. EXCLUSIONS**

**Section 3.1. Agriculture.** Any agricultural operation or facility which is not a public nuisance according to Cibola County Ordinance #01-001 (“Right-to-Practice-Agriculture”), as the same may be amended from time to time, shall be exempt from the provisions of this Ordinance.

**Section 3.2. Existing Land Uses Excluded.** Land uses other than those classified as agricultural by Cibola County Ordinance #\_\_\_\_\_ as the same may be amended from time to time, that were in existence as of the date of adoption of this Ordinance shall be excluded from the provisions of this Ordinance, provided that conditions produced by those uses do not change in such a way as to violate the standards set forth in this Ordinance. For the purposes of this Ordinance, intermittent uses that are established on a particular property shall be considered as existing land uses excluded from operation of this Ordinance regardless of whether the use was active at the time this Ordinance was adopted.

**Section 3.3. Regulated Uses.** Land uses and activities that are already regulated by the New Mexico Department of Game and Fish, and uses and activities regulated under the Animal Control Ordinance of Cibola County, New Mexico, Ordinance No. 98-005, shall be excluded from the provisions of this Ordinance.

**Section 3.4. Moving to the Nuisance.** Any land use that has operated continuously and regularly for at least one year from the approval of this ordinance without having been required by the enforcing entity to abate any condition determined to be in violation of this Ordinance shall be exempt from the provisions of this Ordinance, provided that conditions produced by that commercial land use do not change in such a way as to violate the standards set forth in this Ordinance.

## **ARTICLE 4. DEFINITIONS**

*Abate:* to repair, replace, remove, destroy or otherwise remedy the condition by such means and such manner and to such extent as the enforcing entity, in its judgment, shall determine is necessary in order to achieve compliance with the provisions of this Ordinance.



*Ambient noise:* the composite of all noise from sources near and far, excluding the alleged intrusive or offensive noise source.

*A-Weighted noise level:* the noise level in decibels as measured on a sound level meter using the A-Weighting network. The level so read is designated in dB(A).

*Construction:* any site preparation, assembly, erection, substantial repair, alteration, or similar action, or related services or activities, for, of or to private property, structures, utilities, or public rights-of-way.

*Decibel (dB):* a unit for measuring the amplitude of noise, equal to 20 (twenty) times the logarithm to the base of ten of the ratio of the pressure of the noise measured to the referenced pressure, which is 20 micropascals.

*Dust:* airborne earth or other matter in dry, fine particulate form.

*Emergency:* any occurrence or set of circumstances involving actual or imminent physical trauma or substantial property damage that demands immediate action.

*Emergency work:* any work performed for the purpose of preventing or alleviating the physical trauma or substantial property damage threatened or caused by an emergency.

*Intrusive noise:* the offensive noise that exceeds the existing ambient noise at a given location.

*Noise level:* the sound pressure level as measured with a sound level meter.

*Nuisance:* Conditions which tend to disturb the public peace or to be detrimental to the health, safety, welfare, or repose of others within Cibola County constitutes a public nuisance.

*Owner:* any person, association, partnership or corporation that has dominion over, control of, or title to real property.

*Person:* an individual, partnership, joint venture, corporation, association, social club, fraternal organization, trust, estate, receiver, or any other legal entity.

*Premises:* any building, lot, parcel, real estate, or land or portion of land, whether improved, unimproved, occupied or unoccupied.

*Property:* any real property, including but not limited to land, lot, or parcel of land.

*Responsible person:* any owner, user or other person in control of a property.

*Sound level meter:* an instrument, including a microphone, amplifier, output meter, and

frequency weighting networks for the measurement of noise levels, which satisfies the requirements, pertinent for Type 2A meters in American National Standards Institute specifications for Sound Level Meters, S1.4-1983, or the most recent revision thereof.

*Visible:* visually observable as is, without magnification or other modification or enhancement, by a person whose visual acuity may be presumed to be no greater than 20-20, corrected or uncorrected.

## **ARTICLE 5. CREATION OF PUBLIC NUISANCE PROHIBITED.**

It is hereby declared to be a public nuisance for any owner or other person in control of a property or premises to keep, maintain or use such property or premises in such a manner as to violate any of the provisions set forth in this Article or in any subsequent versions of this Ordinance.

**Section 5.1. Noise Nuisance.** No person shall operate any type of vehicle, machine, or device, or carry on any type of activity, or promote or facilitate the carrying on of any activity that makes intrusive noise in excess of the levels specified in sub-sections 5.1.2. and 5.1.3 below.

**5.1.1. Measurement of sound level.** Sound shall be measured on the “A” weighting scale on a sound level meter of standard design and quality and characteristics established by the American National Standards Institute. Sound from a vehicle operating on a public road or highway shall be measured at a distance of fifty feet (50') from the center of the lane of travel. Sound from a non-vehicular source shall be measured at the property line of the property from which such sound is radiating. In each case, both ambient and intrusive noise levels shall be measured.

Typical noise levels associated with various activities and devices are presented in Exhibit A (attached).

### **5.1.2. Vehicular noise.**

(a) Sound from a vehicle being operated on a public road or highway with the following speed limits shall not exceed the following as measured on the “A” weighting scale:

<b>Type of Vehicle</b>	<b>Speed Limit of 35 miles per hour or less</b>	<b>Speed Limit of more than 35 miles per hour</b>
Vehicle with a manufacturer's gross vehicle rating of 10,000 lbs. or more, and any combination of vehicles towed by such a vehicle	90 dB(A)	90 dB(A)
All other vehicles	80 dB(A)	84 dB(A)

(b) Sound from a vehicle being operated on private property or public property which is not a road or highway shall not exceed 78 dB(a) measured at the property line.

**5.1.3. Non-vehicular Noise.** Between the hours of 7 AM and 10 PM, the maximum permissible level of intrusive noise from non-vehicular sources is 80 dB(A), or 10 dB(A) above the ambient noise level, whichever is higher, measured at the property line. Between the hours of 10 PM and 7 AM, the maximum permissible level of intrusive noise from non-vehicular sources is 70 dB(A), or 10 dB(A) above the ambient noise level, whichever is higher, measured at the property line.

**5.1.4. Exceptions.** The following types of noise shall be exempt from the provisions of this Ordinance:

- (a) Construction Noise: all necessary and reasonable noise associated with construction between the hours of 7 AM and 10 PM;
- (b) Emergency Noise: all necessary and reasonable noise emitted for the purpose of alerting persons to the existence of an emergency or noise emitted in the performance of emergency work;
- (c) Warning Device Noise: all necessary and reasonable noise associated with the use of warning devices necessary for the protection of public safety, including but not limited to fire, law enforcement and ambulance sirens and the testing of such devices;
- (d) Public Works Noise: all necessary and reasonable noise arising from the authorized performance of building, repairing or maintaining highways, roads and irrigation canals and other such duly authorized public works activities;
- (e) All necessary and reasonable noise arising from the operation of public recreational activities authorized by the County of Cibola.

**Section 5.2. Lighting Nuisance.** Any outdoor light used for the illumination of parking areas, loading areas, recreation areas, or for any other private or public purpose shall be arranged in such manner as to meet the following conditions:

- (a) Lights shall be fully shielded or arranged in a manner so that concentrated rays of light will not shine directly onto other properties.
- (b) Neither the direct nor the reflected light from any light source may create a traffic hazard to operators of motor vehicles on public roads, and no colored lights may be used in such a way as to be confused or construed as traffic control devices.
- (c) Lights shall be either on or off in their normal mode of operation, and shall not, in their normal mode of operation, be blinking, flashing, fluttering or otherwise characterized by a pattern of changing light intensity, brightness or color, unless such light is less than eight (8) feet above ground level.

(d) Light sources shall be positioned no higher than twenty-five (25) feet above ground level.

**5.2.1. Exceptions.** The following types of lighting shall be exempt from the provisions of this Ordinance:

(a) Emergency Lighting: all necessary and reasonable lighting emitted for the purpose of alerting persons to the existence of an emergency or light emitted in the performance of emergency work;

(b) Warning Device Light: all necessary and reasonable light associated with the use of warning devices necessary for the protection of public safety, including but not limited to fire, law enforcement and ambulance warning lights and the testing of such devices;

(c) Public Works Lighting: all necessary and reasonable light arising from the authorized performance of building, repairing or maintaining highways, roads and irrigation canals and other such duly authorized public works activities;

(d) Holiday Displays: temporary holiday lights or lighting displays;

(e) Lights required by local, state or federal regulations;

(f) Lights required for the operation of public recreational activities authorized by the County of Cibola.

**Section 5.3. Odor Nuisance.** No person shall operate any type of machine or device, or carry on any type of activity, or promote or facilitate the carrying on of any activity, or create and/or maintain any condition which causes an odor of hydrogen sulfide, ammonia, chlorine, industrial solvent, urine or feces, or any other noxious or offensive odor, to be detectable by the enforcing entity at a distance of 10' (ten feet) beyond the property line of the property from which such odor is emanating.

**Section 5.4. Vermin Nuisance.** No person shall cause, maintain or, within his control, permit the infestation by or harborage of rodents, roaches, flies or other vermin of public health significance.

## **ARTICLE 6. VARIANCES**

**Section 6.1. Authority.** The Cibola County Board of County Commissioners may grant an individual variance from the limitations prescribed under this Ordinance upon presentation of adequate proof that:

(a) Compliance with any part of this Ordinance will:

- (i) Result in an arbitrary and unreasonable taking of property; or
- (ii) Impose an undue economic burden upon any lawful business, occupation or activity; and

- (b) The granting of the variance will not result in a condition injurious to health or safety.

**Section 6.2. Interests Considered.** No variance shall be granted pursuant to this section until the board has considered the relative interests of the applicant, the other owners of property likely to be affected by the conditions and the general public.

**Section 6.3. Variance Duration.** Any variance or renewal thereof shall be granted within the requirements of subsection (a) of this section and for time periods and under conditions consistent with the reasons there for, and within the following limitations:

- (a) If the variance is granted on the ground that there are no practicable means known or available for the adequate prevention, abatement or control of the condition involved, it shall be only until the necessary means for prevention, abatement or control become known and available.
- (b) If the variance is granted on the grounds that compliance with the particular requirements from which variance is sought will necessitate the taking of measures that, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in the view of the board, is requisite for the taking of the necessary measures. A variance granted on the grounds specified in this subsection shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to the timetable.

**Section 6.4. Procedure.** Any person seeking a variance shall do so by (1) filing a petition for variance with the County Manager or his or her designee. The County Manager or his or her designee; and, by (2) sending a copy of the petition via certified mail, return receipt requested or registered mail, to the person identified by the records of the County Clerk of Cibola County as the holder of legal title, for each property that is either adjacent to, or, at its nearest point, within one thousand feet (1000') from the property for which the variance is sought. Copies of proof of such mailing shall be submitted to the County Manager or his or her designee together with the petition for variance. The County Manager or his or her designee shall promptly investigate the petition and make a recommendation to the Cibola County Board of County Commissioners as to the disposition of the petition. Upon receiving the recommendation of the director on the variance, the Cibola County Board of County Commissioners shall:

- (a) If the recommendation of the director favors a variance, hold a public hearing prior to the granting of any variance; and
- (b) If the director is opposed to the granting of the variance, hold a hearing only upon the request of the petitioner.

At the hearing, the burden of proof shall be upon the petitioner.

## **ARTICLE 7. ENFORCEMENT**

**Section 7.1. Enforcing Entity.** The Cibola County Manager, or his/her designee (hereafter, “Manager”) or any duly authorized law enforcement officer shall enforce the provisions of this Ordinance.

**Section 7.2. Reporting Alleged Violations.** Any person may report an alleged violation of this Ordinance to the Manager. Upon receipt of such report, the Manager shall ascertain the location, date, time and specific nature of the alleged violation.

**Section 7.3. Abatement.** If the investigation determines that a violation of this Ordinance exists, the enforcing entity shall have the following authority:

- (a) where immediate abatement is deemed by the enforcing entity to be impossible or impractical, to issue a written warning. In such case, the responsible person(s) shall have ten (10) days to commence abatement of the offending condition and thirty (30) days to complete abatement;
- (b) to require immediate abatement of the offending condition by the responsible person(s); and/or
- (c) to issue a written citation for violation of this Ordinance when the offending condition has not been abated within the time allowed.

**Section 7.4. Continued Failure To Abate.** Each day an offending condition remains unabated beyond the time allowed for abatement by an appropriate court shall constitute a separate violation of this Ordinance.

**Section 7.5. Penalty For Violation.** Each violation of this Ordinance shall be punishable by a fine of no more than three hundred dollars (\$300), and/or imprisonment for no more than ninety (90) days, or both.

## **ARTICLE 8. SAVINGS CLAUSE.**

If any article, section, paragraph, clause, word or phrase of this Ordinance is held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance.

**APPROVED, ADOPTED, AND PASSED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

BOARD OF COUNTY COMMISSIONERS



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Robert Armijo  
Commissioner, District I

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T. Walter Jaramillo  
Commissioner, District II

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Jack Moleris  
Commissioner, District III

---

Pat Simpson  
Commissioner, District IV

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Lloyd Felipe  
Commissioner, District V

Attest:

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Lisa Bro  
Cibola County Clerk