



**CIBOLA COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**RESOLUTION 2023-16**

**ESTABLISHING POLICY FOR SERVICE AS FISCAL AGENT**

**WHEREAS**, the Board of County Commissioners of Cibola County, met in a meeting on January 26, 2023, at 5:00 pm in the Cibola County Commission Chamber, 700 East Roosevelt Ave. Suite 50, Grants, NM 87021; and,

**WHEREAS**, the Board of County Commissioners of the County of Cibola exercises the powers of the County as a body politic and corporate pursuant to NMSA 1978, Section 4-38-1(1884); and,

**WHEREAS**, NMSA 1978, Section 4-37-1 (1995) provides that Counties have the power to, "provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of any county or its inhabitants"; and,

**WHEREAS**, Executive Order 2013-006 issued May 2, 2013, provides that a grantee for appropriations may not receive such funds if its audit does not meet certain requirements unless such funds are received by another appropriate entity acting as a fiscal agent; and,

**WHEREAS**, governmental entities within Cibola County require assistance from a qualified local body to serve as fiscal agent to receive and expend legislative appropriations on their behalf; and;

**WHEREAS**, Cibola County's service as fiscal agent requires fiscal oversight of the expenditure of public money, and in ensuring compliance with the Procurement Code and applicable law; and

**WHEREAS**, while Cibola County has the necessary expertise, staff and experience to serve as the fiscal agent to the County and to oversee the Procurement Process and payment for services for the Project, its resources are limited and it must prioritize those resources in addressing its statutory obligations to the public; and;



**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Cibola County that the Board of County Commissioners recognizes its exclusive authority and jurisdiction to accept or reject the establishment of any given fiscal agent relationship; and,

**NOW, THEREFORE, BE IT FURTHER RESOLVED** by the Board of County Commissioners that, upon

the Board of County Commissioner's express acceptance of the establishment of a fiscal agent relationship, the County will provide the following administrative services for the Project under the following terms:

### **Section 1. OBLIGATIONS OF COUNTY AND GOVERNMENTAL**

#### **A. Cibola County**

1. Cibola County will prepare and manage the contracting for construction, goods and services in accordance with the County's Procurement Regulations and the NM Procurement Code, NMSA § 13-1-1 et. seq.
2. Cibola County will oversee the procurement process and administration of any contracts awarded for the Project.
3. The Cibola County Chief Purchasing Officer and Finance Director will approve invoices associated with the Project.
4. All funds appropriated by the Legislature for the aforementioned purpose shall be received by the County from the Department of Finance and Administration Local Government Division or respective state agency.
5. The County shall ensure that grant funds are expended in compliance with all applicable laws, regulations and grant agreement and the transactions are appropriately accounted for in compliance with such laws, regulations and grant agreement.
6. The County shall ensure safeguarding of grant funds and assets acquired with grant funds and proper accounting thereof in compliance with applicable laws, regulations and grant agreement.
7. The County will charge the governmental entity a flat rate of 5% for service as fiscal agent. In no event shall the administrative fee be paid from the appropriations authorized by the Local Government Division of the Department of Finance and Administration and funded by the NM Legislature from Severance tax bond proceeds. At the County's sole discretion, the County may enter into a contract to accept in-kind services in lieu of, or in part payment of, the 5% administrative fee.

#### **B. The Governmental Entity**

1. The Governmental Entity will provide the County a scope of work, specifications, or all necessary detail for the contracting for construction, goods and services in accordance with the County's Procurement Regulations and the NM Procurement Code, NMSA § 13-1-1 et. seq.



2. Upon completion of the Project, the equipment purchased shall be the property of the Governmental Entity. All purchased equipment shall be placed on the Governmental Entity's inventory.
3. The Governmental Entity will designate a liaison that will serve as the single point of contact for the Project.
4. The Governmental Entity shall pay Cibola County a flat rate of 5% for service as fiscal agent. In no event shall the administrative fee be paid from the appropriations authorized by the Local Government Division of the Department of Finance and Administration and funded by the NM Legislature from Severance tax bond proceeds.

**Section 2. COMPENSATION AND METHOD OF PAYMENT.** The Governmental Entity shall pay Cibola County a flat fee of 5% for fiscal oversight of the Projects. Payment shall be made on a payment schedule to be negotiated by the Parties, with final payment to be received upon completion of the Project.

**Section 3. TERMINATION.** Either party may terminate the fiscal agency upon 30 days written notice. Such early termination shall not nullify obligations incurred for performance or failure to perform prior to termination.

**Section 4. LIABILITY.** Each Party shall be solely responsible for its own actions and omissions and for the actions and omissions of its employees, officers or agents pursuant to the fiscal agency. Nothing herein shall be deemed to waive any and all limitations on liability and other protections under the New Mexico Tort Claims Act. All of the privileges and immunities from liability, exemptions from laws, ordinances and rules, all pension, relief, disability, workmen's compensation and other benefits which apply to the activity of officers, agents or employees of any Party when performing their respective functions within the territorial limits of their respective public agencies, shall apply to them to the same extent while engaged in the performance of their functions and duties extraterritorially under the provisions of the fiscal agency.

**BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CIBOLA**



APPROVED, ADOPTED, AND PASSED on this 26th day of January, 2022.

ABSENT

\_\_\_\_\_  
Daniel Torrez, Chair

ABSENT

\_\_\_\_\_  
Martha Garcia, 1<sup>st</sup> Vice-Commissioner

*Christine Lowery*  
\_\_\_\_\_  
Christine Lowery, 2<sup>nd</sup> Vice-Chair

*Robert Windhorst*  
\_\_\_\_\_  
Robert Windhorst, Commissioner

*Ralph Lucero*  
\_\_\_\_\_  
Ralph Lucero, Commissioner

ATTEST:

*Michelle E. Dominguez*  
\_\_\_\_\_  
Michelle E. Dominguez  
Cibola County Clerk

