



CIBOLA COUNTY
BOARD OF COUNTY COMMISSIONERS

RESOLUTION 2024-24
LAW ENFORCEMENT RETENTION FUND USE POLICY

WHEREAS, the Cibola County Board of Commissioners met upon notice of meeting duly published at the Cibola County Administration Building, 700 East Roosevelt Ave., Suite 50, Grants, NM 87020, on March 28, 2024, at 5:00 p.m. as required by law; and,

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

WHEREAS, Larry Diaz is the duly elected Sheriff of Cibola County with the authority to appoint and direct deputies pursuant to NMSA 1978, Section 4-41-5 (1975) to perform the duties of said office; and,

WHEREAS, NMSA 1978 Section 4-38-19 (A) (1973) provides in part that, “[a] board of county commissioners may set the salaries of such employees and deputies as it feels necessary to discharge the functions of the county. . .;” and,

WHEREAS, NMSA 1978, Section 4-41-6 (1975) provides that “[e]ach county is authorized and empowered to establish by ordinance a merit system for the hiring, promotion, discharge and general regulation of the deputies and the employees of the county sheriff's office. The ordinance may, in the discretion of the board of county commissioners, provide for the classification of deputies and other employees and their probationary periods, service ratings, pay scales and ranges, the number of hours of work per week and the methods of employment, promotion, demotion and discharge of such deputies and employees within the limits provided by law;” and,

WHEREAS, the Board has adopted a merit system ordinance, the Cibola County Personnel Policy; and,

WHEREAS, Article IV, Section 27; [n]o law shall be enacted giving any extra compensation to any public officer, servant, agent or contractor after services are rendered or contract made; nor shall the compensation of any officer be increased or diminished during his term of office, except otherwise provided in this constitution; and,



WHEREAS, the NM Attorney General's Opinion dated June 4, 2004 explains that while retroactive "bonuses" are unconstitutional, the constitution does not preclude a public employer from considering its employees' past performance and years of service when deciding how to compensate them, as long as the employees are paid in return for future services; and,

WHEREAS, pursuant to the Law Enforcement Retention Fund Act NMSA 1978, Section 9-19-14 (D) (2022) "[a] law enforcement officer shall receive a retention differential disbursement in the amount of five percent of the law enforcement officer's salary upon reaching four, nine, fourteen and nineteen years of service from the anniversary of the law enforcement officer's date of hire with that law enforcement agency; provided that:

(1) the law enforcement officer remains employed as a law enforcement officer with that same law enforcement agency for one additional year; and (2) the retention differential disbursement shall be calculated based on the salary of the law enforcement officer on those dates.

NOW THEREFORE, be it resolved by the Board of County Commissioners that the following hiring program is hereby implemented:

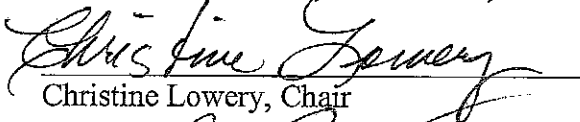
IT IS THEREFORE RESOLVED THAT:

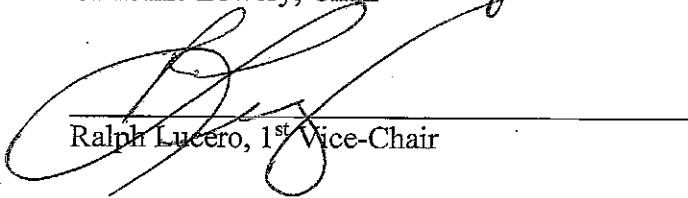
This resolution when passed by the County of Cibola ("County") provides that:

- A. Deputy Sheriffs who have reached four, nine, fourteen and nineteen year of service from their date of hire with the Sheriff's Office shall receive a retention differential disbursement in the amount of five percent of their salary.
- B. This policy is contingent upon receipt of funds from the State of New Mexico for this purpose, if funds are not received for any given year the plan will not be implemented that year.
- C. If the funds received are insufficient to permit the total disbursements provided above the County, shall reduce that allocation to the maximum amount permitted by available money in the in proportional amounts.
- D. Deputies who are eligible for this retention funding shall execute a promissory note prior to receiving the funds promising to return the funds in full to the County if that deputy voluntarily leaves employment with Cibola County withing in one year of the receipt of the funds. The form of promissory note is attached to this resolution.
- E. Funds distributed should be paid to deputies no later than 30 days following the date the deputy attains eligibility.
- F. Tax liability for FICA and Medicare must be paid in accordance with applicable law.
- G. Funds received by those deputies who are projected to but who have not yet attained eligibility therefore, will be placed in an interest bearing account.



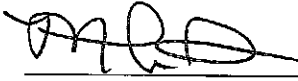
APPROVED, ADOPTED, AND PASSED on this 28th day of March 2024.


Christine Lowery, Chair


Ralph Lucero, 1st Vice-Chair

ABSENT

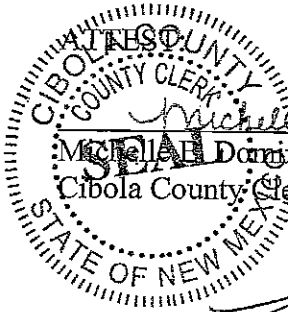
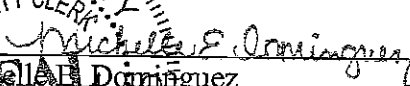
Daniel Torrez, 2nd Vice-Chair



Ralph Lucero, Commissioner
Martha Garcia, Commissioner

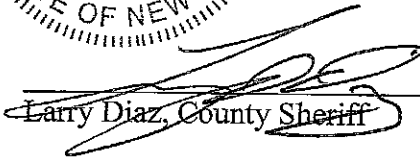


Robert Windhorst, Commissioner

Michelle E. Dominguez
Cibola County Clerk

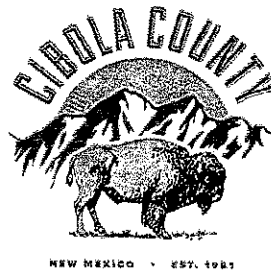
SHERIFF



Larry Diaz, County Sheriff

4/1/24
Date





PROMISSORY NOTE

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, NMSA 1978 Section 4-38-19 (B) (1973) provides that, “[a] board of county commissioners may employ and set the salary of a County Manager to conduct the business of the county, to serve as personnel officer, fiscal director, budget officer, property custodian and to act generally as the administrative assistant to the board, aiding and assisting it in the exercise of its duties and responsibilities;” and,

WHEREAS, NMSA 1978 Section 4-38-19 (A) (1973) provides in part that, “[a] board of county commissioners may set the salaries of such employees and deputies as it feels necessary to discharge the functions of the county. . .;” and,

WHEREAS, NMSA 1978, Section 4-41-6 (1975) provides that “[e]ach county is authorized and empowered to establish by ordinance a merit system for the hiring, promotion, discharge and general regulation of the deputies and the employees of the county sheriff's office. The ordinance may, in the discretion of the board of county commissioners, provide for the classification of deputies and other employees and their probationary periods, service ratings, pay scales and ranges, the number of hours of work per week and the methods of employment, promotion, demotion and discharge of such deputies and employees within the limits provided by law;” and,

WHEREAS, Article IV, Section 27; states that “[n]o law shall be enacted giving any extra compensation to any public officer, servant, agent or contractor after services are rendered or contract made; nor shall the compensation of any officer be increased or diminished during his term of office, except otherwise provided in this constitution;” and,

WHEREAS, the NM Attorney General's Opinion dated June 4, 2004 explains that while retroactive "bonuses" are unconstitutional, the constitution does not preclude a public employer from considering its employees' past performance and years of service when deciding how to compensate them, as long as the employees are paid in return for future services; and,



WHEREAS, the Law Enforcement Retention Fund Act, NMSA 1978, Section 9-19-14 provides that "[t]he program shall also establish appropriate guidelines on the use of those funds, including recruitment and retention stipends [];"

WHEREAS, on March 28, 2024 the Board of County Commissioner adopted Resolution 2024-24 providing for the expenditure of Law Enforcement Protection Funds pursuant to NMSA 1978, Section 9-19-14 (2022); and,

WHEREAS, NMSA 1978, Section 9-19-14 (D) (2022) requires officers who receive the one time payment to continue to work for at least and additional year with the agency; and,

WHEREAS, Deputy _____ has accepted the funds.

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

FOR VALUE RECEIVED by accepting the funds herein described Deputy _____, ("Maker"), promises to pay to the order of the County of Cibola ("Holder"), the principal sum of \$ _____, with interest on the unpaid principal balance of this promissory note at the rate of 4.5% per annum, in full in the event the Maker leaves County withing one year from the date of approval of this Promissory Note.

Payments by Maker shall not be deemed made until received by the Cibola County Manager. If the payment due pursuant to this promissory note is not paid when due, then Maker shall be in default under this promissory note.

Presentment, notice of dishonor, and protest are hereby waived by Maker and all sureties, guarantors and endorsers hereof. This promissory note shall be the joint and several obligation of all makers, sureties, guarantors and endorsers, and shall be binding upon them and their successors and assigns.

Forbearance of enforcement of any of Holder's rights or remedies under this promissory note shall not constitute a waiver or release of any such rights or remedies. A waiver of a right or remedy on any one occasion shall not be construed as a bar to or waiver of any such right or remedy on any other occasion.

Any notice to Maker or Holder shall be given by mailing such notice by certified mail-return receipt requested, addressed to Maker or Holder, as the case may be, at the address shown below for Makers or Holders, or to such other address as Makers or Holders may specify in writing to the other party from time to time.

MAKER:

Deputy _____
Address _____
City, State Zip _____



HOLDER:

County of Cibola
Attn: County Manager
700 E. Roosevelt Ave., Suite 50
Grants, NM 87020

In the event that Holders retain an attorney in order to enforce the terms of this promissory note, Maker shall pay Holders' costs of collection and a reasonable attorney's fee, in addition to any other relief to which Holder may be entitled.

IN WITNESS WHEREOF, MAKERS EXECUTE THIS PROMISSORY NOTE AS OF THE DATE WRITTEN BELOW.

MAKER:

Dated: _____

Deputy

THE COUNTY OF CIBOLA

Dated: _____

BY: _____
Kate Fletcher, Manager

