



VALENCIA COUNTY

RESOLUTION 2021-65

AMENDING AND REVISING RESOLUTION 2021-62

DISTRIBUTING CORONAVIRUS STATE & LOCAL AMERICAN RESCUE PLAN RECOVERY FUNDS TO PAY FOR VACCINE INCENTIVE PROGRAM AND PREMIUM PAY FOR ESSENTIAL WORKERS

WHEREAS, the Board of County Commissioners of Valencia County, met upon notice of a duly published Business meeting **November 3, 2021**, at 5:00 P.M. in the Valencia County Administration Building, 444 Luna Avenue, Los Lunas, New Mexico 87031; 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, NMSA 1978, Section 3-17-1 *et seq.* (1990) provides that municipalities may adopt laws not inconsistent with the laws of New Mexico for the purpose of providing for the safety, preserving the health, promoting the prosperity and improving the morals, order, comfort and convenience of the municipality and its inhabitants; and,

WHEREAS, the 10th Amendment to the Constitution for the United States is clear when stating, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the States respectively, or to the people []"; and,

WHEREAS, the states and their political subdivisions, the municipalities, have derived specific and reserved powers from the 10th Amendment of the Constitution for the United States, referred to as police powers of the State; and,

WHEREAS, under the 10th Amendment and subsequent state authorization, the municipalities have the duty to pass laws and regulations to protect the safety, health, welfare and morals for the benefit of their communities; and,

WHEREAS, the Valencia County Commission has a fiduciary responsibility under its statutory police powers to protect the health, safety and welfare of its residents, and the County reserves the right to take whatever actions necessary to do so; and,

WHEREAS, The American Rescue Plan has made available \$350 billion for eligible state, local, territorial and tribal governments to respond to the COVID-19 emergency and bring back jobs; and,

WHEREAS, the Coronavirus State and Local Fiscal Recovery Funds (“Fiscal Recovery Funds”) provide a substantial infusion of resources to help turn the tide on the pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery; 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 Valencia County Commission affirms that all eligible persons employed by Valencia County (“County employees”), due to the small size of labor force, regularly engage in a wide variety of job duties, cross training and back-up other County employees, so the end result is all eligible County employees are deemed essential workers; and,

WHEREAS, the Valencia County Commission desires to utilize the Fiscal Recovery Funds to distribute premium pay to all eligible County employees to pay these essential workers for the elevated health risks they face and continue to face during the public health emergency; and,

WHEREAS, all eligible County employees work in person, engaging in daily interactions with the public involving public utilities, maintenance or repair of public works, police and fire protection, and therefore each are deemed critical to protect the health and well-being of residents of Valencia County; and,

WHEREAS, the interim Final rule states: “(c) *Providing Premium Pay to Eligible Workers*. A recipient may use funds to provide premium pay to eligible workers of the recipient who perform essential work or to provide grants to eligible employers, provided that any premium pay or grants provided under this paragraph (c) must respond to eligible workers performing essential work during the COVID-19 public health emergency. A recipient uses premium pay or grants provided under this paragraph (c) to respond to eligible workers performing essential work during the COVID-19 public health emergency if it prioritizes low-and moderate-income persons. The recipient must provide, whether for themselves or on behalf of a grantee, a written justification to the Secretary of how the premium pay or grant provided under this paragraph (c) responds to eligible workers performing essential work if the premium pay or grant would increase an eligible worker’s total wages and remuneration above 150 percent of such eligible worker’s residing State’s average annual wage for all occupations or their residing county’s average annual wage, **whichever is higher**; and,

WHEREAS, the Valencia County Commission recognizes that the distribution of premium pay may result in some County employees receiving an increase in total pay above 150% of the state average annual wage of \$43,900, however the Valencia County Commission affirms that each of the affected positions contains job duties which typically require working abnormal hours, varied and skilled job requirements and prolonged exposure to public interaction and therefore there exists justification for the distribution of premium pay to these individuals as well; and,

WHEREAS, the Valencia County Commission has approved a fixed budget amount of One Million Forty-Five Thousand Eight Hundred Forty-Seven dollars and Sixty-Eight cents

(\$1,045,847.68) for union and non-union as follows to receive a one-time lump sum premium pay distribution:

The fixed budget to the Bargaining Units is:

AFSCME Blue Collar = \$145,114.08

AFSCME Detention Center = \$173,033.12

Fraternal Order of Police = \$147,711.20

And the fixed budget amount for non bargaining unit employees is:

Exempt Non-Union = \$579,989.28; and,

WHEREAS, the Fiscal Recovery Funds are permitted to be spent on providing incentives reasonably expected to increase the number of people who choose to get vaccinated, or that motivate people to get vaccinated sooner than they otherwise would have, so long as the costs are reasonably proportional to the expected public benefit; and,

WHEREAS, this Board adopted Resolution 2021-62 on October 20, 2021 and has now determined that the resolution should be amended and revised with the adoption of this resolution.

NOW THEREFORE, be it resolved by the Board of County Commissioners that the following program rules shall apply:

1. Ineligible Employees – Elected officials are exempt for premium pay. Temporary employees, Volunteer Fire Fighters Any County employee hired after October 1, 2021 is exempt from this premium pay distribution.
2. Defining of Essential Worker - That all full-time and part-time Valencia County employees are defined as essential workers for the purpose of distributing Fiscal Recovery Funds as set forth below.
3. Award of Premium Pay – Subject to availability of Fiscal Recovery Funds in the budgeted amount of One Million Forty-Five Thousand Eight Hundred Forty-Seven dollars and Sixty-Eight cents (\$1,045,847.68), each full-time and part-time County employee shall receive a One-Time, Non-Recurring lump sum payment that is based on anticipated direct and indirect exposure to COVID-19, as well as their existing base pay. To be eligible employees must work 320 hours from, the date of Resolution 2021-62, October 20, 2021 until December 14th, 2021. The calculation is setup to ensure that County employees on the lower end of the pay scale are eligible for a higher payment opposed to County employees on the higher end of the pay scale as per the Department of Treasury Interim Final Rule. No payments distributed pursuant to this resolution shall be for services already provided to a County employee nor shall anything contained herein be construed as giving retroactive effect to the distribution of Fiscal Recovery Funds, as it is the express intent of this resolution to issue premium pay for services to be


provided to Valencia County in the future. There shall be no deduction of employment benefits, from any award of premium pay, but applicable taxes will be withheld. The calculations for each position are attached and incorporated into this resolution by reference as Exhibit "A".

4. Any employee who is separated from employment prior to his/her completion of the 320 hours shall be ineligible for premium pay.
5. Any employee hired after October 1st 2021 shall be exempt from the one-time lump sum premium pay disbursement so that best budgeting practices may be upheld and the end result may reflect proper financial control of Federal grant monies received.
6. Incentive for COVID-19 Vaccination – Upon showing proof of vaccination against the COVID-19 virus, any County employee shall be entitled to an award of One-Hundred Dollars (\$100.00) from available Fiscal Recovery funds until depleted from the budgeted amount of 30K, to be paid per the procedures to be set forth by County Finance administration.

**PASSED, APPROVED AND RESOLVED THIS 3rd DAY OF NOVEMBER 2021
BOARD OF COUNTY COMMISSIONERS**



Gerard Saiz, Chair, District I



Jhonathan Aragon, Vice-Chair, District V



Troy Richardson, District II



David A. Hyder, District III



Joseph Bizzell, District IV

Attest:



Mike Milam, County Clerk

Exhibit A Premium Pay Calculations

Calculated Average Annual Individual Income:

	County Gov	County Wide	Controls
			Pay Roll Study
FY22 Payroll Budget=	\$11,826,000.00		
#of Employees (Includes Elected/Appointed Officials)=	292	N/A	N/A
Average annual Wage= \$	40,500.00 \$	48,945.00 \$	43,900.34
Annual Hours=	2080	2080	2080
Hourly Wage = \$	19.47 \$	23.53 \$	21.11
150%= \$	29.21 \$	35.30 \$	31.66
Jan 1 2021	Jan 1 2021	Jan 1 2022	
Minimum Wage =	10.5	11.5	

Tiered System:

Tier	Annual Salary Range	# of Employees	Additional Amt.	2 - Months 320 HRS
1	\$10.50 - \$15.00	197	\$13.00	\$819,520.00
2	\$15.01 - \$20.00	40	\$11.00	\$140,800.00
3	\$20.01 - \$25.00	16	\$9.00	\$46,080.00
4	\$25.01 - 30.00	3	\$7.00	\$6,720.00
5	\$30.01 - \$35.00 +	10	\$5.00	\$16,000.00
Total =		266		

* Excludes Elected Officials

Sub-Total=	\$1,029,120.00
Medicaid @ 1.45%=	\$14,922.24
Social Security for PT Emp. @ 6.2%=	\$1,805.44
Grand Total =	\$1,045,847.68

# of Hours	Amount per Check	Total	Grand Total for Alotted Hours
320	\$ 4,160.00	\$ 819,520.00	\$ 1,029,120.00
	\$ 3,520.00	\$ 140,800.00	
	\$ 2,880.00	\$ 46,080.00	
	\$ 2,240.00	\$ 6,720.00	
	\$ 1,600.00	\$ 16,000.00	

