



**VALENCIA COUNTY**

**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 October 20, 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 10<sup>th</sup> 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 10<sup>th</sup> Amendment of the Constitution for the United States, referred to as police powers of the State; and,

**WHEREAS**, under the 10<sup>th</sup> 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