

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA REQUEST

TO: Board of County Commissioners

FROM: Mark McCauley, County Administrator
Sarah Melancon, HR Director

DATE: January 9, 2023

SUBJECT: Memorandum of Agreement for Corrections Officer Retention Incentive
between Jefferson County and Employees David Fortino and Jennifer Moore
and Lateral Hiring Incentive with Troy Surber

STATEMENT OF ISSUE:

In response to the continuing shortage of Sheriff's Department Corrections Staff, the Board of County Commissioners (BOCC) adopted a Memorandum of Agreement on Nov. 21, 2022, with Fraternal Order of Police (FOP)/Jefferson County Sheriff's Office Uniformed Support Services (JCSOUSS) to provide a retention incentive for current employees and a hiring incentive for new employees.

These current employees have returned signed and notarized agreements to receive the retention incentive: David Fortino and Jennifer Moore. New Lateral Hire Troy Surber has signed and returned his notarized Agreement.

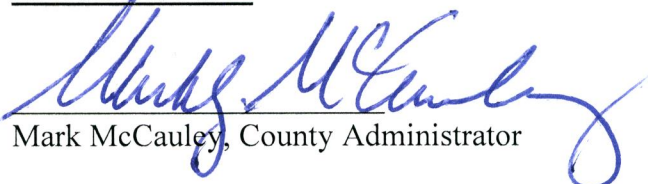
ANALYSIS:

Jefferson County Corrections Officers staff the County's Corrections Center ensuring the safety and security of employees, incarcerated people and the public. Of a staff of 15 Corrections Officers assigned to the corrections facility, there are six vacancies. Since January, 2022, current Corrections Officers have been required to work overtime to cover vacancies and have worked approximately 2,600 hours of overtime. The inability to attract and retain qualified Corrections Officers has been exacerbated by the COVID-19 pandemic and agencies in neighboring counties who offer retention and hiring incentives. Offering retention and hiring incentives assists Jefferson County to retain current staff and attract new employees.

RECOMMENDATION:

Approve and sign the Memorandum of Agreements between Jefferson County and current employees David Fortino and Jennifer Moore, and new Lateral Hire Troy Surber.

REVIEWED BY:


Mark McCauley, County Administrator

1/4/23
Date

AGREEMENT BETWEEN JEFFERSON COUNTY, EMPLOYEE AND UNION
FOR NEW EMPLOYEE LATERAL LEVEL HIRING INCENTIVE

This Agreement Between Jefferson County, Employee and Union for New Employee Lateral Level Hiring Incentive (this Agreement) is made and entered into by and between Jefferson County (the County) and Troy Surben (the Employee) and Fraternal Order of Police (FOP)/Jefferson County Sheriff's Office Uniformed Support Services (JCSOUSS) (the Union).

WHEREAS, the Employee is an employee of the County who works at the Jefferson County Sheriff's Department (the Department); and,

WHEREAS, the Union is the exclusive bargaining representative for the Employee; and,

WHEREAS, the Union has agreed to a Memorandum of Agreement by and between the Department and Fraternal Order of Police(FOP)/Jefferson County Sheriff's Office Uniformed Support Services (JCSOUSS) (the CBA, APPENDIX A), which is incorporated here by reference; and,

WHEREAS, the Department has experienced a prolonged inability to attract and retain qualified uniformed Corrections Officers to staff the County Corrections Facility; and,

WHEREAS, the ability to maintain appropriate staff levels in the County Corrections Facility is essential to the safety and security of the employees, the incarcerated people and the citizens of the County; and,

WHEREAS, under the terms of Agreement the County is offering a lateral level incentive of \$15,000 to new, lateral level, uniformed Corrections Officers to maintain appropriate staff levels; and

WHEREAS, under the terms of Agreement the lateral level incentive requires completion of three years of service to the County or the Employee will be required to pay back the incentive; and,

WHEREAS, the Employee understands that the Department will incur substantial expenses in the provision of the incentive payment under the terms of the Agreement; and,

WHEREAS, the one-time, lateral level incentive requires a three-year incentive agreement approved by the County Administrator; and,

WHEREAS, it is acknowledged by the undersigned that if the undersigned were to leave County employment prior to completion of three years of service, the undersigned will be required to pay back the incentive on a pro-rated basis in equal monthly installments over a twelve-month period;

NOW, THEREFORE, the County, the Employee and the Union hereby agree:

1. Lateral Level Hiring Incentive

- a. The Department will pay a Lateral Level Incentive of \$15,000 to the Employee.
- b. The Lateral Level Incentive will be paid in installments as follows:

- i. \$5,000 at hire upon signing Agreement;
 - ii. \$5,000 upon successful completion of probation; and
 - iii. \$5,000 upon completion of second year.
- 2. Required Reimbursement of Lateral Level Incentive if Employee Separates from County Service Prior to Completion of Three Years of Service:

Employee will be required to pay back the Lateral Level Incentive on a pro-rated basis in equal monthly installments over a 12-month period if Employee separates from County service prior to completion of three-years of service.
- 3. Deduction from Employee Pay Authorized.
 - a. Repayment Where Employee Resigns from Corrections Officer job. If the Employee resigns from a Corrections Officer job before the completion of the three-year period, but remains employed by the County, then reimbursement of Lateral Level Hiring Incentive of all amounts already paid shall be repaid on a pro-rated basis in equal monthly installments over a 12-month period, starting on the first day of the next month following resignation.
 - b. Repayment Where Employee Resigns from County. If the Employee is terminated from employment at the County, either voluntarily or involuntarily, then the remaining shall be repaid on a pro-rated basis in equal monthly installments over a 12-month period, starting on the first day of the next month following resignation.
- 4. Discretion for the Department to Waive or Modify the Repayment Provisions of this Agreement, When an Employee Is Being Offered Another Position within the County. The Department Director may waive or modify the reimbursement obligation required by this Agreement at their sole discretion. Any other director of a County department may waive or modify the reimbursement obligation required by this Agreement at their sole discretion when deciding whether to offer the Employee a position outside of the Department, provided that the terms of the employment for the position outside of the Department require the other department to reimburse the Department on the Employee's behalf.
- 5. Controlling Law.
 - a. It is understood and agreed this Agreement is entered into in the State of Washington. This Agreement shall be governed by and construed under the laws of the United States, the State of Washington and the County of Jefferson, as if applied to transactions entered into and to be performed wholly within Jefferson County, Washington between Jefferson County residents.
 - b. No party shall argue or assert that any state law other than Washington law applies to the governance or construction of this Agreement.
- 6. Litigation/Jurisdiction/Venue.

- a. Should either party bring any legal action, each party in such action shall pay for its own attorney's fees and court costs.
 - b. The venue for any legal action shall be solely in the appropriate state court in Jefferson County, Washington, subject to the venue provisions for actions against counties in RCW 36.01.050.
 - c. If either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this Agreement, each party in such action shall pay for its own attorney's fees and court costs.
7. Entire Agreement. This Agreement memorializes the entire agreement of the parties and all parts of this Agreement are contained herein. The parties agree that:
 - a. No representation or promise not contained in this Agreement has been made.
 - b. They are not entering into this Agreement based on any inducement, promise or representation, expressed or implied, which is not contained in this Agreement.
 - c. This Agreement supersedes all prior or simultaneous representations, discussions, negotiations, and agreements, whether written or oral, within the scope of this Agreement.
8. Section Headings. The headings of the sections of this Agreement are for convenience of reference only and are not intended to restrict, affect, or be of any weight in the interpretation or construction of the sections or this Agreement.
9. Limits of Any Waiver of Default. No consent by either party to, or waiver of, a breach by either party, whether express or implied, shall constitute a consent to, waiver of, or excuse of any other, different, or subsequent breach by either party.
10. No Oral Waiver. No term or provision of this Agreement will be waived by either party, and no breach excused by either party, unless such waiver or consent is in writing signed on behalf of the party against whom the waiver is asserted. Failure of a party to declare any breach or default immediately upon the occurrence thereof, or delay in taking any action in connection with, shall not waive such breach or default.
11. Order of Precedence. If there is an inconsistency in this Agreement, or between its terms and Appendix B; the CBA; or the County's Personnel Administration Manual, the inconsistency shall be resolved by giving precedence in the following order: (a) Appendix B; (b) the CBA; and, (c) the County's Personnel Administration Manual.
12. Severability. Provided it does not result in a material change in the terms, if any provision or the application of this Agreement to any person or circumstance shall be invalid, illegal, or unenforceable to any extent, the remainder of this Agreement and the application this Agreement shall not be affected and shall be enforceable to the fullest extent permitted by law.
13. Modification of this Agreement. This Agreement may be amended or supplemented only by a writing signed by duly authorized representatives of all the parties.

14. Signature in Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Agreement at different times and places by the parties shall not affect the validity of this Agreement, so long as all the parties execute a counterpart of this Agreement.
15. Facsimile and Electronic Signatures. The parties agree that facsimile and electronic signatures shall have the same force and effect as original signatures.
16. Attachments. Any document in this Agreement identified as an attachment is part of this Agreement and is incorporated by reference into this Agreement.
17. Employee's Acknowledgement of Receipt/Waiver or Right to Independent Legal Advice. By signing below, Employee acknowledges and agrees that Employee has had the opportunity to review this Agreement, consult with the Union and/or an attorney, and Employee accepts the terms and conditions of this Agreement. The Employee and the Union understand that the Employee has the right to have this document examined by an Attorney of their choosing and at their expense, and to discuss its terms with their attorney prior to signing it and has chosen to proceed as indicated below:

Employee: Initial one of the lines below as applicable:

/ TC / I fully understand the nature and terms of the binding obligation created pursuant to this contract and have chosen to waive my right to consult with an attorney.

/ _____ / I have consulted an attorney regarding this Agreement and received his/her explanation of its terms as evidence by the attorney's signature below. (If you initial this paragraph, have your attorney also sign this agreement.)

[SIGNATURE PAGE FOLLOWS]

TC
11/14/22

For Employee

Employee Signature

Date

Employee Printed Name

On this day personally appeared before me Troy Surber, known as the Applicant, and that I know or have satisfactory evidence that the above persons are who appeared before me, and said person acknowledged it to be their free and voluntary act for the uses and purposes mentioned in the instrument.

Given under my hand and of this seal this 6th day of December 2022.

Notary Public
State of Washington
Autumn Hannafious
Commission No. 21006142
Commission Expires 12-14-24

NOTARY PUBLIC in and for the
State of Washington

JEFFERSON COUNTY:

EMPLOYEE:

Greg Brotherton Date
Chair, Board of County Commissioners

Signature Date

Printed Name

Approved as to form:

Barbara D. Ehrlichman 01/04/2023

Philip C. Hunsucker Date
Chief Civil Deputy Prosecutor

JCSOUSS EMPLOYEE ASSOCIATION/FOP

Ashley Moore, Association President Date

Doug Luse, FOP Labor Specialist Date

AGREEMENT BETWEEN JEFFERSON COUNTY AND EMPLOYEE
FOR EMPLOYEE RETENTION INCENTIVE

This Agreement Between Jefferson County and Employee for Employee Retention Incentive (this Agreement) is made and entered into by and between Jefferson County (the County) and David Fortino (the Employee).

WHEREAS, the Employee is an employee of the County who works at the Jefferson County Sheriff's Department (the Department); and,

WHEREAS, the Department has experienced a prolonged inability to attract and retain qualified uniformed Corrections Officers to staff the County Corrections Facility; and,

WHEREAS, the ability to maintain appropriate staff levels in the County Corrections Facility is essential to the safety and security of the employees, the incarcerated people and the citizens of the County; and,

WHEREAS, under the terms of Agreement the County is offering a retention incentive of \$15,000 to current uniformed Corrections Officers and supervisory staff to maintain appropriate staff levels; and,

WHEREAS, under the terms of Agreement the retention incentive requires completion of three years of service to the County or the Employee will be required to pay back the incentive; and,

WHEREAS, the Employee understands that the Department will incur substantial expenses in the provision of the incentive payment under the terms of the Agreement; and,

WHEREAS, the one-time retention incentive requires a three-year incentive agreement approved by the County Administrator; and,

WHEREAS, it is acknowledged by the undersigned that if the undersigned were to leave County employment prior to completion of three years of service, the undersigned will be required to pay back the incentive on a pro-rated basis in equal monthly installments over a twelve-month period;

NOW, THEREFORE, the County and the Employee hereby agree:

1. Current Employee Retention Incentive

- a. The Department will pay a Retention Incentive of \$15,000 to the Employee.
- b. The Retention Incentive will be paid in installments as follows:
 - i. \$7,500 upon signing Agreement for January 2023, paid February 5, 2023;
 - ii. \$3,750 upon completion of first year; and
 - iii. \$3,750 upon completion of second year.

2. Required Reimbursement of Incentive if Employee Separates from County Service Prior to Completion of Three Years of Service:

Employee will be required to pay back the Retention Incentive on a pro-rated basis in equal monthly installments over a 12-month period if Employee separates from County service prior to completion of three-years of service.

3. Deduction from Employee Pay Authorized.

- a. Repayment Where Employee Resigns from Corrections Officer job. If the Employee resigns from a Corrections Officer job before the completion of the three-year period, but remains employed by the County, then reimbursement of Incentive of all amounts already paid shall be repaid on a pro-rated basis in equal monthly installments over a 12-month period, starting on the first day of the next month following resignation.
- b. Repayment Where Employee Resigns from County. If the Employee is terminated from employment at the County, either voluntarily or involuntarily, then the remaining shall be repaid on a pro-rated basis in equal monthly installments over a 12-month period, starting on the first day of the next month following resignation.

4. Discretion for the Department to Waive or Modify the Repayment Provisions of this Agreement, When an Employee Is Being Offered Another Position within the County. The Department Director may waive or modify the reimbursement obligation required by this Agreement at their sole discretion. Any other director of a County department may waive or modify the reimbursement obligation required by this Agreement at their sole discretion when deciding whether to offer the Employee a position outside of the Department, provided that the terms of the employment for the position outside of the Department require the other department to reimburse the Department on the Employee's behalf.

5. Controlling Law.

- a. It is understood and agreed this Agreement is entered into in the State of Washington. This Agreement shall be governed by and construed under the laws of the United States, the State of Washington and the County of Jefferson, as if applied to transactions entered into and to be performed wholly within Jefferson County, Washington between Jefferson County residents.
- b. No party shall argue or assert that any state law other than Washington law applies to the governance or construction of this Agreement.

6. Litigation/Jurisdiction/Venue.

- a. Should either party bring any legal action, each party in such action shall pay for its own attorney's fees and court costs.
- b. The venue for any legal action shall be solely in the appropriate state court in Jefferson County, Washington, subject to the venue provisions for actions against counties in RCW 36.01.050.

- c. If either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this Agreement, each party in such action shall pay for its own attorney's fees and court costs.
- 7. Entire Agreement. This Agreement memorializes the entire agreement of the parties and all parts of this Agreement are contained herein. The parties agree that:
 - a. No representation or promise not contained in this Agreement has been made.
 - b. They are not entering into this Agreement based on any inducement, promise or representation, expressed or implied, which is not contained in this Agreement.
 - c. This Agreement supersedes all prior or simultaneous representations, discussions, negotiations, and agreements, whether written or oral, within the scope of this Agreement.
- 8. Section Headings. The headings of the sections of this Agreement are for convenience of reference only and are not intended to restrict, affect, or be of any weight in the interpretation or construction of the sections or this Agreement.
- 9. Limits of Any Waiver of Default. No consent by either party to, or waiver of, a breach by either party, whether express or implied, shall constitute a consent to, waiver of, or excuse of any other, different, or subsequent breach by either party.
- 10. No Oral Waiver. No term or provision of this Agreement will be waived by either party, and no breach excused by either party, unless such waiver or consent is in writing signed on behalf of the party against whom the waiver is asserted. Failure of a party to declare any breach or default immediately upon the occurrence thereof, or delay in taking any action in connection with, shall not waive such breach or default.
- 11. Order of Precedence. If there is an inconsistency in this Agreement, or between its terms and Appendix B; the CBA; or the County's Personnel Administration Manual, the inconsistency shall be resolved by giving precedence in the following order: (a) Appendix B; (b) the CBA; and, (c) the County's Personnel Administration Manual.
- 12. Severability. Provided it does not result in a material change in the terms, if any provision or the application of this Agreement to any person or circumstance shall be invalid, illegal, or unenforceable to any extent, the remainder of this Agreement and the application this Agreement shall not be affected and shall be enforceable to the fullest extent permitted by law.
- 13. Modification of this Agreement. This Agreement may be amended or supplemented only by a writing signed by duly authorized representatives of all the parties.
- 14. Signature in Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Agreement at different times and places by the parties shall not affect the validity of this Agreement, so long as all the parties execute a counterpart of this Agreement.

15. Facsimile and Electronic Signatures. The parties agree that facsimile and electronic signatures shall have the same force and effect as original signatures.
16. Attachments. Any document in this Agreement identified as an attachment is part of this Agreement and is incorporated by reference into this Agreement.
17. Employee's Acknowledgement of Receipt/Waiver or Right to Independent Legal Advice. By signing below, Employee acknowledges and agrees that Employee has had the opportunity to review this Agreement, consult with an attorney, and Employee accepts the terms and conditions of this Agreement. The Employee understands that the Employee has the right to have this document examined by an attorney of their choosing and at their expense, and to discuss its terms with their attorney prior to signing it and has chosen to proceed as indicated below:

Employee: Initial one of the lines below as applicable:

/ DF / I fully understand the nature and terms of the binding obligation created pursuant to this contract and have chosen to waive my right to consult with an attorney.

/ _____ / I have consulted an attorney regarding this Agreement and received his/her explanation of its terms as evidence by the attorney's signature below. (If you initial this paragraph, have your attorney also sign this agreement.)

[SIGNATURE PAGE FOLLOWS]

For Employee

David Fortino 12/29/22
Employee Signature Date

David Fortino
Employee Printed Name

On this day personally appeared before me David Fortino, known as the Applicant, and that I know or have satisfactory evidence that the above persons are who appeared before me, and said person acknowledged it to be their free and voluntary act for the uses and purposes mentioned in the instrument.

Given under my hand and of this seal this 29th day of December 2022.



L.A. Phillis
NOTARY PUBLIC in and for the
State of Washington

JEFFERSON COUNTY:

Greg Brotherton Date
Chair, Board of County Commissioners

EMPLOYEE:

David Fortino 12/29/22
Signature Date
David Fortino
Printed Name

Approved as to form:

Philip C. Hunsucker Date

For Employee

David Fertino

Employee Signature

12/29/22

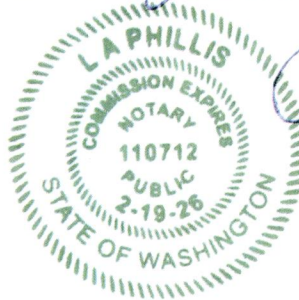
Date

David Fertino

Employee Printed Name

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Chair, Board of County Commissioners

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Signature Date

David Fertino
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Barbara D. Ehrlichman 01/04/2023 for
Philip C. Hunsucker Date

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WHEREAS, the Employee is an employee of the County who works at the Jefferson County Sheriff's Department (the Department); and,

WHEREAS, the Department has experienced a prolonged inability to attract and retain qualified uniformed Corrections Officers to staff the County Corrections Facility; and,

WHEREAS, the ability to maintain appropriate staff levels in the County Corrections Facility is essential to the safety and security of the employees, the incarcerated people and the citizens of the County; and,

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WHEREAS, the Employee understands that the Department will incur substantial expenses in the provision of the incentive payment under the terms of the Agreement; and,

WHEREAS, the one-time retention incentive requires a three-year incentive agreement approved by the County Administrator; and,

WHEREAS, it is acknowledged by the undersigned that if the undersigned were to leave County employment prior to completion of three years of service, the undersigned will be required to pay back the incentive on a pro-rated basis in equal monthly installments over a twelve-month period;

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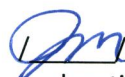
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- 8. Section Headings. The headings of the sections of this Agreement are for convenience of reference only and are not intended to restrict, affect, or be of any weight in the interpretation or construction of the sections or this Agreement.
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- 13. Modification of this Agreement. This Agreement may be amended or supplemented only by a writing signed by duly authorized representatives of all the parties.
- 14. Signature in Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Agreement at different times and places by the parties shall not affect the validity of this Agreement, so long as all the parties execute a counterpart of this Agreement.

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17. Employee's Acknowledgement of Receipt/Waiver or Right to Independent Legal Advice. By signing below, Employee acknowledges and agrees that Employee has had the opportunity to review this Agreement, consult with an attorney, and Employee accepts the terms and conditions of this Agreement. The Employee understands that the Employee has the right to have this document examined by an attorney of their choosing and at their expense, and to discuss its terms with their attorney prior to signing it and has chosen to proceed as indicated below:

Employee: Initial one of the lines below as applicable:

 I fully understand the nature and terms of the binding obligation created pursuant to this contract and have chosen to waive my right to consult with an attorney.

 I have consulted an attorney regarding this Agreement and received his/her explanation of its terms as evidence by the attorney's signature below. (If you initial this paragraph, have your attorney also sign this agreement.)

[SIGNATURE PAGE FOLLOWS]

For Employee

[Signature] 1/3/23
Employee Signature Date

Jennifer Moore
Employee Printed Name

On this day personally appeared before me Jennifer Moore, known as the Applicant, and that I know or have satisfactory evidence that the above persons are who appeared before me, and said person acknowledged it to be their free and voluntary act for the uses and purposes mentioned in the instrument.

Given under my hand and of this seal this 3rd day of January 2023.



[Signature]
NOTARY PUBLIC in and for the SARAH ELISE MARTIN
State of Washington

JEFFERSON COUNTY:

Heidi Eisenhour Date
Chair, Board of County Commissioners

EMPLOYEE:

[Signature] 1/3/23
Signature Date
Jennifer Moore
Printed Name

Approved as to form:

Philip C. Hunsucker Date

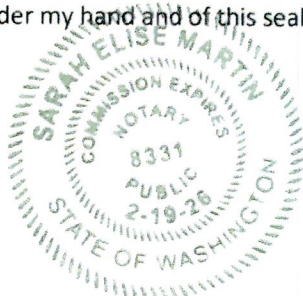
For Employee

[Signature] 1/3/23
Employee Signature Date

Jennifer Moore
Employee Printed Name

On this day personally appeared before me Jennifer Moore, known as the Applicant, and that I know or have satisfactory evidence that the above persons are who appeared before me, and said person acknowledged it to be their free and voluntary act for the uses and purposes mentioned in the instrument.

Given under my hand and of this seal this 3rd day of January 2023.



[Signature]
NOTARY PUBLIC in and for the SARAH ELISE MARTIN
State of Washington

JEFFERSON COUNTY:

Greg Brotherton Date
Chair, Board of County Commissioners

EMPLOYEE:

[Signature] 1/3/23
Signature Date
Jennifer Moore
Printed Name

Approved as to form:
Bubara D. Ehrlichman 01/04/2023 for
Philip C. Hunsucker Date