

## **Article 1      AUTHORITY**

This collective bargaining agreement (hereinafter referred to as the "Agreement") entered into between the County of Doña Ana (hereinafter referred to as the "County") and the County employees designated by the Doña Ana County Labor Management Relations Board (DACLMRB) as covered employees with the Communications Workers of America, Local 7911 (hereinafter referred to as "CWA" or "Union").

Doña Ana County Code Chapter 73 was enacted on June 13, 2004, to guarantee County employees the right to organize and bargain collectively with the County, to protect the rights of the County and its employees, to promote harmonious and cooperative relationships between the County and its employees, and to acknowledge the obligation of the County and the employees to provide orderly and uninterrupted services to the citizens.

## **Article 2      RECOGNITION**

The County recognizes the Union as the sole and exclusive representative in all matters establishing and pertaining to wages, hours, and other terms and conditions of employment for purposes of collective bargaining for all employees in the bargaining unit consisting of non-probationary deputies, detectives, and sergeants. This is the only Agreement between the parties and replaces any and all prior agreements.

## **Article 3      MANAGEMENT RIGHTS**

Unless limited by specific provisions of this Agreement or by statutory provision, the County's rights shall include, but are not limited to, the following:

- A. To direct the work of, hire, promote, assign, transfer, demote, suspend, discharge, or terminate employees;
- B. To determine the qualifications for employment and the nature and content of personnel examinations;
- C. To take actions as may be necessary to carry out the mission of the County in emergencies; and
- D. To retain all rights not specifically limited by this collective bargaining agreement or by the County's Code on Collective Bargaining.

## **Article 4      CONTRACTING OUT**

The parties recognize that it is an exclusive prerogative, right, and responsibility of the Employer to determine what work is to be performed by an employee, a contractor, or members of the bargaining unit. This Agreement shall in no way limit or otherwise curtail the Employer's ability to contract out the work currently being performed by members of

the bargaining unit or work that could possibly be performed by members of the bargaining unit. The County shall notify the Union in writing no less than seven (7) days prior to the issuance of a Request for Proposal (RFP) to contract out any work performed by incumbents which would result in incumbents losing their job with the County and shall, upon written request from the Union, discuss with the Union the effects of said RFP to contract out work.

**Article 5      REDUCTION IN FORCE**

- A. If it is necessary for the County to reduce the number of employees because of a lack of funds or lack of work, the County shall make the determination of the necessity for layoffs.
  
- B. When the County determines that a reduction in force is necessary, the County will notify the Union of the impending reduction in force. If the Union wishes to meet with management to discuss the reduction in force and propose alternatives, the Union may submit a request to do so. The Union's request for a meeting shall be granted.
  
- C. If it is necessary for the County to reduce the number of County employees because of a lack of funds or lack of work, the Department Head/Elected Official shall determine the layoff unit(s). Employees within the layoff will be laid off in the following manner:
  - 1. Temporary and probationary contract employees will be laid off before full- or part-time classified employees or contract employees of DASO.
  
  - 2. Layoff of bargaining unit employees shall be determined by
    - a. Length of service determined by the hire date with the department or the transfer date into the department.
  
    - b. If individuals have the same length of service within the department, they will be laid off based on law enforcement academy test scores.
  
    - c. If a layoff is to be implemented, affected employees shall receive sixty (60) days' advance notice.
  
- D. Recall
  - 1. Laid-off employees shall return by the reverse order in which they were laid off.

2. Laid-off employees shall have one year recall rights. The employer may not fill any bargaining unit position without first offering the position to qualified laid-off employees in order of seniority.
  - a. The County must give notice to laid-off employees of recall opportunities in writing. Recalled employees must give notice of acceptance or refusal of the position within five (5) work days, and if accepted, must report for work within two (2) weeks of the date they were notified of the available position.
  - b. A laid-off employee may refuse one (1) recall offer. A second refusal will forfeit all recall rights of the laid-off employee.

**Article 6**      **SENIORITY**

- A. Following completion of the probationary period, regular full-time employees shall have seniority within their job classification (title), such seniority dating from the employee's most recent starting date of employment within the job classification currently held for the Sheriff's Department.
- B. Seniority shall be broken in the following circumstances:
  1. Resignation by the employee;
  2. Termination pursuant to the grievance procedure, Article 29 ; or
  3. Retirement from County service.
- C. All leave, with or without pay, shall not constitute a break in service for the purpose of seniority computation.
- D. In the event seniority is equal, the seniority tie will be broken by the following:
  1. Overall academy score at the time of promotion to the current classification;
  2. When the academy score is the same, seniority will be determined by the toss of a coin.
- E. Certified hires that were hired by the County on the same day shall have seniority determined by the following:
  1. Total consecutive certified years of service;
  2. When the total consecutive years of service are the same, seniority will be determined by a coin toss.

**Article 7 SICK LEAVE**

- A. Employees shall accrue sick leave at the flat rate of 4.5 hours per full pay period for ten (10) hour shifts and 3.85 hours for eight (8) hour shifts. Sick leave will be administered in accordance with County rules and regulations.
- B. Employees do not accrue sick leave during any unpaid leave of absence in excess of forty (40) hours in a pay period.

**Article 8 SICK LEAVE CONVERSION**

- A. An employee who is eligible for retirement under the Public Employee Retirement Act (PERA), with a minimum of 15 years of County service may convert accumulated sick leave hours including any previously frozen sick leave at their current compensation rate at the rate of one (1) sick leave hour for one (1) hours of vacation leave subject to a cash payment maximum of twenty-five thousand dollars (\$25,000.00).
- B. Officers killed in the line of duty will have their accrued sick leave paid to their designated PERA beneficiary.

**Article 9 BEREAVEMENT LEAVE**

- A. Bereavement leave is leave with pay and is granted by the Department Head or designee upon the employee's written request due to the death of a member of an employee's immediate family, to include employee's spouse, child, parents of the employee or spouse, grandparents of the employee or spouse, grandchildren, brother, or sister. Also included as immediate family are step-parents, step-siblings, and half-siblings. Bereavement leave can be granted for a period up to forty (40) hours. Bereavement leave is not chargeable to vacation or sick leave.
- B. The leave will commence on the day of death or the day immediately following.

**Article 10 AUTHORIZED LEAVE**

- A. Authorized leave is any authorized absence, with or without pay, during regularly scheduled work hours, which is approved by the County Manager or designee, the Sheriff, or supervisor, as applicable.
- B. Leave is granted in accordance with work load requirements in the Sheriff's Office and must be approved by the County Manager or designee, the Sheriff, or supervisor, as applicable.
- C. Employees shall be credited with one (1) day of personal leave on July 1 of each year. The number of hours granted for an individual employee's personal leave



shall be consistent with the normal number of hours worked by the employee per 24 hour period, excluding overtime. The day taken will be equivalent to one regularly scheduled workday at the time of request. Personal leave is subject to the approval of the employee's supervisor, which shall not be unreasonably withheld. Personal leave shall not be cumulative from year to year so that unused personal leave at the end of June 30<sup>th</sup> of each year is forfeited.

- D. The County may allow leave usage based upon operational needs as reasonably determined by Management. Such request, when allowed, shall be granted on a first-come first-serve basis based on date and time requested on Kronos. Management reserves the right to approve or cancel leave at any time based on the operational needs of the County as reasonably determined by Management.

**Article 11 VACATION LEAVE**

- A. Employees accrue vacation leave on the following basis:

- 1. Every employee shall accrue vacation time from most recent date of hire with Doña Ana County and shall be allowed vacation leave with pay for each full pay period of paid, continuous employment at the following rates:

**YEARS OF ACCRUAL RATE VACATION**

COUNTY SERVICE	PER PAY PERIOD	CREDIT MAXIMUM
1-3	3.077	80
3-5	4.077	106
5-7	4.615	120
7-10	5.077	132
10+	6.153	160

- 2. Employees do not accrue vacation leave in excess of their normal schedule.
- 3. Employees do not accrue vacation leave during any unpaid leave of absence in excess of forty (40) hours in a pay period.
- 4. Vacation leave shall not be granted in advance of accrual.
- 5. Upon resignation from County employment or retirement with less than fifteen (15) years with the County, an employee shall be paid for unused, accrued vacation leave up to a maximum allowable cap on vacation accrued of two hundred forty (240) hours. Upon retirement from County employment with fifteen (15) or more years with the County, an employee shall be paid for all unused, accrued vacation leave up to a maximum allowable cap on vacation accrued of three hundred (300) hours.

6. An employee may take vacation leave just prior to separation from employment. A request for such leave shall not be unreasonably withheld. In the event that an employee is separating from employment, the County may place said employee on vacation leave at any time within one week of the separation date; or if the employee takes sick leave after giving notice of separation, may thereafter place the employee on vacation leave immediately.
7. Not more than two hundred forty (240) hours of accrued vacation leave may be carried forward beyond June 30<sup>th</sup> of each year. In the event that an employee's request for leave does not meet operational requirements with regard to manpower, the employee will not suffer loss of leave time accrued. An employee's leave in excess of the 240 hours past June 30<sup>th</sup> of each year shall be paid out at the employee's regular hourly rate, on a one for one basis.
8. Vacation leave shall be charged in smallest increment allowable in the County's timekeeping system.

**Article 12 LEAVE OF ABSENCE WITHOUT PAY**

- A. Leave of absence without pay may be granted only when it is in the best interest of the County and only after the employee has exhausted all annual, compensatory time, personal day, and sick leave when applicable, except as provided for in Article 24 (Union Rights).
- B. For leave of absence without pay to be considered, a written request must be submitted to the Sheriff or designee in advance and must indicate the reason(s) for the leave, the duration of the leave requested, and the dates of departure and return, and if approved by the Sheriff, forwarded to the County Manager.
- C. Simultaneous with any approval by the County for leave of absence without pay, the County shall notify in writing the employee making the request for leave whether the employee will be guaranteed to return to the same classification; if the employee can return to the same classification, then what period of time that option will be guaranteed for the employee; and for what period of time beyond the guaranteed period that the employee may continue the leave without any guarantee of re-employment to the same classification, or any other classification. The employee shall acknowledge in writing that he/she understands the basis upon which the leave of absence without pay has been granted.
- D. Employees on leave of absence without pay shall not accrue leave for those hours on leave without pay.
- E. The provisions in this section are all subject to and the extent applicable, superseded by section c , above. During an employee's approved leave of absence without pay, his/her position may be filled either temporarily or permanently. At the expiration

of the approved leave of absence without pay, an employee has the right to and shall be reinstated to an equivalent position he/she vacated if such position is available. If the position is not available, the employee may be offered the first vacant position for which they are fully qualified at the same or lower pay than the rate the employee was receiving prior to the leave of absence without pay. If no position is offered within a period of hundred and twenty (120) days, the employee will be terminated.

**Article 13**     **LEGAL LEAVE**

- A. Duty time off with pay shall be granted to an employee called for jury duty. Employees who are required and who report for jury duty shall sign over their juror compensation check to the County unless jury duty is performed during off duty hours. Employees who are not required to perform jury duty for a full day may, at the employee's discretion take the remainder of the day from available vacation leave or leave without pay. The employee shall complete the necessary paperwork to reflect accurately the use of vacation leave or leave without pay.
- B. Hours served on jury duty during on duty hours shall be considered time worked for the purpose of computing overtime.
- C. Employee will not be paid by the County for any time during which the employee prepares, waits, works, or testifies as witness for any other party than the County, City, State, Federal or District Attorney's Office in the employee's official capacity as a Dona Ana County employee.

**Article 14**     **MILITARY LEAVE**

Military leave will be granted in accordance with federal and state law.

**Article 15**     **FAMILY LEAVE**

Family leave will be administered in accordance with the federal Family and Medical Leave Act.

**Article 16**     **NOTIFICATION OF ABSENCE**

- A. Employees who are to be absent from work are required to contact the Sheriff's Office or call their supervisor in accordance with written policies, procedures, or rules; the work place practices in effect; or instructions from their supervisor, as applicable. Failure to follow the proper procedures may result in denial of approval for the leave requested and/or disciplinary action.
- B. Failure of any employee to notify the supervisor of an absence as required in section A above for more than two (2) consecutive work days will be considered job

abandonment and treated as voluntary resignation. Such resignation is irrevocable unless the employee demonstrates to the satisfaction of the County that legitimate emergency circumstances prevented compliance with this section. This section shall not be subject to the grievance procedure.

#### **Article 17 HOLIDAYS**

- A. Employees shall receive the specific holidays that apply to all County employees designated by the Board of County Commissioners for the actual holiday as opposed to the observed dates.
- B. For employees whose regular work schedule includes five (5) week days, when a holiday falls on a Saturday, the holiday will be observed the previous Friday; and when the holiday falls on Sunday, the holiday will be observed on the following Monday; or the Sheriff may set the holiday on some other day at his/her discretion.
- C. Employees who are required to work on a holiday shall be paid at the rate of two (2) times their regular hourly rate for all hours actually worked on the holiday, which includes holiday pay.
- D. In order to receive holiday pay for a designated legal holiday, employees must be in a work or approved paid leave status on their scheduled workday immediately preceding and following the holiday. An employee absent without approved paid leave on their scheduled workday before or after a holiday will not receive holiday pay for that holiday.
- E. Employees not working the holiday, who normally work either a ten (10) hour or an eight (8) hour shift, will be compensated at those respective hours for computation of holiday pay.

#### **Article 18 AGREEMENT COPIES**

The Union and the County will each receive a master copy of the Agreement. The Union is responsible for distributing and explaining the Agreement to the bargaining unit employees. The County is responsible for distributing and explaining the Agreement to management employees. The Agreement will be posted on the County's website.

#### **Article 19 AGREEMENT CONTROL**

- A. If any policy, regulation, or directive of the Employer is in specific conflict with any provision of this Agreement, the Agreement provision will control. By mutual written agreement, the parties may modify this Agreement.

- B. The Employer will not implement any change that is in specific conflict with this Agreement. The Employer, the Union, and the employees will abide by the conditions of this Agreement and applicable Employer policy.
- C. Unless otherwise specifically stated herein, the provisions, conditions, and requirements of this Agreement shall apply to all employees in the bargaining unit as defined in the Recognition article.
- D. Any provisions not specifically addressed in this Agreement will default to Federal, New Mexico State Statutes, and Doña Ana County Rules and Regulations.
- E. The Sheriff and the Union Bargaining Agent may enter into Memoranda of Understanding (MOU) to address specific operational issues or administrative issues that do not affect compensation or other financial cost to the county that would extend beyond this current fiscal year. A MOU shall be recognized for the duration set out in the MOU or if not specified until it rescinded by mutual agreement. All MOUs will expire upon the expiration of this contract.

#### **Article 20 PERFORMANCE EVALUATIONS**

- A. All bargaining unit employees shall be given an evaluation of their job performance annually. Nothing herein shall preclude the County from giving special performance evaluations at any time.
- B. During the promotional training period, an employee will be given periodic feedback which may include written evaluations.
- C. The original copy of the completed evaluation form shall be forwarded to the Human Resources Department for procedure verification and placement in the employee's personnel file.
- D. Both the supervisor and the employee may retain a copy of the evaluation for normal business use.
- E. Bargaining unit employees may only be placed on a Performance Improvement Plan for just cause.

#### **Article 21 NON-DISCRIMINATION**

The parties to this Agreement (the Union and the Employer) agree that neither the Union nor the Employer's respective policies or activities will discriminate against any employee based on race, age, gender, color, national origin, religion, ancestry, marital status, disability, sexual orientation, or Union or non-Union membership.

## **Article 22    EMPLOYEE RIGHTS**

- A. The parties agree that all employees in the designated bargaining unit, regardless of Union membership, are entitled to all of the rights and privileges delineated in this Agreement. There shall be no rights implied beyond the specific terms of this Agreement or Doña Ana County Labor Management Relations ordinance. The Union shall be the sole and exclusive representative for the representation of those rights and privileges.
- B. Employees have the right to join, form, or assist the Union without interference, restraint, or coercion. Employees also have the right not to form, join, or assist the Union without interference, restraint, or coercion.

## **Article 23    NEGOTIATING PROCEDURES**

- A. Negotiations for a successor agreement may be initiated by either party by submitting a written notice to the opposite party requesting the commencement of negotiations. The notice shall be sent no earlier than one hundred and twenty (120) days and no later than ninety (90) days prior to the expiration of this Agreement. Within a reasonable time period after receiving notice, the party receiving the request for bargaining shall respond in writing and shall suggest a date at which time the parties shall meet and determine a mutually agreed upon time and place to begin negotiations.
- B. Negotiations shall be conducted in closed sessions.
- C. Negotiation ground rules may be negotiated by the parties.
- D. During the negotiations, the parties shall meet at mutually acceptable times and locations.
- E. All agreements reached by the parties shall be initialed as tentative agreements. Such tentative agreements are conditional and may be withdrawn should later discussion change either team's understanding of the language it relates to another part of the agreement. Unless otherwise agreed to by the parties, tentative agreements shall not become effective until the entire negotiations package is ratified by the parties.
- F. The County will allow up to four (4) union members on half time to attend bargaining sessions on County time not to exceed four (4) hours per session.

## **Article 24      UNION RIGHTS**

The Union has the rights specifically delineated in this Agreement and the right to represent the interests of employees in the bargaining unit so long as representation does not interfere with the operations of the County. All matters set forth in this Article shall constitute the sole and exclusive rights of the Union.

- A. The Local Union President or their designee, shall be allowed, with prior written or verbal approval by the Sheriff or their designee, to visit the premises and/or employees within the bargaining unit for the purpose of administering this Agreement. Bargaining unit employees may be permitted time off for representative matters only at the discretion of the County. The Union will be provided the opportunity to speak with the new employees about the Union and provide them with a copy of the contract.
- B. Union officials and County representatives may schedule meetings to discuss any matters pertaining to the administration of this Agreement at places and times mutually agreeable to the parties.
- C. The Union President, or the President's designee may, with prior approval from and at the sole discretion of the Sheriff or designee, speak to employees during employee meetings or briefings so long as said speech does not interfere with the operation of the Department and is for no more than five (5) minutes in length.
- D. The County shall provide reasonable space in each building where bargaining unit employees are assigned accessible to employees for a bulletin board, provided by the Union, that may be used for posting notices or other information related to the recreational and social affairs of the Union; Union meetings; Union elections; reports of Union committees; rulings or policies of the State or National associations; legislative enactments and judicial decisions affecting public employee labor relations; and notices or announcements pertaining to the activities of the Union, State or National Association. CWA or its designee maintains the exclusive right to be the only entity allowed to post information on this bulletin board. This does not preclude the Union from posting notices of a social or fraternal nature.
  - 1. Postings on the Union Board shall be by the Union President or their designee. Prior to posting any materials on the Union Board, a copy of the posting(s) shall be sent to the Sheriff in writing.
  - 2. The bulletin board shall not be used to criticize any officials, employees, or members of, or any policies of the Union, Management, or the County. The bulletin board shall not be used for posting political, inflammatory, derogatory, or controversial materials.



3. In the event that the Sheriff or designee contends that material has been posted on the bulletin board that violates Section D2 above, the Sheriff or designee may immediately remove said material and if there is dispute whether a violation has taken place, the Union may file a grievance pursuant to Article 30.
4. Any other dissemination of written materials by the Union shall be with the prior approval of the Human Resource Director or designee. Approval/denial will be made within twenty-four (24) hours. Union shall identify in writing to the Human Resources Director or designee those persons serving as Union representatives.
- E. Union officials shall be allowed to conduct minor union business while on duty so long as it does not interfere with their normal job performance. The Union will provide a list of union representatives to the department and Human Resources Department to identify the Union officials. If the list is changed for any reason, the Union will provide a new list to the Sheriff and Human Resources Department within a week of the change. The Union Executive Board will help ensure and track that Union personnel are not violating this Article.
- F. The Employer shall approve reasonable written requests for annual leave, personal day, accrued comp time, and/or leave without pay if requested by the Union President for officers, stewards, or members to participate in Union activities. These activities can include, but are not limited to, organizing, community events, political activity, trainings, and conferences and conventions sponsored by the Union. Article 12, Leave of Absence, Section A does not apply to these circumstances.

## **Article 25 DUES DEDUCTION/MEMBERSHIP**

- A. In accordance with the provisions of this Article, the County agrees to deduct biweekly from the wages of employees in the bargaining unit, Union membership dues on the basis of a properly executed authorization to make such deductions on a form provided by the Union.
- B. The form must state the name of the employee requesting the deduction, the employee's county identification number, the Union for which the dues deductions are to be paid, and the signature of the employee.
- C. The Union will notify the County in writing of the representative authorized to collect or make changes to the dues deduction. In the event that dues are changed, the County agrees to effect such change in deductions within thirty (30) days following the receipt of a written notice from the representative of the Union. Changes in the amount of dues can only occur once per fiscal year.



- D. The County will stop individual deductions when the employee gives written notice to the County by signing a letter in the Human Resources Department revoking the dues deduction during the months of January and June or when the employee is transferred out of the bargaining unit.
- E. The County agrees to make biweekly deductions on each regular pay period from the wages of employees who authorize deductions of dues. The dues deductions will normally be remitted to the representative of the Union within two (2) weeks following the deduction.
- F. The County agrees to provide the Union with a list containing the names, amount of dues deduction, and the names of the employees with insufficient compensation to make the dues deduction.
- G. The County agrees to assume the cost associated with making such deductions. It is understood that the County assumes no further responsibility in connection with this authorized deduction except to act as a remitting agent in forwarding the amount to the representative of the Union.
- H. The Union shall indemnify, defend, and save the County harmless against any and all claims, demands, suits, or any other forms of liability that arises out of or as a result of any conduct taken by the County for the purpose of complying with this Article.
- I. There shall be an initial probationary period of one (1) year from certification date for cadets and one (1) year from date of hire for certified hires in the classifications that are in the bargaining unit. During this probationary period the only provision of this agreement applicable to probationary employees is this Article.

**Article 26 NO STRIKE, SLOWDOWN OR LOCKOUTS**

The parties acknowledge that under the County's Code on Collective Bargaining strikes slowdowns, and lockouts are illegal.

**Article 27 INTERNAL AFFAIRS**

The following guidelines shall be followed whenever an employee is the subject of an administrative investigation. For the purposes of this Article, the term "investigation" means whenever an alleged act or omission of an employee which might be a violation of Department policy, procedure, rule or regulation, which requires the use of an interview of an employee for the purpose of determining whether or not misconduct exists, and which, if true, would likely result in a disciplinary action appealable under the Grievance Procedure set forth in this Agreement. For the purposes of this Article, an "interview" means questions posed by an agent of the County designated to investigate employee misconduct for the purpose of determining whether an alleged act or omission by an

employee might be a serious violation of Department policy, procedure, rule, or regulation. Nothing herein shall preclude a routine inquiry from becoming an investigation. The rights herein do not apply to employees who are witnesses.

- A. Any interview of an employee shall be conducted when the employee is on duty or during normal waking hours, unless the urgency of the investigation requires otherwise. It shall be presumed that an employee on administrative leave pending an investigation is assigned to the day shift.
- B. If an employee is the subject or witness of an investigation, he/she shall be so informed prior to an interview. Investigations will begin within ten (10) business days of a complaint or when the employer became aware of the occurrence and normally will be completed within thirty (30) business days, which are days the County administrative offices are open for business. The employee and the Union will be notified in writing if an investigation will extend beyond thirty (30) business days because of extenuating circumstances beyond the control of the employer. In the event that an investigation involves an alleged legal violation, the matter will not be investigated if the legal statute of limitations has passed. Investigations into alleged violations of administrative policies, procedures or ordinances will be limited to matters occurring within the previous twelve (12) months
- C. Any interview of an employee shall be conducted at the employer's facility, unless the urgency of the investigation requires otherwise.
- D. Prior to commencement of any interview session an employee shall be informed of the name and rank of the person in charge of the interview, and all other persons who will be present during the interview.
- E. An employee shall be informed in writing at the start of the investigation, of the nature of the investigation, and the names of all known complainants shall be disclosed to the employee unless the Sheriff or designee determines that the identification of the complainants shall not be disclosed because it is necessary for the protection of the informant, or because disclosure would jeopardize or compromise the integrity or security of the investigation.
- F. A reasonable attempt shall be made to notify the employee's supervisor of the pending investigation.
- G. During any interview session, the following requirements shall be adhered to:
  - 1. Each interview session shall not exceed two hours unless the parties mutually consent to continuation of the session;

2. There shall not be more than two interview sessions within a twenty-four hour period, unless the parties mutually consent to additional sessions provided that there shall be at least one hour rest period between the sessions.
  3. The combined duration of an employee's work shift and any interview session shall not exceed fourteen hours within a twenty-four hour period, unless the urgency of the investigation requires otherwise;
  4. There shall not be more than two interviewers at any given time;
  5. An employee shall be allowed to attend to physical necessities as they occur in the course of an interview session; and
  6. An employee shall not be subjected to offensive language or illegal coercion by the interviewer in the course of an interview session.
- H. Any interview of an employee shall be recorded, either mechanically or by a stenographer, and the complete interview shall be published as a transcript, provided that any recesses called during the interview shall be noted in the transcript. An accurate copy of the transcript or tape shall be provided to the officer, upon written request, no later than fifteen working days after the interview has been completed.
- I. After reviewing all the information collected in the course of an investigation of an employee, the Sheriff or designee may order the employee to submit to a polygraph examination administered by a licensed polygraph examiner, provided that all other reasonable investigative means have been exhausted, and it complies with Article 28 Section F.
- J. When an employee is under investigation for an administrative matter, the employee shall be permitted to produce any relevant documents, witnesses or other evidence to support his case and he may cross-examine any adverse witnesses during any grievance process or appeal involving discipline.
- K. Any employee under investigation may have the right to consult with a representative or counsel before being interviewed except that such consultation shall not delay an interview by more than two (2) hours, and the County may proceed with an interview in the event that an employee is unable to consult with a representative or counsel prior to an interview. An employee being interviewed may have a representative or counsel present except that such representative or counsel shall not interrupt, impede, or otherwise disrupt an interview; however, this does not prevent the representative from assisting the employee in the interview. In the event that such representative or counsel does interrupt, impede, or otherwise disrupt an interview, the representative or counsel may be ordered to leave the interview.

- L. When an employee is under administrative investigation and a determination is made to commence a criminal investigation, he shall be immediately notified of the investigation and shall be afforded all protection set forth in the Bill of Rights of the United States and New Mexico Constitutions. Garrity Statement will be applicable to all administrative or compelled statements.
- M. An employee shall not be required by the County to disclose information regarding his financial status, unless all other reasonable investigative means have been exhausted or except as otherwise required by law.
- N. An employee shall not be prohibited by the County from engaging in any political activity when the employee is off duty, except as otherwise required by law.

**Article 28      DISCIPLINARY ACTIONS**

- A. The County reserves the right to investigate allegations of employee misconduct and/or poor performance.
- B. An employee may be placed on administrative leave with pay, if appropriate, during an investigation of an employee.
- C. During an investigation, no documentation related to the matter under investigation will be placed in the employee's official personnel file until the investigation is completed.
- D. An employee shall be permitted at any phase of an investigation which may reasonably lead to a suspension without pay, demotion, or termination, including interviews by a management representative, to have a representative of his/her choosing present for the purpose of advising the employee.
- E. Employees will cooperate in all investigations conducted by or on behalf of the County, including polygraph exams. Failure to cooperate may be the basis for disciplinary action, up to and including termination. Nothing herein shall preclude an employee from exercising any constitutional or statutory right to which he/she may be entitled.
- F. A Deputy shall not be required to submit to a polygraph examination as part of an internal investigation regarding the officer's conduct unless the complainant is first examined by a licensed polygraph examiner and passes the polygraph examination. If a deputy is subjected to a polygraph examination, the licensed examiner who administers the examination shall not know the results of the complainant's polygraph examination or the name of the licensed examiner who conducted such examination.

- G. Any imposition of discipline against any employee shall be made in writing including a summary of the circumstances giving rise to the charges; and the specific rules, regulations, policies, and/or procedures that have allegedly been violated.
- H. Disciplinary demotions will result in the employee's pay being returned to the job class pay rate along with their seniority from which the employee was last promoted.
- I. Except as otherwise provided by an arbitrator or a court of law, disciplinary actions shall be placed in the employee's official personnel file and shall not be purged.
- J. Disciplinary actions involving oral reprimands (i.e.; verbal counseling session), may not be appealed. The Employee may attach a rebuttal to any written disciplinary documentation in the employee's personnel file.
- K. Disciplinary actions involving written reprimands may be appealed through the grievance procedure contained in this Agreement, but only through the County Manager or designee.
- L. All other disciplinary actions may be appealed through the grievance procedure contained in this Agreement, including suspension without pay, demotion, and termination. In any disciplinary actions appealed to arbitration through the grievance procedure contained in this Agreement, the arbitrator shall apply just cause as the standard for discipline and use preponderance of evidence as the standard of proof (i.e.; 51% or higher).
- M. All disciplinary action to include oral reprimands, written reprimands, demotions, suspensions, or terminations will be for just cause. The employee will be provided a copy of all findings (e.g., sustained, not sustained, etc.) following the conclusion of the investigation. Discipline will be issued within thirty (30) business days of the investigator's findings, reprimands will not be considered in future disciplinary action after 60 months unless there has been subsequent reprimands issued in that period of time. The employee and the Union will be notified in writing if issuing discipline within this timeframe cannot be accomplished because of extenuating circumstances beyond the control of the employer.
- N. An employee facing a suspension without pay may choose to have the employee's accrued compensatory time followed by accrued vacation time docked for up to fifty percent (50%) of the amount of the suspension, up to a maximum of eighty (80) hours. The option to use compensatory or vacation accruals is only available if the employee does not appeal the suspension. The pre-determination hearing is not considered an appeal.

- O. Pre-Determination Hearing. Prior to the imposition of discipline other than verbal or written reprimand or warning, the employee will be advised in writing of the charges against him/her and given an opportunity to respond. The employee has five (5) work days from the date of written notice to request a pre-determination hearing to the human resources department. If the employee does not request a pre-determination hearing, the employee is deemed to have waived his/her right to contest the matter and the action recommended in the notice of intent shall take effect.
- a. The predetermination hear is an informal hearing to allow the employee the opportunity to respond to the proposed disciplinary action.
    - i. Technical rules of evidence and court procedures shall not apply, except that irrelevant, immaterial, or unduly repetitious material may be excluded. Evidence protected by rules of privilege recognized by law may also be excluded.
    - ii. The employee may present his/her own evidence and statement.
    - iii. The employee may choose one representative to accompany him/her to the hearing.
    - iv. The pre-determination hear shall be audio or video recorded.
  - b. The employee and/or their representative may cross examine any witnesses who have provided statements and may present documents on his/her behalf.
    - i. The hearing officer may limit the number of witnesses on any issue, including character and reputation evidence.
    - ii. The hearing officer may exclude from the room any witness not under examination at the time. The employee, employee's representative, and the management representative may not be excluded unless their behavior is disruptive.
    - iii. Coordination of witnesses and/or collection of witness statements on behalf of the employee requesting the hearing are the employee's responsibility except in cases where the proposed disciplinary action is due to discrimination, harassment or workplace violence. In cases of discrimination, harassment or workplace violence, the employee shall provide a witness list to human resources at the time the hearing is requested and human resources will arrange for the witness(es) to appear. In the event that a County employee is uncooperative when contacted, human resources shall be notified by



the employee requesting the hearing and will assist in securing the employee's cooperation.

- c. The employee may be accompanied by a representative who may present the employee's side of the issue or assist the employee in doing so. If the representative is an attorney, the employee must inform the human resources administrator to allow the County time to arrange for its general counsel to be present at the hearing. The County reserves the right to have general counsel present at any and all hearings.
  - d. The hearing officer may continue the hearing at the request of either the employee or the department. Request to continue the hearing must be submitted to the human resources department in writing at least three (3) work days before the hearing date. The human resources department will notify all concerned parties of a continuance.
  - e. The Sheriff or designee is fully empowered to grant or refuse extension of time, to set procedures for the hearing, to conduct the hearing, and to take actions relative to the proceedings.
  - f. Failure of the employee to comply with these procedures and/or failure to appear at the time and place of the hearing will result in dismissal of the employee's request for a hearing and the action recommended in the notice shall take effect.
  - g. The Sheriff or designee shall make a determination regarding the proposed action based on the evidence presented at the pre-determination hearing.
  - h. The employee shall be notified in writing by the Sheriff or designee of the results of the hearing within five (5) work days. The notice of determination will specify any disciplinary action imposed and the effective date of the action.
  - i. The findings and determination may be appealed in accordance with Article 29 Grievance Procedures. Only employees who elect to have the pre-determination hearing shall have the right to appeal.
- P. The following includes the types of actions that may be a basis for disciplinary action. This list is not intended to be all-inclusive, but is illustrative of the types of actions that may lead to disciplinary action.
- 1. The employee has been abusive in his/her or her language, or has threatened or caused physical harm to others that was not necessary or lawfully done in self-

defense, to protect the lives of others, or to prevent the escape of a person lawfully in custody;

2. The employee has violated a written policy or order of the Sheriff's Office or county management, or has failed to obey any lawful, reasonable directions given by the employee's supervisor or other responsible county official.
3. The employee has been found under the influence of alcohol or drugs while on duty and/or in County facilities. The employee has violated the Substance Abuse Prevention or the Drug Free Work Place policies.
4. The employee has been convicted of a felony or has engaged in any serious activity that violates State or Federal criminal statutes.
5. The employee has provided false or misleading information in any document, report, or statement related to the employee's employment with the County. This includes but is not limited to the employment application and related materials, or complaints.
6. The employee has caused damage to County property or waste of County supplies, through negligence or misconduct.
7. The employee is unsafe to himself, to other employees or to the public in the performance of his/her duties and responsibilities.
8. The employee has been inexcusably absent, has failed to receive prior approval for any absence, or has abandoned his/her or her position. Abandonment is the unauthorized absence from work for more than 3 calendar days.
9. The employee has taken any action that discriminates on the basis of race, color, sexual orientation, sex, religion, national origin, age, disability, or any other legally protected status.
10. The employee has engaged in improper political activities.
11. The employee has engaged in conduct, either during or outside of regular work hours that brings discredit upon the County.
12. The employee has solicited or received from any person, or participation in, any fee, gift, or other valuable thing in the course of work, when such fee, gift, or other valuable thing is given in the hope or expectation of receiving favor or better treatment than that accorded other persons;
13. The employee uses or has attempted the use of political influence or bribery to secure an advantage in an examination, promotion, or assignment.



## **Article 29    GRIEVANCE PROCEDURE**

### A. Purpose

The purpose of this grievance procedure is to secure equitable resolutions to problems that may arise and are subject to review under this procedure. There is no other grievance or appeal procedure on any matter for the members of the bargaining unit other than that contained in this Article.

### B. Definitions

1. A “grievance” is defined as a dispute pertaining to a claim that alleges a violation of this collective bargaining agreement, terminations, suspensions without pay, and demotions. Written reprimands cannot be appealed to arbitration.
2. A “grievant” shall be any employee, group of employees, or the Union.
3. “Days” shall mean Monday through Friday, not including holidays observed by the Employer.

### C. Procedures

1. Grievance proceedings shall be informal at all levels of this procedure.
2. The number of days indicated at each level of this procedure shall be considered a maximum and every effort shall be made to expedite the process.
3. If the grievant fails to comply with the grievant’s time limit requirements, as set forth under any of the procedure steps, the grievance shall be considered null and void.
4. The time limits set forth herein may be extended, provided the extension has been mutually agreed upon in writing by the parties.
5. A grievance shall not be considered unless the grievant initiates the grievance no later than ten (10) days after the grievant knew or reasonably should have known of the action that precipitated the grievance.
6. A written grievance will be prepared using the form in Appendix A. The grievance shall articulate, with reasonable specificity, the alleged violation of the collective bargaining agreement, the facts and/or supporting documents as well as the requested remedy.

#### D. Steps

1. Informal Step: A non-disciplinary related grievance shall first be discussed with the supervisor who imposed the action being grieved. If a resolution cannot be reached, the union and/or the grievant may file a formal, written grievance at Step One with the supervisor who imposed the action being grieved within ten (10) days of the of the date the grievant knew or should have known of the action giving rise to the grievance. Grievances related to disciplinary action shall proceed directly to Step Two.
2. Step One: the written grievance will be filed with the supervisor by hand-delivery or emailed to the Office of the Sheriff's Executive Secretary and the human resources department. The supervisor may schedule a meeting with the union and/or the grievant within then (10) days to discuss the issues and requested remedy. Meeting issues will concern the facts and remedies to the grievance. The supervisor will respond in writing within ten (10) days of receipt of the written grievance or the conclusion of the meeting, whichever comes later. If the grievance is not resolved, the union and/or grievant may appeal the grievance to the Sheriff within ten (10) days of the date of the supervisor's response.
3. All grievances delivered to the Office of the Sheriff's Executive Secretary or County Manager's Office will be date and time stamped as received and a copy returned to the grievant. Copies of grievances provided to the Human Resources Department may be sent electronically or hand delivered.
4. Step Two: the written grievance will be filed with the Sheriff by hand-delivery or emailed to the Office of the Sheriff's Executive Secretary and the Human Resources Department. The Sheriff may schedule a meeting with the union and/or the grievant within ten (10) days to discuss the issues and requested remedy. Meeting issues will concern the facts and remedies to the grievance. The Sheriff will respond in writing within ten (10) days of receipt of the written grievance or the conclusion of the meeting, whichever comes later. If the grievance is not resolved, the union and/or grievant may appeal the grievance to the County Manager within ten (10) days of the date of the Sheriff's response.
5. Step Three: the written grievance will be filed with the County Manager by hand-delivery or emailed to the Office of the County Manager and the Human Resources Department. The County Manager may schedule a meeting with the union and/or the grievant within ten (10) days to discuss the issues and requested remedy. Meeting issues will concern the facts and remedies to the grievance. The County Manager will respond in writing within ten (10) days of receipt of the written grievance or the conclusion of the meeting, whichever comes later. If the grievance is not resolved, the union and/or grievant may

appeal the grievance to arbitration within ten (10) days of the date of the County Manager's response.

6. If at any time the County does not respond within the ten-day requirement, the union and/or the grievant may appeal to the next level within the time limits as if the County had timely responded.
7. If the grievance is not resolved with the County Manager or designee's decision, the union and/or the grievant may request in writing that the grievance be submitted to arbitration. Such request must be submitted to the County Manager no later than ten (10) days following the grievant being notified of the County Manager or designee's decision. If the grievance is a non-disciplinary matter involving the interpretation, application, or enforcement of the Agreement, the County Manager and the Union shall jointly request a list of arbitrators as specified in 8. below. If the grievance is a disciplinary matter involving a suspension without pay, demotion, or termination as set forth in Article 28, "Disciplinary Action", the County Manager and the union and/or the grievant who is the subject of the disciplinary actions shall jointly request a list of arbitrators as specified in 8 below.
8. The arbitrator's fees and costs shall be shared equally by the parties. All other expenses shall be assumed by the party incurring the costs, including the costs of witnesses. Employees not affiliated with the Union or CWA 7911 shall be responsible for their share of the arbitrator's fees and costs.
9. Upon notification that the Union desires to proceed to arbitration under this Article, the parties shall within fifteen (15) days either select a mutually agreeable neutral arbitrator or request that either the American Arbitrator Association or the Federal Mediation and Conciliation Service submit a list of seven arbitrators. Upon receipt of the list of arbitrators, each party shall alternate in striking a name from the list until only one (1) name remains, and the parties shall agree on a date for the hearing based off of the available dates provided by the selected arbitrator.
10. First strike of a name shall alternate between the County and the Union. Whichever party struck first in the previous arbitration shall strike second in the next arbitration. Upon selection of an arbitrator, the request to set a date for arbitration shall be made to the arbitrator within fifteen (15) days of selection.
11. No reprisal or retaliation by any party shall be taken against any person who participates or is a witness in the proceeding of the grievance.
12. A grievant and the party charged may be accompanied and represented at any hearing or meeting conducted under this procedure. By mutual agreement

between the County and the Union, additional parties may be represented for any grievance hearing or arbitration.

13. An employee, acting individually, may present a grievance without intervention of the Union provided the grievance has been processed in accordance with this procedure. At any hearing (Sheriff Level or above) of a grievance brought individually by an employee, the Union as a party to this collective bargaining agreement, will be afforded the opportunity to be present and make its views known. Any adjustment made shall not violate the provision of this collective bargaining agreement.
14. If a grievance affects a group of two (2) or more employees, or involves an action or a decision by the County or the Sheriff which has a department-wide impact, the Union may submit the grievance to the Sheriff on behalf of the affected employees.
15. Failure of a bargaining unit employee to cooperate in a grievance investigation, or submitting false documents or testimony, shall be grounds for disciplinary action up to and including termination.
16. All documents related to a grievance shall be maintained as a separate file. Disciplinary actions and/or documents that are the subject of a disciplinary grievance shall be a part of the grievant's official personnel file unless purged by order of an arbitrator or court.
17. All grievances and grievance responses shall be filed and processed in accordance with this Agreement.
18. The grievant's and the Union's processing of grievances shall be conducted on non-County paid time. The County, Union, and the grievant shall make every effort to accommodate each party's schedule with respect to grievance meetings at each step. In the event that the parties cannot agree on a time for a grievance meeting, then the grievant shall proceed to the next step or level of the grievance procedure.
19. Upon written request of the Union, the County shall compel attendance of any employee called by the Union for the purposes of any arbitration hearing. The employees called as a witness will be paid by the County if they meet the following terms:
  - a. Only the first two character witnesses, and any material witnesses.
  - b. The arbitration must be held in Dona Ana County.

20. The County shall furnish the Union, upon written request, a copy of a specific document classified as Public Information if requested in the processing of an arbitration hearing. Additional information may be exchanged by the parties if they believe such an exchange would help resolve the grievance. Requests for information must be submitted at least twenty (20) days prior to the date of arbitration.

21. The decision of the arbitrator will be final and binding.

### **Article 30 PERSONNEL FILES**

Bargaining unit employee's official file and Departmental file will be administered in accordance with the following provisions:

- A. The County will maintain an official personnel file for each employee. The official personnel file will be maintained in the County Human Resources Department.
- B. An employee shall be permitted to review material contained in his/her official file, departmental file, and/or medical records. This provision does not apply to a supervisor's working file. An employee wishing to access his/her official file, departmental file, or medical records shall provide at least twenty-four (24) hour's advance written notice during normal administrative working hours. The employee shall be required to show proper identification. A designated representative from the Human Resources Department and/or employee's department of employment shall be present during the file review. The file reviewer may be required to sign and date a form maintained in the personnel file indicating who reviewed the file and when such review occurred.
- C. The County will honor reasonable requests for copies of a document in the official, departmental, or medical file. This provision does not apply to a supervisor's working file. The employee may be required to assume a reasonable cost for the copies.
- D. Prior to the time any adverse material is placed in the employee's official or departmental file, the employee will be provided a copy of the material and the opportunity to review and respond to any adverse material that is placed in the employee's official or departmental file within seven (7) scheduled working days. This does not apply to the supervisor's working file.
- E. Each supervisor may maintain a separate working file for each employee. The supervisor's working file is not accessible to the employee or their representative.

- F. With specific written authorization from an employee, the Union shall be allowed to review the employee's official and/or departmental file. This provision does not apply to the supervisor's working file.

**Article 31                    LEGAL PROTECTION**

- A. If an employee is sued in a civil action for any allegation arising out of the course and scope of the employee's employment, the County will defend and indemnify the employee pursuant to the requirements of the New Mexico Tort Claims Act, Section 41-4-1 et. seq., NMSA, as amended.
- B. In the event the employee is sued in a civil action as a named defendant in a suit involving the county in which punitive damages are alleged and the employee was not personally served with the summons and complaint, it shall be the duty of the County to notify the employee in writing through deliver of a copy of the complaint within ten (10) working days of receipt of the suit by the County Attorney. This provision shall only apply to suits filed after the effective date of this Agreement.

**Article 32                    UNIFORMS AND EQUIPMENT**

- A. The County shall provide uniforms to bargaining unit employees who are required to wear a uniform as a condition of their employment. The parties agree to continue dialogue to ensure adequate uniforms are provided. Uniforms will be replaced as needed through normal wear or damage due to on-duty related incidents. If damage is non-duty related or due to employee negligence, the employee is responsible for the replacement costs.
- B. The County shall be responsible for providing the appropriate equipment to perform the employee's job function including but not limited to:
1. A Ballistic vest. The Ballistic vest panels shall be replaced by the County at least every five (5) years;
  2. The radio and/or communication equipment necessary to perform his/her duties including, a cell phone in accordance with on-call status or job requirements as determined by the Sheriff of designee;
  3. Appropriate ammunition for each employee's assigned service weapons.
  4. If appropriately certified, the County will provide up to two (2) form of less lethal weapons (e.g. Taser, Oleoresin Capsicum, expandable baton, etc).
  5. Backup weapons and special assignment weapons will be provided based upon request and the needs of the department.

- C. An Equipment Committee comprised of an equal number of union members and command staff will be created within thirty (30) days of ratification. The purpose of the Equipment Committee will be to discuss and make recommendations to the Sheriff regarding equipment needs.
- D. Bargaining unit members who, at the time of ratification of this contract, are using a personal firearm may continue to use their personal firearm until replaced by a department issued firearm that is capable of being equipped with mil spec optic sights. All other bargaining unit members will use department issued firearms. All new firearm purchases by the department will be mil spec optic capable. Bargaining members who are provided with optic capable firearms will also be provided mil spec optic if requested by the member.
- E. All employees who are required to wear non-uniform clothing will receive reimbursement up to \$1,000 annually for clothing or accessories related to their job assignments. For Detectives, this will include dress shirts, slacks or business trousers, suit coat, blazer, sport coat, shoes, belts dresses/suits, etc. For plain clothes positions, it will include any clothing relevant to job functions.
- F. Take-Home Unit
  - 1. Employees will be assigned a take-home unit to be used to drive to and from work and their homes within Doña Ana County. Employees who live outside of Doña Ana County may park their take home units at the Doña Ana County Main Station or the substation closest to their residence. Vehicle left overnight at the main station or a substation must be within properly secured. This restriction will not apply to employees in an on-call or collateral duty status. For the purposes of this exception, collateral duty means Special Response Team, Bomb Squad, Crash Reconstruction Team, K-9, Field Training Officer, Metro Narcotics or Crisis Negotiating Team. The employees will be required to ensure that all proper maintenance and repairs are completed at the expense of the County. The employees must follow prescribed County policy and procedures and USE ONLY locations designated by the County to have maintenance and repairs on the vehicles. The units shall be assigned by seniority within the division in which the units are assigned. New units assigned to a division will be assigned to the next senior certified non-probationary employee that has not received a new unit in the last five years. The Sheriff has the discretion to reassign units to another division or for other use if he determines that such reassignment is required by the department's mission and needs. His decision shall be final. All marked units utilized in patrol will be police packaged units if available by the vehicle manufacturer. If a police package unit is not available then the unit shall be equal to that of industry standard use within the law enforcement community.



2. In the event there is a lack of county units available for every employee, the following criteria will be utilized for assignments:
  - a. Marked Cars – Uniformed patrol and traffic employees
  - b. Unmarked Cars – Specialized Units will have priority
  - c. In the vent paragraphs a. or b. do not apply, seniority will be the deciding factor.
3. Employees required to be on call while off duty are authorized to drive his/her unit off duty under the following conditions or as set forth above in section D.1.:
  - a. Vehicle use while off duty must remain within the confines of Doña Ana County, unless prior authorization by the Sheriff or designee;
  - b. While driving the unit off duty, the employee may at no time have anyone in the vehicle who is not a current Doña Ana County employee;
  - c. At no time will the assigned unit be parked outside a business in which the primary source of revenue is alcohol sales;
  - d. If an employee is driving a Sheriff's Office vehicle, the employee must keep credentials, his/her badge, firearm, and some form of less lethal equipment in the vehicle where it is readily available to the employee;
  - e. The employee must keep all necessary equipment for the duty in which he/she is on call for in the vehicle at all times;
  - f. The employee must be ready immediately to respond to the area called out to without delay and fully equipped to perform his/her assigned duties.

**Article 33    PERSONAL PROPERTY DAMAGE**

The County will replace items of work-related personal property of reasonable costs damaged in the line of duty where the employees' negligence was not a material contributing factor. The employee must present the item damaged for which replacement is being sought.



**Article 34      MODIFIED DUTY**

- A. An employee who has been on authorized leave due to serious illness or injury that occurred while performing duties for the County may, upon release and approval from their physician and upon presentation of said release to the County, be returned to work in a limited duty assignment (modified duty). The determination as to whether or not an employee will be returned to a modified duty position and what the position duties shall be are the sole prerogative of the County. The County reserves the right to cancel a modified duty assignment at any time. Except as specified in section E. below, such determination or cancellations cannot be subject of a grievance. An employee on modified duty will not be placed in a position that could jeopardize or aggravate their physical condition.
- B. The intent of this provision is to allow the employee the opportunity to return to work as soon as it is medically possible and beneficial to the County. The parties understand that it is not the intent of this provision to provide assignments of a “make work” nature.
- C. Modified duty may be either performing the duties of another position other than those of the employee’s position at the time of injury/illness or those duties originally held for fewer hours in the day or having reduced physical requirements as determined by the County.
- D. An employee returning to work for a modified duty assignment must have a physician’s release. Employees who refuse a modified duty position are not eligible to use sick or vacation leave and may be subject to disciplinary action.
- E. An employee injured while performing duties for the County shall always have preference in receiving modified duty assignment over an employee placed in a modified duty assignment as a result of illness or injury that was not incurred while performing duties for the County. The employee who became injured while performing duties for the County may displace an employee in the bargaining unit who became ill or injured not while performing duties for the County so long as both employees are equally capable of performing the modified duty assignment. In the event that the employees are in different job classifications, then an employee in a lower classification may not displace an employee in a higher job classification for the purpose of performing duties normally associated with the higher classification. Displacement of an employee shall not be interpreted as an extension of the modified duty originally developed (e.g., assignment of modified duty employee to work on a limited, temporary, or short-term nature). An employee injured while performing duties for the County whose request to displace an employee serving in a modified duty who has been ill or injured not while performing duties for the County has been denied may bring a grievance pursuant to Article 29.

- F. A pregnant employee cannot be displaced under this Agreement.
- G. The provision of this article shall be administered in accordance with the applicable provisions of the Americans with Disabilities Act.

**Article 35     INSURANCE**

- A. Health and dental insurance premiums shall be paid on the following basis:

For employees hired prior to July 1, 2015, health and dental insurance premium shall be paid on the following basis:

COVERAGE TYPE	PREMIUM SPLIT	
Employee-Single	County 100%	
Employee Plus One	County 80%	Employee 20%
Employee Plus Family	County 80%	Employee 20%

For employees hired after July 1, 2015, health and dental insurance premium shall be paid on the following basis:

COVERAGE TYPE	PREMIUM SPLIT	
Employee-Single	County 100%	
Employee Plus One	County 80%	Employee 20%
Employee Plus Family	County 80%	Employee 20%

- B. Life insurance benefit is \$40,000.00 coverage for the employee, \$10,000.00 for spouse/domestic partner, and \$5,000.00 for dependent children. Life insurance premiums shall be paid on the following basis:

COVERAGE TYPE	PREMIUM SPLIT	
Employee-Single	County 100%	
Employee Plus One	County 80%	Employee 20%
Employee Plus Family	County 80%	Employee 20%

- C. Increases in health, dental, and/or life insurance premiums shall be apportioned on the percentages set forth in Section A and B.

**Article 36     WORK HOURS AND OVERTIME**

- A. Developing the work/shift schedule for employees in the bargaining unit is the responsibility of Management.

- B. Employees who wish to make recommendations regarding alternative work/shift schedules will be allowed to do so. Such recommendations must indicate a complete work/shift schedule to be given serious consideration.
- C. Overtime will be assigned by Management based upon the needs of the County. Employees are required to work any overtime assignment they are given. Failure to do so is considered insubordination and may result in disciplinary action up to and including suspension or termination.
- D. As of January 1, 2008, political subdivisions of the State of New Mexico will no longer be exempt from the provisions of the state minimum wage law, therefore, overtime will be paid at the rate of one and a half times (1 and ½) the employee's regular hourly rate of pay for each hour worked over forty hours within a seven day period.
- E. Management will give employees reasonable notice of changes in work schedules/shifts, unless exigent circumstances prevent such notice.
- F. Employees are normally scheduled to work forty (40) hours per week in four (4) ten-hour days, but nothing in this Agreement shall constitute a guaranteed minimum or maximum number of hours of work in any day or week. Departmental units that are currently on a four-10 day shift are expected to remain on a four 10-hour day shift. The Sheriff may implement the four-10 hour day shift at other units at his direction. The Sheriff will provide 30-days' notice to the departmental unit prior to changing a unit to or from a four-10 hour day shift. Employees assigned to the four-10 hour day shift shall have consecutive days off. However, at the request of the employee, subject to the discretion and approval of the Sheriff, the employee may be granted split days off. A one (1) hour meal break and two (2) fifteen minute breaks may be taken if workload or assignment permits. At all times employees will be subject to call.
- G. If an employee is called back to duty or subpoenaed to give testimony in court about events arising out of County employment, while the employee is on a vacation or holiday, the employee shall be paid for the vacation or holiday hours and shall also be paid for the hours actually worked or which the employee spends in court until the employee is released. In any case, the employee shall be deemed to have worked a minimum of two (2) hours. If an employee on sick leave or bereavement leave is called back to work or subpoenaed under similar circumstances, the employee shall be deemed to be at work a minimum of two (2) hours and the time spent shall not be charged to the employee's accumulated sick leave.
- H. If an employee is called back to duty or subpoenaed to give testimony in court, whether in criminal or civil action, about events arising out of County employment, when the employee would otherwise be off duty, the employee shall be deemed to have worked a minimum of (2) two hours; even if call back is canceled. The call-

back time provided for in this and the preceding Section shall be inapplicable where the additional working time is immediately prior to or following any other time worked by that employee.

- I. The provisions of Sections G. and H. of this Article regarding payment for time which an employee spends in court shall be inapplicable where the employee is a party to the proceeding, except proceedings arising out of County employment or where the employee is to be compensated for such time by any other person, as where the employee is being subpoenaed to testify as an expert witness.
- J. Where scheduling and manpower contingencies permit, the County will arrange an employee's work schedule so as to permit the employee to attend relevant training, or accredited college or university.

### **Article 37 CALL BACK PAY**

- A. Call back occurs when an employee is off duty and notified unexpectedly to return to work due to unforeseen circumstances beyond the control of Management. The result of call back is normally an increase to the scheduled work force and does not mean filling in for a fellow employee's scheduled absence.
- B. Authorized call back shall be compensated for at one and one-half (1 ½) times the employee's hourly rate from the time the employee is notified until the employee has completed the unexpected work and/or has returned home or the place where he received the call. An employee on call back shall be guaranteed a minimum of two (2) hours pay for each authorized call back.
- C. Call back shall not be paid to any employee for matters related to labor-management relations between the County and the Union.

### **Article 38 COURT TIME PAY**

- A. Court time occurs when an employee not on duty is required to testify concerning the official performance of duty in municipal, magistrate, district, federal court, or state administrative hearings.
- B. This article does not apply if an employee is on duty; is called to testify within one hour preceding or following the employee's shift; or if any employee is engaged in activity related to labor-management matters between the County and the Union.
- C. Court time shall be compensated at one and one-half (1½) times the employee's hourly rate from the time required to attend court until the employee has completed his/her testimony. An employee attending court pursuant to this article shall be guaranteed a minimum of two (2) hours for each court attendance.

- D. Court time will not be paid to an employee who appears at Court and files a dismissal without discussion with the defendant or defense attorneys.

**Article 39 STANDBY PAY**

The County will not use standby status.

**Article 40 ON CALL DUTY**

- A. Any employee required to be on-call outside normally scheduled hours shall be compensated at the rate of \$105.00 per week or prorated for the days on which the employee is on call.
- B. Any employee receiving on-call compensation pay shall be required to be readily available to respond when contacted. The employee shall be required to refrain from consuming alcoholic beverages or any other substances that may impair the employee as well as be expected to remain within the confines of Doña Ana County, unless authorized by the Sheriff or designee.
- C. The on-call schedule will be rotated among all detectives. New schedules will be posted two (2) weeks prior to the effective date and the new schedule will reflect six (6) months of assignments.

**Article 41 PROMOTIONS**

- A. The parties agree that the purpose of establishing qualifications is to insure that employees have an equal opportunity to apply for positions for which they meet the minimum qualifications. All promotions within the bargaining unit shall be made on the basis of merit. The promotional procedures set forth in this Article do not reflect, either explicitly or implicitly, that promotional examinations given by the County prior to the procedures set forth herein were unfair, biased, or otherwise improper.
- B. An employee shall be eligible to compete for a promotional position only if he/she meets the minimum qualifications as established in the job posting.
- C. In the event of a vacancy or vacancies in a classification other than Deputy classification, the County shall post a notice of vacancy for thirty (30) days in areas frequented by employees which shall include specific identification of the vacant position; the position's major duties; the minimum qualifications and testing requirements, including types of criteria to be used (e.g., oral interview, in basket, scenario response, panel interview, roll-paying scenarios and presentations.) If other accepted assessment evaluation processes are to be used, the County will notify the union and provide an opportunity to discuss the recommended assessment tool within five (5) work day of notice for the position; and the deadline

for the submission of applications. Employees who wish to be considered for vacancies may apply by following the directions provided on the promotional posting or contacting the DASO Recruiter for instructions.

D. Promotion Requirements:

**1. Detective**

- a. Three years total certified law enforcement experience;
- b. Testing for Detective Promotion
  - (1) 100% Assessment
    - a) Shall be a combination of three or more criteria;
    - b) Each criterion will be weighted equally for a total score of 100%.

**2. Sergeant**

- a. Eight years total certified law enforcement experience;
- b. 100% Assessment
  - 1) Shall be a combination of three or more criteria;
  - 2) Each criterion will be weighted equally for a total score of 100%.

G. Testing Process:

- 1. Each position listed shall have a list created by July 1st of each year. In the event that July 1st falls on a weekend the list shall be posted on the Monday after the weekend.
- 2. Each list will remain in effect until the following June 30 unless the list is exhausted, at which time the promotional process will restart within 30 days and testing is necessary. If a second test was necessary prior to June 30<sup>th</sup>, that list will also expire on June 30<sup>th</sup>.
- 4. In order to test for promotions, the employee must have met the requirements set forth above by July 1<sup>st</sup>
- 5. Any employee who has been subject to suspension and a subsequent disciplinary action of written reprimand or greater will be ineligible to promote within one year of the notice of intent to suspend. Any employee who has involuntarily

demoted within one (1) year of the closing date of the posting will be ineligible to test

- H. Minimum qualifications and testing requirements will be established prior to the commencement of any testing procedure, and except as provided below, may not thereafter be changed.
- I. In the event of an assessment, the following shall apply:
  - a. The posted notice shall indicate the minimum passing score of 80% overall;
  - b. Only those applicants who make the minimum score, if any, will be eligible for promotion.
- J. Following the entire testing procedure, the complete scores of all applicants, including oral scores, written scores (if any), and other criteria (if any), may at the County's discretion be posted by a confidential numbering system (i.e.; a numbering system where only the applicant knows his/her confidential number). Each applicant may request and shall receive their oral board scoring sheets from each evaluator and the corresponding questions. In the event that the County opts not to post the complete scores of applicants as described in this Section, then the Union may request a copy of the complete scores of all applicants. The County shall give the Union a written copy of the complete final scores within five (5) days after receipt of the written request from the Union.
- K. Upon completion of the testing procedures, the County shall establish a list of eligible candidates for the vacancy or vacancies. Selection for the position(s) shall only be made from the list in order of scoring. In the event that a person refuses to be promoted from the promotion list, that person will be removed from the list.
- L. In the event that there are an insufficient number of eligible candidates for the number of open positions, the County reserves the right to post vacancy announcements externally.
- M. In the event that there are open positions after the initial promotional period they will be staffed by temporary assignment. In the event the County determines the position(s) need to be filled permanently before the next testing and promotional period the county will follow all provisions above in this article.
- N. Employees newly promoted to Sergeant shall serve a one (1) year period as a Patrol Sergeant before being eligible for any lateral position.
- O. In order to address concerns which may arise from time to time regarding testing and/or promotional procedure, the Union and Human Resources Director and/or



other County staff may meet at mutually agreed upon times and locations to review the promotional process.

- P. Employees who are on modified duty will be eligible to test. If the person on modified duty is promoted from the promotion list, their trial period will be extended for one year from the time they are removed from modified duty.
- Q. An employee submitting for any posted promotional position shall apply by submitting an application through the Dona Ana County application system. Employees disqualified because of clerical errors will be allowed to correct the problem within 48 hours and the application will be considered.
- R. A majority of the members of the selection panel shall consist of non-County employees.

#### **Article 42 LATERAL TRANSFERS**

- A. "Lateral Transfer" is defined as the movement of an employee from one job classification to another identical classification in the same pay grade, i.e. sergeant to sergeant, deputy to deputy.
- B. Vacancies of any lateral or newly created lateral position within the Sheriff's Office will be posted for fifteen (15) working days. Employees who successfully completed the probationary period may apply by submitting a letter of interest.
- C. In the event that operational needs require the employer to create a temporary bargaining unit position, the employer may create such a position and will provide written notification to the union. The position shall not exceed the time period of ninety (90) days unless mutually agreed upon between the Sheriff and the Union.

#### **Article 44 BIDDING FOR SHIFTS, AREAS, AND DAYS OFF**

- A. Employees may be denied their preference of a shift, area, or days off whenever the employee has demonstrated a pattern of substandard performance, or whenever an operational necessity exists. The term "operational necessity," as used in this Section, shall include but not be limited to achieving greater economic efficiency (e.g., assigning an area to a deputy who has a County take-home vehicle which is reasonably near the deputy's residence).
- B. The County shall not be limited from creating or deleting shifts or days off; or from creating, deleting, or redrawing areas. The County may override an employee's area or days off whenever an operational necessity exists.
- C. Any transfer resulting in a change of shift, area, or days off shall require reasonable prior notice, except where an operational necessity exists



#### D. Shift Bid

1. Districts 1-7 have been established. Each district has a Day, Swing, and Graveyard shift.
  - a. Shift bidding will occur once per year in June with a minimum of a 30-day notice. New shifts will begin in July of each year.
  - b. If an employee is not on duty when their bid time occurs, the employee will be compensated .5 hour of work time. Call back pay will not be paid.
  - c. Employees may authorize another employee to bid for them. The employee must authorize the bidding in writing. The original of such authorization must be presented to the Sheriff or the Sheriff's designee at the time the employee's name is called to bid.
  - d. If an employee is not present with the employee's name is called to bid the employee will be allowed to bid when the employee arrives and any employee currently bidding has completed their bid.
  - e. After shift bidding has been completed and employees have been assigned their days off:
    - 1) If circumstances arise that require a need to reassign personnel, the Sheriff will discuss with the union moving personnel to meet the needs of the Sheriff's Office.
    - 2) If reassignment occurs under paragraph 5a, the most senior employee that was moved will have their former position filled by the most recent new hire, which will allow the senior employee to return to the original position when the Sheriff's Office needs no longer require their filling the position.
    - 3) An employee may request a shift or location change through the employee's chain of command so long as the employee has another employee's agreement to the switch.
    - 4) If the request in paragraph 5c is approved, the employees involved in the switch may not bump any other employee as to days off or shift on the basis of seniority.
    - 5) If a position becomes vacant between annual shift bidding, the position will be filled based on the needs of the Sheriff's Office as determined by the Sheriff.
    - 6) In determining assignments under shift bidding, a tie in seniority date will be broken by the total score of promotional testing.

2. If the Sheriff or designee needs to make movements from one shift to another, due to manpower issues, priority will first be given to the most senior employee who volunteers to switch shifts. If no employee volunteers, an employee will be chosen starting with the least senior employee on the shift.
3. Shifts, days off, and stations will be selected by seniority in rank.
4. An employee who transfers to a shift after an established rotation, will have days off and areas of work based on Sheriff's Office needs and not seniority. Seniority will be re-established during the next bidding. Seniority for all other purposes will remain in effect.

#### **Article 44      OUTSIDE EMPLOYMENT**

- A. Any employee who desires to work for another employer will submit an annual notice of the outside employment to the Sheriff and the Human Resources Department. The notice of outside employment will be submitted on a form provided by the Human Resources Department.
- B. The employee is responsible for ensuring that there is no conflict of interest, appearance of impropriety, or possible detrimental effect on the image of or reputation to the County.

#### **Article 45      DRUG TESTING**

- A. The County will implement a drug/alcohol testing program for members of the collective bargaining unit.
- B. The program will permit the testing of applicants for positions within the collective bargaining unit who are made an offer of employment, conditional or unconditional, or acceptance into the academy; and random testing of up to 40% of the collective bargaining unit every three months; post-crash testing; discharge of a firearm other than in firearms training/qualifying or to destroy an animal in accordance with DASO policy and procedure; and reasonable suspicion testing.
- C. The County will generally test for alcohol, cocaine, marijuana, opiates (including but not limited to heroin and oxycodone), methamphetamine, Ecstasy, Eve, and phencyclidine. The County may in its sole discretion test for any drug the use of which violates federal or state law.
- D. All members of the collective bargaining unit shall sign a drug abuse policy acknowledgement form. Execution of the acknowledgement form is a condition of continued employment. Failure to sign the form may lead to disciplinary action including termination from employment.

- E. Failure to present at the designated site and time for specimen collection may lead to disciplinary action including termination from employment. For random drug testing, an employee who is on approved leave at the time the notice of intent to collect a specimen is issued may be excused by the County from presenting for the drug testing.
- F. Nothing in this article limits the County's right to require an employee to submit to drug or alcohol testing when the County has a reasonable suspicion that the employee is under the influence of drugs or alcohol while at work or when the employee has been involved in any accident or incurred an injury that may result in a workers' compensation claim.

**Article 46 FTO/K9 PAY**

- A. Every employee, who is required to train probationary employees at the direction of the Sheriff or designee in the capacity of a field training officer (FTO), will receive straight compensatory time of six (6) hours per week if the employee is actively training a probationary employee for the entire week.
- B. The employee must be a certified FTO with a minimum of two (2) years as a certified officer with Doña Ana County Sheriff's Office or be approved by the FTO coordinator.
- C. Every employee, who is assigned responsibility for handling one of the Sheriff's Office's K9 dogs, will be paid 0.5 hours of regular pay for each day the employee is responsible for the dog's care. When the 0.5 hours results in overtime, time will be paid in accordance with the applicable Fair Labor Standards Act provisions.

**Article 47 WAGES**

- A. This Agreement is effective upon ratification by the Union and the Board of County Commissioners. Adjustments to compensation will be made in accordance with the Pay Scale set forth below effective the first full pay period after ratification.
- B. Employees who are scheduled to receive a step increase between the date of ratification of this agreement and June 30, 2023 will receive their step increase effective the first full pay period after ratification. Thereafter, employees who are scheduled to receive a step increase between July 1 and December 31 will receive their step increase effective the first full pay period of the fiscal year and employees who are scheduled to receive a step increase between January 1 and June 30 will receive their step increase effective the first full pay period of the calendar year.

- C. In Fiscal Year 2024 (beginning July 1, 2023) and Fiscal Year 2025 (beginning July 1, 2024) all employees will receive a five percent (5%) across the board pay increase.
- B. In the event an employee promotes from Deputy to Corporal/ Detective, the employee will go to the next higher step and maintain that step until the employee meets the number of years in classification.
- C. A certified hire will be given credit for full years of certified law enforcement experience, and upon hiring will be placed at the appropriate step in the pay scale that is applicable to completed full years of certified law enforcement experience.

D. CWA Pay Scale:

Cadet

Uncertified	\$21.50
Certified Deputy	\$24.07

CWA Covered Positions

Longevity Increase	Sheriff Deputy	
1	Beginning year 2	\$24.50
2	Beginning year 3	\$25.09
3	Beginning year 5	\$26.11
4	Beginning year 8	\$27.64
5	Beginning year 11	\$29.17
6	Beginning year 14	\$30.70
7	Beginning year 17	\$32.23
8	Beginning year 20	\$33.76

Longevity Increase	Detective/CID	
1	Starting	\$28.08
2	Beginning year 2	\$29.40
3	Beginning year 4	\$30.79
4	Beginning year 6	\$32.23
5	Beginning year 8	\$33.76
6	Beginning year 10	\$35.37

Longevity Increase	Sergeant	
1	Starting	\$35.00
2	Beginning year 2	\$36.05
3	Beginning year 4	\$38.10
4	Beginning year 6	\$39.25
5	Beginning year 8	\$40.65
6	Beginning year 10	\$42.26
7	Beginning year 12	\$43.88

- E. The Union and the County agree to longevity pay and retention bonuses in accordance with Section 36 of 2022 New Mexico HB68 (codified as section 9-19-14. NMSA 1978). Should the County fail to apply for and maintain the required information for the state funds for longevity pay and retention bonuses as required by HB68, the County will fund the cost of the retention bonus or longevity pay to eligible employees who were to receive the retention funds for that year

**Article 48 SAVINGS CLAUSE**

If any part of this Agreement is declared invalid by any tribunal of competent jurisdiction, the validity of the remaining portions will not be affected. If a part is declared invalid, the parties will immediately meet, if requested by either party, to negotiate a suitable provision to replace the provision declared invalid.

**Article 49 COMPENSATORY TIME**

An employee may not carry more than sixty (60) hours of compensatory time into the first full pay period of a new fiscal year. All compensatory time in excess of 60 hours will be converted to the employee's regular hourly rate and paid out hour for hour in the first full pay period of the fiscal year.

**Article 50 COMPLETE AND ENTIRE AGREEMENT**

The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any proper subject of collective bargaining and that the understandings and agreements reached by the parties each waive the right to engage in collective bargaining for the purpose of altering this Agreement during the duration of this Agreement, unless mutually agreed by both parties in writing.


**Article 51 DURATION**

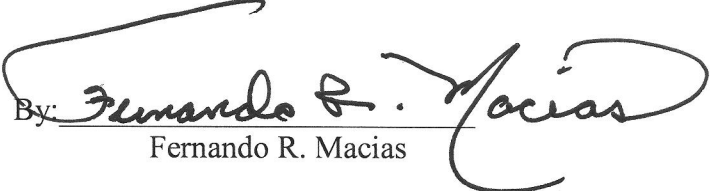
This Agreement shall be in effect from the date of execution through June 30, 2025 This Agreement shall be automatically renewed from year to year thereafter unless either party shall give notice in writing to the other of its intention to terminate or modify this Agreement no earlier than one hundred twenty (120) days nor later than ninety (90) days before the expiration thereof. If either party has given such notice to modify this Agreement but no new Agreement has been reached, this Agreement shall remain in effect unless and until a successor agreement becomes effective.

Dated this 23 day of February 2023.

Communications Workers of America,  
Bargaining Agent

Doña Ana County  
County Manager

By:   
Paul Castañeda

By:   
Fernando R. Macias

**APPENDIX A**

**COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO, CLC  
Local 7911 Dona Ana County Deputy Sheriffs**

TODAY'S DATE: \_\_\_\_\_ GRIEVANCE #: \_\_\_\_\_

Date of Occurrence:

IMMEDIATE SUPERVISOR: \_\_\_\_\_

UNION REPRESENTATIVE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ TELEPHONE NUMBER: \_\_\_\_\_

NAME OF GRIEVANT:  
\_\_\_\_\_

JOB TITLE OF GRIEVANT: \_\_\_\_\_

DATE OF HIRE: \_\_\_\_\_

Nature of Grievance:

Article and Sections of the Agreement, or rule, regulation or procedure alleged to have been violated:

Redress/Relief Sought: Make Grievant whole in every manner including:

Signature of Grievant or Union Representative: \_\_\_\_\_



**Step One Meeting Date:** \_\_\_\_\_

Employer Response: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Management Representative: \_\_\_\_\_ Date: \_\_\_\_\_

ACCEPT: \_\_\_\_\_ REJECT: \_\_\_\_\_ APPEAL: \_\_\_\_\_

**Step Two Meeting Date:** \_\_\_\_\_

Employer Response: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Mgmt. Representative: \_\_\_\_\_ Date: \_\_\_\_\_

Union Representative: \_\_\_\_\_ Date: \_\_\_\_\_

ACCEPT: \_\_\_\_\_ REJECT: \_\_\_\_\_ APPEAL: \_\_\_\_\_

**Step Three Meeting Date:** \_\_\_\_\_

Employer Response: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Mgmt. Representative: \_\_\_\_\_ Date: \_\_\_\_\_

Union Representative: \_\_\_\_\_ Date: \_\_\_\_\_

ACCEPT: \_\_\_\_\_ REJECT: \_\_\_\_\_ APPEAL: \_\_\_\_\_