



AGREEMENT BETWEEN

DOÑA ANA COUNTY (SHERIFF)

AND

THE COMMUNICATION WORKERS OF

AMERICA, LOCAL 7911



Doña Ana County Sheriff's Department

Todd Garrison, Sheriff

Chuck Franco, Undersheriff

Mission Statement and Core Beliefs

We improve the quality of life in the communities of Doña Ana County. As responsible role models, we are dedicated to developing and maintaining partnerships, upholding the law, protecting life and property, providing a safe environment and ensuring the Constitutional rights of all. We are dedicated to continue our rich heritage of more than 150 years of quality service through our core beliefs of

Integrity, Professionalism and Fairness.

★ INTEGRITY ★

We hold ourselves accountable to the highest standards of honesty and ethical conduct.

PROFESSIONALISM

We are dedicated to excellence in service through education, mutual cooperation and pride.

FAIRNESS

We are committed to impartial and equal treatment for all through courtesy, compassion and respect.

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Article 1 **AUTHORITY (TA 03/09/07)**

This agreement (hereinafter referred to as the “Agreement” or “Collective Bargaining Agreement”) is entered into between the County of Doña Ana (hereinafter referred to as the “County” or “Employer”) and the County employees designated by the Doña Ana County Labor Management Relations Board (DACLMRB) as covered employees with the Communication Workers of America, Local 7911 (hereinafter referred to as “CWA” or “Union”).

Doña Ana County Ordinance No. 215-4 was enacted on June 13, 2004, to guarantee County employees the right to organize and bargain collectively with their employer, to protect the rights of the employer and the employees, and to promote harmonious and cooperative relationships between the employer and the employees; and to acknowledge the obligation of the employer and the employees to provide orderly and uninterrupted services to the citizens.

Article 2 **FAIR SHARE (TA 10/19/07)**

1. Upon written notification by the Association Member to Human Resources, any regular, non-probationary deputy, whose classification falls within the bargaining unit and who does not desire to pay full Association dues, shall have deducted from his/her pay, a fair share fee in the amount of 75% membership dues to be remitted to the Association within 30 days of becoming a member of the bargaining unit or after ending probationary status.
2. This fair share fee shall be solely to defray the Association’s costs for services in negotiating and administering this contract and shall be segregated by the Association and used on a pro rata basis.
 - a. A third party accounting firm shall perform an audit of the cost to enforce the contract. This audit shall be performed at 18 months after the signing of the contract. The findings of the accounting firm shall become the new Fair Share dues.
 - b. The cost of these audits shall be shared equally by the County and Association.
 - c. The County’s Request for Proposals process shall be used to determine the accounting firm. The Associations shall make up 40% of the selection committee.

Article 3 **RECOGNITION (TA 03/09/07)**

The Employer recognizes the Union as the sole and exclusive representative in all matters establishing and pertaining to wages, hours, working conditions, and other terms and conditions of employment for all covered employees in the bargaining unit. This is the only Agreement between the parties and replaces any and all agreements.

Article 4 **MANAGEMENT RIGHTS (TA 03/09/07)**

Unless limited by the provisions of this Collective Bargaining Agreement or by law, the Employer's rights shall include, but are not limited to, the following:

1. To direct and supervise all operations, functions, and work of the employees;
2. To hire, layoff, promote, demote, assign, reassign, transfer, discipline, discharge, or terminate employees;
3. To determine by whom and what services will be rendered to the citizens;
4. To determine staffing requirements, create and/or abolish positions, and eliminate and/or reorganize work units;
5. To determine the need for new employees, to set minimum qualifications for all job classifications, and to determine whether employees considered for transfer and promotion meet those qualifications;
6. To take action as necessary to carry out the mission of the Employer in emergencies;
7. To relieve employees from duties under circumstances involving health, safety, or welfare of the employees or others. If relieved, the employee shall be paid and evaluated by a licensed professional in the matter in regards to the employee being relieved.
8. The Employer retains all rights not specifically limited by this Collective Bargaining Agreement or law.

Article 5 **CONTRACTING OUT (TA 08/20/07)**

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 6 **REDUCTION IN FORCE (TA 03/09/07)**

1. 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.
2. 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.
3. 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:
 - a. Temporary and probationary contract employees will be laid off before full- or part-time classified employees or contract employees of DASO.
 - b. Layoff of bargaining unit employees shall be determined by the following:
 - (1) Length of service determined by the hire date with the department or the transfer date into the department.
 - (2) If individuals have the same length of service within the department, they will be laid off based on law enforcement academy test scores.
 - (3) If a layoff is to be implemented, affected employees shall receive sixty (60) days' advance notice.
4. Recall
 - a. Laid-off employees shall return by the reverse order in which they were laid off.
 - b. 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.
 - (1) 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.
 - (2) A laid-off employee may refuse one (1) recall offer. A second refusal will act as a resignation of the laid-off employee.

Article 7 **SENIORITY (TA 03/09/07)**

1. 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.

2. Seniority shall be broken in the following circumstances:
 - a. Resignation by the employee;
 - b. Termination pursuant to the grievance procedure, Article 30; or
 - c. Retirement from County service.
3. All leave, with or without pay, shall not constitute a break in service for the purpose of seniority computation.
4. In the event seniority is equal, the seniority tie will be broken by the following:
 - a. Overall academy score at the time of promotion to the current classification;
 - b. When the academy score is the same, seniority will be determined by the toss of a coin.
5. Lateral hires that were hired by the County on the same day shall have seniority determined by the following:
 - a. Total consecutive certified years of service;
 - b. When the total consecutive years of service are the same, seniority will be determined by a coin toss.

Article 8 **SICK LEAVE (TA 03/09/07)**

1. 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.
2. Employees do not accrue sick leave during any unpaid leave of absence in excess of forty (40) hours in a pay period.

Article 9 **SICK LEAVE CONVERSION (TA 12/14/07)**

1. An employee who is eligible for retirement under the Public Employee Retirement Act with a minimum of fifteen (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) hour of vacation leave subject to a cash payment maximum of thirty thousand dollars (\$30,000).
2. Officers killed in the line of duty will have their accrued sick leave paid to their designated PERA beneficiary.

Article 10 **BEREAVEMENT LEAVE (TA 08/21/07)**

1. Emergency 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. Emergency leave can be granted for a period up to forty (40) hours. Emergency leave is not chargeable to vacation or sick leave.

2. The leave will commence on the day of death or the day immediately following.

Article 11 AUTHORIZED LEAVE (TA 03/09/07)

1. 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 Department Head, or supervisor, as applicable.
2. Leave is granted in accordance with work load requirements in the Department and must be approved by the County Manager or designee, the Department Head, or supervisor, as applicable.
3. 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 a calendar year is forfeited.

Article 12 VACATION LEAVE (TA 12/14/07)

- 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

<u>COUNTY SERVICE</u>	<u>PER PAY PERIOD</u>	<u>CREDIT MAXIMUM</u>
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, 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, an employee shall be paid for all unused, accrued vacation leave even if above the maximum cap set in this Section.
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 into a new calendar 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 provided, however, that any excess time shall be taken by June 30 of the following year and shall be granted or assigned on a priority, first-come, first-serve basis.
8. Vacation leave shall not be charged in less than multiples of one-half (1/2) hour.

Article 13 LEAVE AUTHORIZATION (TA 03/09/07)

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. In a case where two or more requests are received from employees in the same job classification at the exact date and time, seniority will be the deciding factor. 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 14 LEAVE OF ABSENCE WITHOUT PAY (TA 03/09/07)

1. 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, holiday, and sick leave when applicable.
2. 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.

3. 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.
4. Employees on leave of absence without pay shall not accrue leave for those hours on leave without pay.
5. The provisions in this section are all subject to and the extent applicable, superseded by section 3, above. During an employee's leave of absence without pay, his/her position may be filled either temporarily or permanently. At the expiration of the 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 one hundred and twenty (120) days, the employee will be terminated.

Article 15 **LEGAL LEAVE (TA 10/01/07)**

1. 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.
2. Hours served on jury duty during on duty hours shall be considered time worked for the purpose of computing overtime.
3. Employee will not be paid by the County for any time during which the employee prepares, waits, works, or testifies as an expert witness or non-fact witness for any other party.

Article 16 **MILITARY LEAVE (TA 03/09/07)**

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

Article 17 **FAMILY LEAVE (TA 03/09/07)**

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

Article 18 **ABSENCE WITHOUT LEAVE (TA 03/09/07)**

1. Employees who are to be absent from work are required to contact the department 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.
2. Failure of any employee to notify the department of an absence as required in section 1 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 19 **HOLIDAYS (TA 03/09/07)**

1. Employees shall receive the specific holidays that apply to all County employees designated by the Board of County Commissioners.
2. When a holiday falls on an employee's day off, the employee's holiday shall be observed the following day, workload permitting, or other day as determined by the Department Head or supervisor.
3. 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 Department Head may set the holiday on some other day at his/her discretion.
4. 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.
5. In order to receive leave with 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 leave with pay for that holiday.
6. Employees working either a ten (10) hour or an eight (8) hour shift will be compensated at those respective hours for computation of holiday pay.

7. In the event an employee calls in sick either the day before or the day after a holiday and works actual holiday hours, then the employee will be paid for the holiday at the holiday hourly rate.

Article 20 **AGREEMENT COPIES (TA 03/09/07)**

Each party to this Agreement shall share equally the cost of printing Agreement copies. Distribution of copies of this Agreement shall not be performed during normal work hours unless otherwise agreed to by the parties.

Article 21 **AGREEMENT CONTROL (TA 08/20/07)**

1. 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.
2. 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.
3. 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.
4. Any provisions not specifically addressed in this Agreement will default to Federal, New Mexico State Statutes, and Doña Ana County Rules and Regulations.

Article 22 **PERFORMANCE EVALUATIONS (TA 08/20/07)**

1. All bargaining unit employees shall be given an evaluation of their job performance every twelve (12) months. Nothing herein shall preclude the County from giving special performance evaluations at any time.
2. During the promotional training period, an employee will be given periodic feedback which may include written evaluations.
3. 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.
4. Both the supervisor and the employee may retain a copy of the evaluation for normal business use.

Article 23 **NON-DISCRIMINATION (TA 03/09/07)**

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 affiliation.

Article 24 **EMPLOYEE RIGHTS (TA 03/09/07)**

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.

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 25 **NEGOTIATING PROCEDURES (TA 08/20/07)**

1. 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.
2. Negotiations shall be conducted in closed sessions.
3. Negotiation ground rules may be negotiated by the parties.
4. During the negotiations, the parties shall meet at mutually acceptable times and locations.
5. 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.
6. 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 26 **UNION/CHAPTER RIGHTS (TA 08/20/07)**

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.

1. An official to the Union shall be allowed, with prior written or verbal approval by the department, 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.
2. 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.
3. A representative of the Union, the Chapter 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, is confined to the matters set forth in subsection D., below, and is for no more than five (5) minutes in length.
4. 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 or Chapter; Union or Chapter meetings; Union or Chapter elections; reports of Union or Chapter 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 Chapter, State or National Association. CWA or its designee maintains the exclusive right to be the only entity allowed to post information regarding contractual or grievable matters. This does not preclude the Union from posting notices of a social or fraternal nature.
 - a. The bulletin board shall not be used to criticize any officials, employees, or members of, or any policies of the Union, Chapter, Management, or the County. The bulletin board shall not be used for posting political, inflammatory, derogatory, or controversial materials.
 - b. In the event that the County contends that material has been posted on the bulletin board that violates Section 4.a. above, the Union shall immediately remove said material; and if there is dispute whether a violation has taken place, the Union may file a grievance pursuant to Article 31.
 - c. 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.

5. 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 to identify the Union officials. If the list is changed for any reason, the Union will provide a new list to the department within a week of the change. The Union Executive Board will help ensure and track that Union personnel are not violating this section.

Article 27 **DUES DEDUCTION/MEMBERSHIP (TA 08/21/07)**

1. 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.
2. The form must state the name of the employee requesting the deduction, the Union for which the dues are to be paid, and the signature of the employee.
3. 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.
4. The County will stop individual deductions when the employee gives notice to the County by signing a letter in the Human Resources Department revoking the dues deduction during the month of January or when the employee is permanently transferred out of the bargaining unit.
5. 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.
6. 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.
7. 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.
8. The Union shall indemnify, defend, and save the County harmless against any and all claims, demands, suits, or any other forms of liability that shall arise out of or as a result of any conduct taken by the County for the purpose of complying with this Article.

9. 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 lateral employees in the classifications that are in the bargaining unit. During the probationary period the only provision of this agreement applicable to probationary employees is this Article 27 “Dues Deductions.”

Article 28 **NO STRIKE, SLOWDOWN OR LOCKOUTS (TA 03/09/07)**

1. The parties acknowledge that the New Mexico Public Employee Bargaining Act and DACLMRB ordinance make strikes illegal. The Union agrees that it will not encourage, support, instigate, or participate in a strike or slowdown. Employees will not encourage, support, instigate, or participate in a strike or slowdown. The County agrees that it will not lockout employees.
2. The parties agree that in the event of a strike or a slowdown, the employees who encourage, support, instigate, or participate in the strike or slowdown shall be subject to disciplinary action up to and including termination of their employment with the County.
3. The Union, its officers, and agents agree that they will not institute, cause, or condone and will take prompt and appropriate measures, hereinafter stated, to prevent or discourage any strikes, sit-downs, work stoppages, slowdowns or picket lines (including observance of picket lines established by employees of the Employer in another collective bargaining unit or by employees of another employer whether or not such employees are represented by the Union or an affiliate of the Union), boycotts or any lawful acts, even of such temporary nature, that interfere with the Employer’s operations. Such measures shall include:
 - a. To publicly disclaim such conduct as in violation of the law and Agreement and not called for or sanctioned by the Union.
 - b. To notify individually each employee engaged in such conduct that he/she is in violation of the contract and the law; that his conduct was not caused by and is not sanctioned by the Union; and further, instruct each employee to return to work or otherwise cease his/her conduct in violation of the contract and law at once or otherwise be subject to possible termination of employment.
 - c. The Employer, in addition to all other rights set forth in this Agreement and the law, shall be entitled to seek all remedies available to it under federal and state law, and in equity.

Article 29 **DISCIPLINARY ACTIONS (TA 08/21/07)**

1. The County reserves the right to investigate allegations of employee misconduct and/or poor performance.
2. An employee may be placed on administrative leave with pay, if appropriate, during

an investigation of an employee.

3. During an investigation, no documentation related to the matter will be placed in the employee's official personnel file until the investigation is completed.
4. 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.
5. Prior to the imposition of discipline other than verbal or written reprimand or warning, the employee will be advised in writing and/or a meeting with a management representative of the charges against him/her and given an opportunity to respond. The employee's response may be verbal or in writing. 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.
6. Employees in the bargaining unit 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.
7. 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.
8. Any final impositions 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.
9. Disciplinary demotions will result in the employee's pay being returned to the job class pay rate along with their seniority from which they were promoted.
10. Except as otherwise provided by an arbitrator or a court of law, disciplinary actions shall be noted in the employee's official personnel file and shall not be purged.
11. 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.
12. Disciplinary actions involving written reprimands may be appealed through the

13. 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 Article 30 of 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 better).
14. All disciplinary action to include oral reprimands, written reprimands, demotions, suspensions, or terminations will be for just cause. All findings will be handed down in a timely manner not to exceed twenty working days from the conclusion of the investigation.
15. An employee may be allowed to utilize up to ten (10) days of accrued vacation or compensatory time in lieu of suspension without pay. This option is available to the employee only if they do not appeal the suspension.
16. Upon the final decision of the sheriff, the employee may request a copy of the final disposition of the investigation.

Article 30 **GRIEVANCE PROCEDURE (TA 10/19/07)**

1. Purpose

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

2. Definitions

- A. A “grievance” shall be 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.
- B. A “grievant” shall be any employee, group of employees, or the Union.
- C. “Days” shall mean Monday through Friday, not including holidays observed by the Employer.

3. Procedures

- A. Grievance proceedings shall be informal at all levels of this procedure.

- B. 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.
 - C. 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.
 - D. The time limits set forth herein may be extended, provided the extension has been mutually agreed upon in writing by the parties.
 - E. 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.
4. Steps
- A. If at any time the county does not respond within the ten-day requirement, the grievance shall automatically move to the next level (i.e. Immediate Supervisor, Department Head, County Manger, or designee to include Arbitration). If the grievance cannot move beyond the County Manger or his designee by the terms of this agreement, the grievance shall automatically be upheld.
 - B. If the grievance is not resolved with the County Manager or designee's decision, the grievant and the Union 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 E .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 employee who is subject of the disciplinary actions shall jointly request a list of arbitrators as specified in E. below.
 - C. 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.
 - D. 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 Conciliations Service submit a list

of seven arbitrators. Upon the receipt of the list of arbitrators, each party shall alternate in striking a name from the list until only one name remains, and each party shall at the time agree on a date for the hearing.

5. Miscellaneous

- A. No reprisal or retaliation by any party shall be taken against any person who participates or is a witness in the proceeding of a grievance.
- B. 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.
- C. 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 (Department Head 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.
- D. If a grievance affects a group of two (2) or more employees, or involves action or a decision by the County or the Department Head which has a department-wide impact, the Union may submit the grievance to the Department Head on behalf of the affected employees.
- E. 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.
- F. 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.
- G. All grievances and grievance responses shall be filed and processed in accordance with this Agreement.
- H. 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 all steps. In the event that the parties cannot agree on a time for a grievance meeting, then the grievance shall proceed to the next step or level of the grievance procedure.

- I. 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:
 - 1. Only the first two character witnesses, and any material witnesses.
 - 2. The arbitration must be held in Doña Ana County.
- J. 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 the arbitration.
- K. The decision of the arbitrator will be final and binding.

Article 31 **PERSONNEL FILES (TA 12/14/07)**

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

- 1. The County will maintain an official personnel file for each employee. The official personnel file will be maintained in the County Human Resources Department.
- 2. 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.
- 3. 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.
- 4. Prior to the time any adverse material is placed in the employee's official or departmental file, the employee will be provided the opportunity to review and respond to the material. This does not apply to the supervisor's working file.

5. 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.
6. 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 32 **LEGAL PROTECTION (TA 03/09/07)**

1. 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.
2. In the event an 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 delivery 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 33 **UNIFORMS AND EQUIPMENT (TA 12/14/07)**

- 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 cooperate and 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.
- B. The County shall be responsible for providing the following equipment:
 1. A Ballistic vest which conforms to Level III protections as prescribed by the National Institute of Justice Standard-0101.04. These vests shall be replaced by the County every five (5) years;
 2. Badge;
 3. All necessary patches and insignia;
 4. All radio equipment necessary to perform his/her duties to include: radio, lapel microphone, batteries, and any earpieces needed for specialized assignments;
 5. Duty ammunition for each employee's service weapon to include 9mm Parabellum, .40 S&W, .45 ACP, .223, and 12 gauge shotguns. The duty ammunition issued by the County shall be replaced every year during the annual

firearms qualifications. Any weapon or ammunition not provided by the department must be approved by the firearms committee;

6. Any pager or cell phone needed in accordance with on-call status or job requirements as decided by the Sheriff or designee;
 7. Taser;
 8. Oleoresin Capsicum;
 9. Mini tape recorder and tapes;
 10. Expandable baton;
 11. Assigned duty weapon.
- C. All employees compensated for clothing allowance at the time of this contract will remain at current rate or higher as determined by the Sheriff or designee.
- D. Take-Home Unit
1. Employees will be assigned a take-home unit to be used to drive to and from work. 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 locations designated by the County to have maintenance and repairs done 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 will be police packaged units.
 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 event 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:

- 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 the unit has markings identifying it as a Sheriff's Department 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 34 PERSONAL PROPERTY DAMAGE (TA 12/05/07)

The County will replace items of personal property of reasonable costs damaged in the line of duty where the employees' negligence was not a material contributing factor.

Article 35 LIGHT DUTY (TA 03/09/07)

- 1. 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 (light duty). The determination as to whether or not an employee will be returned to a light duty position and what the position duties shall be are the sole prerogative of the County. The County reserves the right to cancel a light duty assignment at any time. Except as specified in section 5 below, such determination or cancellations cannot be subject of a grievance. An employee on light duty will not be placed in a position that could jeopardize or aggravate their physical condition.
- 2. 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.
- 3. Light 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.

4. An employee returning to work for a light duty assignment must have a physician's release. Employees who refuse a light duty position are not eligible to use sick or vacation leave and may be subject to disciplinary action.
5. An employee injured while performing duties for the County shall always have preference in receiving light duty assignment over an employee placed in a light duty assignment as a result of illness or injury that was not incurred while performing duties for the County. The employee injured while performing duties for the County may displace an employee in the bargaining unit ill or injured not while performing duties for the County so long as both employees are equally capable of performing the light 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 light duty originally developed (e.g., assignment of light 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 light duty who has been ill or injured not while performing duties for the County has been denied may bring a grievance pursuant to Article 30.
6. A pregnant employee cannot be displaced under this Agreement.
7. The provision of this article shall be administered in accordance with the applicable provisions of the Americans with Disabilities Act.

Article 36 **INSURANCE (TA 12/14/07)**

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

<u>COVERAGE TYPE</u>	<u>PREMIUM SPLIT</u>	
Employee-Single	County	100%
Employee Plus One	County	75%
	Employee	25%
Employee Plus Family	County	75%
	Employee	25%

2. 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:

<u>COVERAGE TYPE</u>	<u>PREMIUM SPLIT</u>	
Employee-Single	County	100%
Employee Plus One	County	75%
	Employee	25%
Employee Plus Family	County	75%
	Employee	25%

3. Increases in health, dental, and/or life insurance premiums shall be apportioned on the percentages set forth in Section 1 and 2.

Article 37 **WORK HOURS AND OVERTIME (TA 12/05/07)**

1. Developing the work/shift schedule for employees in the bargaining unit is the responsibility of Management.
2. 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.
3. 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.
4. 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 pay for each hour worked over forty hours within a seven day period. It is acknowledged by both parties that the state minimum wage law may be amended to exclude political subdivisions of the state. If state law is amended to allow the County to use the 207K provisions and compensatory time provisions of the Fair Labor Standards Act, the County may reinstitute the 86 hour work rule and use of compensatory time for overtime work beginning the first day of the second full pay period following the effective date of such amendment. Management will give the union 10 calendar day written notice of the change.
5. Management will give employees reasonable notice of changes in work schedules/shifts, unless exigent circumstances prevent such notice.
6. 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 departmental

units at his direction. The Sheriff will provide 30-days notice to the departmental unit prior to changing a departmental 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 Department, 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.

7. 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 vacation or on a 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.
8. If an employee is called back to duty or subpoenaed to give testimony in court, whether in criminal or civil actions, 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.
9. The provisions of Sections 7 and 8 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.
10. 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, in accordance with Article 6.

Article 38 **CALL BACK PAY (TA 03/09/07)**

1. 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 absence.
2. 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.

3. Call back shall not be paid to any employee for matters related to labor-management relations between the County and the Union.

Article 39 **COURT TIME PAY (TA 03/09/07)**

1. 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.
2. 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.
3. 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.

Article 40 **STANDBY PAY (TA 03/09/07)**

Standby pay shall remain at current compensation levels for bargaining unit employees. An employee may be placed on standby status by a supervisor. The employee will be paid for the standby time at one and one-half (1½) times the employee's normal hourly rate. The supervisor is responsible for informing the employee that he/she is no longer on standby status.

Article 41 **ON CALL DUTY (TA 12/05/07)**

1. Any employee required to be on-call outside normally scheduled hours shall be compensated at the rate of \$65.00 per week or prorated for the days on which are on call. The employee will also receive two hours compensatory time for being on-call for seven days. The compensatory time will not be prorated and requires a minimum of four days of on-call status within the seven days.
2. 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 as well as be expected to remain within the confines of Doña Ana County, unless authorized by the Sheriff or designee.

Article 42 **PROMOTIONS (TA 08/21/07)**

1. The parties agree that the purpose of establishing qualifications is to insure that employees have an equal opportunity to apply for the position. 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.

2. 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.
3. In the event of a vacancy or vacancies in a classification other than the entry level 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, if any, including types of criteria to be used (e.g.; written test, oral interview, seniority, educational qualifications) for the position; the weight (i.e.; percentage), if any, of the total test score for each criteria; 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 Human Resources Department for instructions.

Promotion Requirements:

A. Corporal/Investigator

1. Three years total certified law enforcement experience;
2. Past two years must have been continuous with Doña Ana Sheriff's Office; and
3. Continuous service will be defined for this article as no break in service from the Doña Ana Sheriff's Department.

B. Sergeant

1. Five years total certified law enforcement experience;
2. Past four years must have been continuous with Doña Ana Sheriff's Office; and
3. Continuous service will be defined for this article as no break in service from the Doña Ana Sheriff's Department.

Test Scoring:

1. 60% - Oral Board/Assessment Center
2. 30% - Written Exam
3. 10% - Years of Service (1/2% per year of service; Maximum 10%)

Bonus Points:

1. Education (Max Degree Attained 1 ½ points max)

- a. ½ Point for Associate Degree
 - b. 1 Point for Bachelor Degree
 - c. 1 ½ Points for Master Degree
2. Advanced Accredited Training (Max Training bonus is 2 points)
- a. ½ Point for 200-399 hours
 - b. 1 Point for 400-599 hours
 - c. 1 ½ Points for 600-799 hours
 - d. 2 Points for 800+ hours
3. Performance Evaluations (Max Evaluation points is 1)
- a. 59% and below = -1 point
 - b. 60% to 65% = 0 points
 - c. 66% to 70% = .25 points
 - d. 71% to 75% = .50 points
 - e. 76% to 80% = .75 points
 - f. 80% to 100% = 1 point

Deductions:

- 1. ½ Point for each Oral Reprimand within the past 12 months
 - 2. 1 Point for each Written Reprimand within the past 12 months
 - 3. 2 Points for each Suspension within the past 12 months
- Must have a total score of 70% on the written test for Corporal/Investigator and 75% on the written test for Sergeant.

C. 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 and testing is necessary.
- 3. The reading material shall be posted at least 90 days prior to the written test date for each position.
- 4. Each time a test is administered, the written test used shall be destroyed and a new test shall be used each year.
- 5. In order to test for promotions, the employee must have met the requirements set forth above by July 1st. Any points that apply to this section shall be turned in no later than June 15th so they can be calculated. This does not apply to years of service points.
- 6. Any employee who has been subject to an involuntary demotion within one (1) year of July 1st will be ineligible to test.
- 7. An Investigator may test for Corporal and make a lateral move into that position. He/she may remain in the same pay classification and carry the total number of years within that pay grade with them.

8. A Corporal may test for Investigator and make a lateral move into that position. He/she may remain in the same pay classification and carry the total number years within that pay grade with them.
- D. 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.
- E. In the event that a written test is given, the following shall apply:
 1. The posted notice shall indicate the minimum passing score, if any;
 2. The posted notice shall indicate shall indicate the weight (i.e.; percentage) to be given the written test; and
 3. Only those applicants who make the minimum score, if any, will be eligible for promotion.
- F. 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). 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.
- G. 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 the event that a person refuses to be promoted from the promotion list, that person will be removed from the list.
- H. In the event that a written test is given and there are an insufficient number of eligible candidates for the position, the County may lower the required minimum passing score or retest in accordance with the provisions above.
- I. Employees promoted to a new position shall serve a trial period of one (1) year. During the trial period, an employee may be removed from the position and returned to his/her formerly held classification for any reason deemed appropriate by management. Removal from a position during a trial period shall not be grievable.
- J. 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.

- K. Employees who are on light duty will be eligible to test. If the person on light duty is promoted from the promotion list, their trial period will be extended for one year from the time they are removed from light duty.
- L. An employee shall apply for any listed promotional position by submitting only a memo of interest and a resume to the Human Resource Department.

Article 43 **LATERAL TRANSFERS (TA 10/11/07)**

1. Vacancies of any lateral or newly created lateral position within the Sheriff's Department will be posted for fifteen (15) working days. Employees who have been with the Sheriff's Department for at least two (2) consecutive years may apply by submitting a letter of interest.
2. In the event that operational needs require the employer to create a temporary position, the employer may create such a position. The position shall not exceed the time period of ninety (90) days.
3. A temporary position shall not be continuously renewed at the end of the ninety (90) day time period.

Article 44 **BIDDING FOR SHIFTS, AREAS, AND DAYS OFF (TA 08/21/07)**

1. 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). Any dispute arising pursuant to this Section shall, after exhausting all steps of the grievance procedure, Article 30, be submitted to expedited arbitration, as defined in the grievance procedure contained herein.
2. 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.
3. Any transfer resulting in a change of shift, area, or days off shall require reasonable prior notice, except where an operational necessity exists
4. Shift Rotation

- A. All shifts will rotate every three months with the entire shift rotating together. Graveyards rotate to Swings, Swings rotate to Days, and Days rotate to Graveyards.
- B. Anyone from any shift may attempt to find someone of equal rank to switch with from another shift. These changes must be made at least 3 weeks prior to the shift rotation and must be given in written form, signed by all employees involved, and forwarded up the chain of command.
- C. 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.
- D. Each rotation, days off, and areas of work will be selected by seniority.
- E. An employee who transfers to a shift after an established rotation, will have days off and areas of work based on departmental needs and not seniority. Seniority will be re-established during the next rotation. Seniority for all other purposes will remain in effect.

Article 45 OUTSIDE EMPLOYMENT (TA 08/20/07)

1. Any employee who desires to work for another employer will submit notice of the outside employment to the Sheriff and the Human Resources Director. The notice of outside employment will be submitted on a form provided by the Human Resources department. This form will be agreed to by both parties.
2. 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 46 INTERNAL AFFAIRS (TA 12/14/07)

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 serious 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 Article 29. For the purposes of this Article, an "interview" means questions posed by an agent of the County designated to investigate serious 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. An investigation is distinguished herein from a routine inquiry into alleged acts or omissions of a less severe nature which, if true, would likely result in disciplinary action

not appealable under the Grievance Procedure set forth in Article 29. 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.
- 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 department head 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 department head 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 complies with Article 28 Section G.
 - 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 disciplinary.
 - 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. In the event that such representative or counsel does, in the opinion of the County, 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.
- O. No violation of this Article by the County shall preclude the admissibility of any information, statements, or evidence gathered in the investigation of an employee pursuant to the procedures set forth herein any administrative proceedings arising out of Article 29, "Grievance Procedure;" nor shall such violation be used in a manner that a lack of technical compliance by the County would preclude the discipline of an employee who otherwise should be disciplined.

Article 47 **DRUG TESTING (TA10/01/07)**

1. Management will implement a drug testing program for members of the collective bargaining unit.
2. The program will permit the drug 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; random testing of up to 40% of the collective bargaining unit every three months; post-accident testing where there has been medical treatment, lost time, or property damage in excess of \$2,000.00; and for-cause testing.
3. The drug testing will be performed by hair analysis, with any positive screening test confirmed by mass spectrometry. Management will generally test for cocaine, marijuana, opiates (including but not limited to heroin and oxycodone), methamphetamine, Ecstasy, Eve, and phencyclidine. Management may in its sole discretion test for any drug the use of which violates federal or state law.
4. All members of the collective bargaining unit shall sign a drug abuse policy acknowledgement form within 90 days of the ratification of this collective bargaining agreement by the collective bargaining unit and management, whichever date is later. 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.
5. Failure to present at the designated site and time for a hair 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 hair specimen is issued may be excused by Management from presenting for the drug testing.
6. Nothing in this article limits Management's right to require an employee to submit to drug or alcohol testing when Management has a reasonable suspicion that the employee is under the influence of drugs or alcohol while at work.

Article 48 **FTO/K9 PAY (TA 08/20/07)**

1. 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.
2. The employee must be a certified FTO with a minimum of two (2) years as a certified officer with the Doña Ana County Sheriff's Office or be approved by the FTO coordinator.
3. Every employee, who is assigned responsibility for one of the department's K9 dogs, will be paid .5 hours of regular pay for each day where they are responsible for such dog. When the .5 hours results in overtime, time will be paid in accordance with the applicable law governing overtime.

Article 49 **WAGES (TA 12/05/07)**

1. This Agreement is effective January 1, 2008.
2. Each pay adjustment indicated on the wage table exhibited in this Agreement will become effective on the first day of the first full pay period following January 1, 2008; January 1, 2009; July 1, 2009, respectively.

Article 50 **WAGE TABLE (TA 12/05/07)**

1. In the event an employee promotes from Deputy to Corporal/Investigator, the employee will go to the next higher step and maintain that step until the employee meets the number of years in classification.
2. A lateral hire will be given credit for full years of certified law enforcement experience, minus one year, up to a maximum of the starting rate at beginning six (6) year pay rate.
3. CWA Pay Scale - See attachment.

Article 51 **SAVINGS CLAUSE (TA 08/20/07)**

If any part of this Agreement or any provision contained herein is declared invalid by any tribunal of competent jurisdiction, the validity of the remaining portions shall not be affected. If this occurs, the parties will immediately meet to negotiate a suitable provision to replace the provision held invalid.

Article 52 **COMPENSATORY TIME (TA 12/05/07)**

1. An employee may not carry more than 60 hours of compensatory time into a new calendar year beginning December 31, 2008, except for compensatory hours earned in the last 90 days of the calendar year.
2. The following process will be followed each year of this contract:
 - a. August 15th - the union will request in writing that the County notify employees who will have more than 60 accrued hours of compensatory time as of December 31st of that year to submit requests for leave using their accrued compensatory time to ensure that they will not have more than 60 accrued hours of compensatory time as of December 31st;
 - b. The County will send out notices to such employees no later than September 1st;
 - c. Employees must submit their request for leave using accrued compensatory time to the Sheriff's HR Administrator no later than September 7th;
 - d. If requested periods of leave cannot be granted because of excessive requests or mission requirements, the County will no later than September 15th notify employees whose requests cannot be granted that they must submit new requests;
 - e. Such employees will then submit new requests for leave no later than September 22, 2008;
 - f. If these requests for leave cannot be granted because of excessive requests or mission requirements, Management can direct the use accrued compensatory time for leave.

Article 53 **DURATION (TA 12/05/07)**

This Agreement shall be in effect from the date of execution through June 30, 2010. 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 at least one hundred twenty (120) 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.

ATTACHMENT: WAGE SCALE

Deputy Pay Scale	Current	Contract Jan. 08 (5%)	Contract Jan. 09 (5%)	Contract Jul. 09 (3%)
Cadet	12.00	14.00	14.70	15.14
Certified Deputy	13.50	15.50	16.28	16.76
1 Year (Beg 2 nd yr)	15.50	16.28	17.09	17.60
2 Years (Beg 3 rd yr)	16.25	17.06	17.92	18.45
5 Years (Beg 6 th yr)	17.00	17.85	18.74	19.30
8 Years (Beg 9 th yr)	17.75	18.64	19.57	20.16
11 Years (Beg 12 th yr)	18.50	19.43	20.40	21.01
14 Years (Beg 15 th yr)	19.25	20.21	21.22	21.86
17 Years (Beg 18 th yr)	20.00	21.00	22.05	22.71

Investigator/Corporal	Current	Contract Jan. 08 (5%)	Contract Jan. 09 (5%)	Contract Jul. 09 (3%)
Starting	18.25	19.16	20.12	20.72
1 Year (Beg 2 nd yr)	19.00	19.95	20.95	21.58
2 Years (Beg 3 rd yr)	19.75	20.74	21.77	22.43
3 Years (Beg 4 th yr)	20.50	21.53	22.60	23.28
5 Years (Beg 6 th yr)	21.25	22.31	23.43	24.13
8 Years (Beg 9 th yr)	22.00	23.10	24.26	24.98

Sergeant	Current	Contract Jan. 08 (5%)	Contract Jan. 09 (4%)	Contract Jul. 09 (2.5%)
Starting	23.00	24.15	25.12	25.74
1 Year (Beg 2 nd yr)	23.75	24.94	25.94	26.58
2 Years (Beg 3 rd yr)	24.50	25.73	26.75	27.42
3 Years (Beg 4 th yr)	25.25	26.51	27.57	28.26
5 Years (Beg 6 th yr)	26.00	27.30	28.39	29.10
8 Years (Beg 9 th yr)	26.75	28.09	29.21	29.94



Doña Ana County

845 North Motel Boulevard, Las Cruces, NM 88007 § 505.647.7225 § Fax 505.525.5925

January 23, 2008

By Email samuels@donaanacounty.org

Sergeant Samuel Ramos
President, CWA Local 7911
845 N. Motel Blvd.
Las Cruces, New Mexico 88007

Re: Reimplementation of Fair Labor Standards Act 207(k) Provisions

Dear Sergeant Ramos:

This letter constitutes Management's notice to CWA Local 7911 that Management will again apply the provisions, including but not limited to overtime rules and compensatory time rules, of Section 207(k) of the Fair Labor Standards Act to members of the collective bargaining unit.

The effective date will be the first day of the pay period beginning Sunday, February 3, 2008.

If you have any questions or concerns, please contact me at 575.647.7225 or by email johnc@donaanacounty.org.

Respectfully,

/s/ John W. Caldwell

John W. Caldwell

Dated this 23rd day of January, 2008

Communication Workers of America
Local 7911 CWA Representative

County of Doña Ana
County Manager

By: Steve Harvey
Name: Steve Harvey

By: Brian D. Haines
Name: Brian D. Haines

Attest:

By: Samuel Ramos
Name: Samuel Ramos
President of DACDSA

By: Rita Torres
Name: Rita Torres
County Clerk