

AGREEMENT

BETWEEN

THE COUNTY OF SANTA FE, NEW MEXICO

AND

THE SANTA FE COUNTY

FIREFIGHTERS ASSOCIATION

I.A.F.F. LOCAL 4366

This Agreement is entered into by and between the County of Santa Fe ("County") and the Santa Fe County Firefighters Association, I.A.F.F. Local 4366 ("Union").

1. Preamble.

The purpose of this Agreement is to achieve and maintain harmonious and cooperative relations between the County and the Union and to assure sage and efficient delivery of quality services to the citizens of and visitors to Santa Fe County. The parties recognize that harmonious and cooperative relations require the individual and collective commitment of the County and the Union and their respective members to achieve and maintain such relations. This agreement is also meant to establish benefits and working conditions for, and to provide for the peaceful settlement of disputes and grievances that may arise affecting, the bargaining unit employees covered.

2. Recognition of Union; Bargaining Unit Defined.

County recognizes Union as the exclusive representative of the bargaining unit defined herein for the purpose of collective bargaining with the County. The parties acknowledge and agree that the bargaining unit is comprised of, and this Agreement applies to, all regular nonprobationary employees of the Santa Fe County Fire Department ("Fire Department") within the following job classifications: Firefighter/Lieutenants, Firefighter/Paramedics, Firefighter/EMTs, and Fire Protection Specialists.

3. Agreement Control; Amendment.

In the event of an irreconcilable conflict between any provision of this Agreement and any County policy, regulation or directive, the Agreement shall control with respect to bargaining unit members.

This Agreement may only be modified or amended by written agreement of the parties. The Board of County Commissioners of the County of Santa Fe ("BCC") must approve such written modifications and amendments, which shall be in the form of a Memorandum of Understanding (MOU) or such other form as mutually agreed to by the parties. The parties may also use MOUs to clarify the meaning of this Agreement or address matters of mutual concern not addressed herein. Proposed modifications, amendments, clarifications, and matters of mutual concern shall be brought to the Labor/Management Committee provided for in Article 5 of this Agreement for consideration.

The County will not unilaterally implement any policy, regulation, or directive applicable to collective bargaining unit members that is in specific conflict with this Agreement, and the Union and all bargaining unit employees shall abide by the terms and conditions of this Agreement.

4. Duration.

Upon being duly ratified and executed by both parties, this agreement shall become effective on January 7, 2006, and shall expire on January 7, 2009. The parties agree to begin negotiations on a new collective bargaining agreement approximately six (6) months before the expiration of this Agreement. If a new collective bargaining agreement has not been duly ratified and executed by both parties before the expiration date of this Agreement, this Agreement shall remain in full force and effect until a new collective bargaining agreement is duly ratified and executed by both parties.

5. Labor/Management Cooperation.

The County and the Union shall establish a Labor/Management Committee ("LMC"), consisting of three (3) representatives from the Union and three (3) representatives from the County, two of which shall be representatives from Fire Department Management. The third County member shall be appointed by the County Manager. The LMC's purpose is to facilitate harmonious and cooperative relations by providing a forum for the discussion and, when possible, the mutually agreeable resolution of mutual and separate labor and management concerns. The LMC shall not, however, discuss compensation issues (e.g., Cost of Living Adjustments, Step Increases, etc.), which are expressly reserved for negotiations over future collective bargaining agreements; provided, however, that the LMC may discuss training issues and the schedules of bargaining unit members. The LMC shall meet at the request of either the County or the Union and should meet at least once every 4 months. Each party shall notify the other in writing of the issues it desires to discuss at the LMC meeting at least ten (10) days in advance of the meeting.

Each Union representative on the LMC shall be compensated for up to four (4) hours per quarter for attending LMC meetings. In the event that the LMC shall meet for more than four (4) hours in a quarter, such meetings shall take place after 5:00 p.m. or on weekends.

6. Management Rights.

Unless limited by the provisions of this Agreement, the Public Employee Bargaining Act (NMSA 1978, § 10-7E-1, et seq.), or other law, management shall retain all lawful rights concerning the management and operations of the County and the Fire Department, including but not limited to the right to:

1. Direct and supervise all operations, functions, and work of employees.
2. Determine work locations as well as the methods, processes and manner of performing any and all work.
3. Hire, promote, assign, transfer, demote, suspend, lay-off, discipline, discharge or terminate employees and establish and revise standards for same, including, but not limited to, qualifications for employment and the nature and content of personnel examinations.
4. Take actions as may be necessary to carry out the mission of the County and Fire Department in emergencies.
5. Determine the type of services to be provided to the citizens of Santa Fe County as well as by whom and when such services will be provided.
6. Determine staffing requirements and to create, abolish, reallocate or eliminate work units.
7. Establish and revise schedules of work.
8. Assign shifts; work days, and hours of work.
9. Evaluate employee work and performance and recommend corrective action to address areas that could be improved.

7. Saving Clause.

If any provision of this Agreement or the application of such provision to a particular situation should be rendered or declared invalid by any court action or by reason of any existing or subsequently enacted legislation, the remaining parts or portions of this Agreement shall remain in full force and effect.

8. Retirement.

The County and the Union agree to switch from Public Employees Retirement Association ("PERA") Municipal Plan 3 to PERA Municipal Fire Plan 5 for all bargaining unit members who qualify as a "municipal fire member" under NMSA 1978, § 10-11-2(M)(4). The County shall make all required employer contributions under PERA Municipal Fire Plan 5. In addition, pursuant to NMSA 1978, § 10-11-5, the County agrees to pick up 75% of the bargaining unit employees' required contributions under PERA Municipal Fire Plan 5. After ratification of this Agreement by the Union and the BCC, the County and Union agree to implement the switch from PERA Municipal Plan 3 to PERA Municipal Fire Plan 5 as soon as possible under PERA's rules and regulations.

9. Shift Schedule.

The County and the Union agree to replace the so-called "modified Kelly" schedule currently applicable to Firefighter/EMTs, Firefighter/Paramedics, and Firefighter/Lieutenants with a work schedule of 48 hours on duty followed by 96 hours off duty (the "48/96 Schedule"); provided, however, that the Fire Department Chief reserves the right to change back to the current "modified Kelly" schedule or such other schedule that, in his/her opinion, best serves the needs of the Fire Department and Santa Fe County.

Before implementing any schedule change, however, the Fire Department Chief shall bring the proposed schedule change to the LMC for discussion. Furthermore, the Union may, at any time, propose schedule changes by bringing the proposed schedule change to the LMC for discussion, with the ultimate decision on schedules resting with the Fire Department Chief.

The parties agree that Fire Department Management and the Union shall negotiate in good faith over the date on which the 48/96 Schedule will be implemented.

10. Seniority.

Seniority consists of two separate concepts, departmental seniority and rank seniority. Departmental seniority means length of uninterrupted service with the Fire Department as a paid firefighter and is determined from the hire date of the bargaining unit employee. Departmental seniority shall be used in determining annual leave requests.

Rank seniority means length of uninterrupted service within a particular job classification or rank and is determined from the date of promotion into a particular job classification or rank; provided, however, that a bargaining unit employee shall receive in-rank credit for one-half their uninterrupted service time with the Fire Department as a firefighter in other job classifications or ranks. For example, a Firefighter/Paramedic who has one year of uninterrupted service in that capacity which was immediately preceded by six uninterrupted years as a Firefighter/EMT would be deemed to have four years of service as a Firefighter/Paramedic.

Rank Seniority will be used in determining open shift bids, it being recognized, however, that the Fire Department Chief will not put out to bid all open shifts and reserves the right to make shift assignments and reassignments irrespective of seniority, based upon what he/she sees as being in the best interests of the Fire Department.

If two or more bargaining unit employees have the same departmental or rank seniority, seniority will be based on:

- continuous service with the Fire Department as a paid firefighter;

- if the employees have the same amount of continuous service with the Fire Department as a paid firefighter, amount of service with the Fire Department as a volunteer firefighter or PRN;
- if the employees have the same amount of service with the Fire Department as a volunteer firefighter or PRN and if test scores are available for all employees under consideration, the employees' scores for the most advanced test the employees have in common; and
- if the test scores are equal or if test scores are not available for all employees or if the employees have no tests in common, prior relevant work experience, as determined by the Fire Department Chief.

11. Cost of Living Adjustment.

Bargaining unit employees shall receive a 1.7% Cost of Living Adjustment ("COLA"), effective the first full pay period in January 2006. No other COLA shall be given to bargaining unit employees during the term of this Agreement.

12. Limits on Consecutive Hours Worked Involuntarily.

The County agrees to take all reasonable efforts to avoid having bargaining unit employees involuntarily work for more than 72 consecutive hours, up to and including having trained Fire Department Management fill the gap in field staff coverage; provided, however, that bargaining unit employees may be required to work involuntarily for more than 72 consecutive hours due to (i) unforeseen coverage difficulties (e.g., a bargaining unit employee calling in sick) and (ii) wildland fires, floods, and other disasters.

13. Employee Discipline.

13.1 Basis for Employee Discipline.

Bargaining unit employees – i.e., regular nonprobationary employees in the job classifications set forth in Paragraph 2 of this Agreement – may only be disciplined for just cause.

13.2 Disciplinary Action.

A. County subscribes to the concept of progressive discipline and it should be practiced as a corrective measure whenever possible. However, there are instances when a disciplinary actions, including dismissal, is appropriate without first having imposed a less severe form of discipline.

1. Oral Warning/Reprimand.

An oral reprimand is used to correct minor infractions of performance, conduct or behavior. Employees should be notified that further instances may require more progressive discipline.

2. Written Reprimand.

An employee shall receive a written reprimand because the deficiency or infraction is of a greater degree than that for which an oral reprimand may be used, or if a previous oral reprimand was not effective as corrective action.

The following specific rules apply to written reprimands:

- a. Written reprimands for an employee's work performance, conduct or behavior shall be placed in the employee's official human resource file after the approval of the Human Resources Director and the County Manager.
- b. The employee may respond with a written rebuttal, which shall be placed in the employee's human resource file. The placement of a written reprimand in an employee's file is **not** subject to the appeal procedures set forth herein.
- c. A written reprimand shall be removed from the employee's human resources file and destroyed twelve (12) months after the employee received the reprimand, provided the employee has not received another written reprimand or other disciplinary action during the twelve (12) month period.

3. Suspension without Pay.

An employee may be suspended without pay for a single serious offense or for continued inadequate job performance or misconduct after previous attempt(s) to correct the conduct have failed.

The following specific rules apply to suspensions without pay:

- a. Suspensions will not exceed thirty (30) workdays.
- b. Suspensions are subject to the appeal procedures set forth herein.
- c. Suspensions become a permanent part of the employee's human resources file.

4. Demotions.

An employee may be demoted for a single serious offense or for continued inadequate job performance or misconduct after previous attempt(s) to correct the conduct have failed.

Demotions are subject to the appeal procedures set forth herein.

5. Dismissals.

An employee may be dismissed for a single serious offense or for continued inadequate job performance or misconduct after previous attempt(s) to correct the conduct have failed.

Dismissals are subject to the appeal procedures set forth herein.

B. Procedures Common to Written Reprimands, Suspensions Without Pay, Demotions, and Dismissals.

The following procedures apply to all disciplinary actions other than oral reprimands:

1. The Fire Department Chief or his designee will present the proposed disciplinary action to the employee in person and give the employee the opportunity to respond to the allegations.
2. After discussing the proposed disciplinary action with the employee, the Fire Department Chief or his designee will advise the employee of the recommended disciplinary action that will be forwarded to the Human Resources Director.
3. The employee will be asked to acknowledge having read and discussed the incident by signing the Disciplinary Action Report. If the employee refuses to sign, a witness will attest in writing that the Disciplinary Action Report was presented to the employee for signature. The witness' signature indicates that the employee received the Disciplinary Action Report, but does not necessarily indicate concurrence with its content. The employee will be given a copy of the disciplinary action report along with any accompanying documentation.
4. Where the recommended disciplinary action is a suspension without pay, demotion, or dismissal, the Fire Department Chief or his designee will advise the employee of their right to request a pre-disciplinary hearing with the Human Resources Director and to appeal the Human Resources Director's decision to the County Manager, in accordance with this Agreement.

C. Administrative Leave Pending Outcome of Investigation.

In cases where County property, other employees, or the public are at risk or when there is a pending investigation because of the employee's actions, the Fire Department Chief may put the employee on administrative leave with pay until the investigation is completed and/or the disciplinary proceedings through any appeal to the County Manager are completed. This leave shall not exceed twenty (20) working days, unless a longer leave is approved by the County Manager.

14. Pre-Disciplinary Hearing and Appeal Procedures.

14.1 Applicability.

The pre-disciplinary hearing and appeal procedures set forth in this article apply to suspensions, demotions, and dismissals.

14.2 Pre-Disciplinary Hearing.

A. Request for Pre-disciplinary Hearing.

Within five (5) working days of their receipt of the recommended disciplinary action from the Fire Department Chief or his designee, the employee may request a pre-disciplinary hearing by delivering a written request to the Human Resources Director and the Fire Department Chief.

B. Pre-disciplinary Hearing Process.

1. Within in five (5) working days of receipt of the request for a pre-disciplinary hearing, the Human Resources Director shall schedule a time, date and location for the pre-disciplinary hearing. The time, date and

location of the pre-disciplinary hearing can be revised upon the written agreement of the parties.

2. The Human Resources Director or designee and the Fire Department Chief or designee shall meet with the employee and the employee's representative, if any, at the appointed time, date and location. At the pre-disciplinary hearing, the employee shall have the opportunity to respond to the recommended disciplinary action. The County Attorney or designee may also be present. Pre-disciplinary hearings may be recorded.

3. The Human Resources Director or designee will issue a decision in writing within five (5) working days of the pre-disciplinary hearing. The written decision shall include the time, date and location of the meeting; persons present; and the determination. The written decision shall be either delivered directly to the employee (obtaining employee's signature of receipt of the decision) or be sent to the employee by certified mail, return receipt requested.

14.3 Appeals to County Manager.

A. Within five (5) working days of their receipt of the Human Resources Director's decision, the employee may appeal the decision of the Human Resources Director to the County Manager.

B. The County Manager or designee will render a written decision, based upon a review of all documentation, within five (5) working days of receipt of the employee's appeal request; provided, however, that the County Manager or his designee may, but is not required to, schedule a hearing before rendering a decision; it being further provided, that such hearing must be scheduled within five (5) working days of the County Manager's receipt of the appeal request. The County Manager's or designee's decision will be delivered directly to the employee (obtaining employee's signature of receipt of the decision) or be sent to the employee by certified mail, return receipt requested.

14.4 Appeals to Third-Party Arbitrator.

A. Notice of Appeal.

Within five (5) working days of their receipt of the County Manager's or designee's written decision, the employee may appeal the County Manager's decision to a third-party arbitrator by delivering a written notice of appeal to the County Manager by delivering a notice of appeal to the County Manager and the Human Resources Director.

B. Appeal Procedures.

Appeals of the County Manager's or designee's disciplinary decision shall be conducted in accordance with the arbitration procedures set forth in Article 16 of this Agreement.

15. Grievance Procedures.

15.1 Purpose.

The purpose of these grievance procedures is to secure, at the lowest possible administrative level, the resolution and remedying of alleged violations of this Agreement. There shall be no other forum or procedures for remedying violations of this Agreement other than the grievance procedures contained in this article.

15.2. Definitions.

- A. "Grievance" means a claim that this Agreement has been violated.
- B. "Grievant" or "Grievants" means the person or entity claiming that this Agreement has been violated and may be a bargaining unit employee, a group of bargaining unit employees, the Union, if bringing a grievance on the bargaining unit employees' behalf, or the County.
- C. "Days" mean business days, Monday through Friday, but not including holidays observed by the County.

15.3. General Procedures.

- A. The time limits specified at each step of these procedures are maximums, and the parties agree to try and expedite the process when possible.
- B. If the County, department, or Union fails to comply with the time limits set forth with respect to any step of these procedures, the grievance shall be considered automatically appealed to the next step in the procedures.
- C. If the grievant fails to comply with any time limit applicable to grievant, the grievance shall be considered abandoned.
- D. The time limits set forth herein may be extended by mutual written agreement of the parties.
- E. A grievance is initiated whenever a written "Notice of Grievance" is delivered to the person to whom it must be delivered under these procedures. A grievant must initiate a grievance within ten (10) days of the date upon which the grievant knew, or reasonably should have known, of the facts upon which the grievance is based.
- F. A Notice of Grievance must be signed by the grievant and/or their Union representative (if the grievant is a bargaining unit employee) and contain, at a minimum, the following:
 - i. the name(s) of the bargaining unit employee(s) effected by the alleged violation of this Agreement;
 - ii. the name, address and telephone number of the Union representative, if any, representing the bargaining unit employee(s);
 - iii. what provision(s) of this Agreement are alleged to have been violated;
 - iv. the alleged facts constituting the alleged violation;
 - v. the names of individuals with information relevant to the grievance; and
 - vi. the relief sought.

15.4. Steps for Grievances by and on behalf of Bargaining Unit Employees.

A. The parties encourage the resolution of disputes between effected bargaining unit employees and their immediate supervisors outside of the formal grievance procedures. To be considered timely, however, the grievant must deliver a written "Notice of Grievance" to the immediate supervisor of the effected bargaining unit employee(s) and the Fire Department Chief within the time limits set forth in Article 15.C.5. Ten (10) days shall be allowed for the grievance to be resolved at the immediate supervisor level. The Fire Department Chief may, but is not required to, intervene at the immediate supervisor level to help resolve the grievance.

B. If the grievance is not resolved within ten (10) days of the date the Notice of Grievance is delivered to the immediate supervisor and the grievant desires to proceed to the next step in these procedures, the grievant must file a "Notice of Grievance" with the Human Resources Director within fifteen (15) days of the date when the Notice of Grievance was delivered to the immediate supervisor and Fire Department Chief. No later than ten (10) days following receipt of the Notice of Grievance, the Human Resources Director or designee shall schedule a meeting to consider the grievance. The grievant and the Fire Department Chief or designee shall be entitled to bring documents and/or witnesses (at the expense of the party bringing the documents or witnesses) to the meeting in order to present evidence on their behalf. Each party shall have the right to cross-examine witnesses brought by the other party.

C. The Human Resources Director or designee shall render a written decision resolving the grievance within ten (10) days of the meeting.

D. The grievant may appeal the Human Resources Director's Decision to the County Manager by delivering a notice of appeal and all supporting documents to the County Manager, with a copy to the Human Resources Director, within ten (10) days of their receipt of the Human Resources Director's written decision. The County Manager or designee may, but is not required to, schedule a meeting within ten (10) days of their receipt of the notice of appeal, to which each party shall be entitled to bring documents and/or witnesses (at the expense of the party bringing the witness). Each party shall have the right to cross-examine witnesses brought by the other party. The County Manager or designee shall, within ten (10) days of the meeting or within ten (10) days of their receipt of the notice of appeal, whichever is later, render a written decision resolving the grievance.

E. The grievant may appeal the County Manager's or designee's decision to an arbitrator by serving a notice of appeal on the County Manager, with a copy to the Human Resources Director, within ten (10) days of their receipt of the County Manager's or designee's written decision. Such arbitration shall be in accordance with Article 16 of this Agreement.

15.5. Steps for Grievances by the County.

A. The County initiates a grievance by delivering a Notice of Grievance to the Union President. The County and Union shall meet within ten (10) days to try and resolve the grievance.

B. If the grievance is not resolved within ten (10) days of the Union President's receipt of the Notice of Grievance, the County may initiate arbitration by serving a Demand for Arbitration on the Union within twenty (20) days of the date on which the Notice of Grievance was delivered to the Union President. Such arbitration shall be in accordance with Article 16 of this Agreement.

15.6. Miscellaneous.

A. No reprisal or retaliation by any party shall be taken against any person who participates or is a witness in a grievance proceeding.

B. A grievant and the party charged may be accompanied and represented at any hearing or meeting conducted under these grievance procedures.

C. A bargaining unit employee, acting individually, may present a grievance without intervention of the union, provided the grievance must be processed in accordance with this Agreement. An adjustment made shall not be inconsistent with or in violation of this Agreement.

D. If a grievance affects a group of two (2) or more bargaining unit employees or involves an action or a decision by the County or the Fire Department that has a department wide impact, the union may submit the grievance on behalf of the effected bargaining unit employees.

E. All documents related to a grievance shall be maintained as a separate file from an employee's personnel file. This provision shall not apply to documents related to a grievance over a disciplinary action unless such documents are removed from an employee's personal file as relief given in the disposition of a grievance.

F. All grievances and grievance responses shall be filed and processed in accordance with this Agreement.

G. The processing of grievances by the Union and/or bargaining unit employees shall be conducted on non-County paid time unless otherwise agreed by the parties.

16. Arbitration Procedures.

16.1. Initiation of Arbitration.

Bargaining unit employees and/or the Union initiate arbitration by delivering a Notice of Appeal, in accordance with Paragraphs 14.4 and 15.4(E). The County initiates arbitration by serving a Demand for Arbitration concerning grievances, in accordance with Paragraph 15.5(B).

16.2. Selection of Arbitrator.

Within five (5) days of the date of delivery of the Notice of Appeal or Demand for Arbitration, the parties shall meet to determine whether they can choose a mutually agreeable arbitrator. If the parties are unable to agree upon an arbitrator within ten (10) days of the date of delivery of the Notice of Appeal or Demand for Arbitration, the party initiating arbitration shall request from the Federal Mediation and Conciliation Service ("FMCS") a list of seven (7) arbitrators who reside within New Mexico. Prior to submitting the request to the FMCS, the party initiating arbitration shall consult with the other party to determine whether the parties should further limit the universe of acceptable arbitrators by specifying additional special requirements (e.g., specializations, organizational membership and certification requirements, etc.) on the FMCS Request for Arbitration Panel form. The party initiating arbitration shall strike the first name from the FMCS list of arbitrators. The parties shall alternatively strike names until there is one name remaining, who shall be the arbitrator.

An arbitrator selected pursuant to this section must be neutral.

16.3. General Procedures.

All arbitration matters not addressed in this Agreement or in a subsequent written agreement between the parties, including, but not limited to, confirmation of the arbitrator's award, motions to vacate the award, and disclosure by an individual who has been requested to serve as an arbitrator of facts likely to affect their impartiality, shall be controlled by the Uniform Arbitration Act, NMSA 1978, § 44-7A-1, et seq.

16.4. Time and Place of Hearing.

The hearing shall be held within Santa Fe County, New Mexico, within thirty (30) days after the arbitrator accepts their appointment.

16.5. Discovery.

The arbitrator may authorize the exchange of reasonable discovery prior to the hearing on the merits, such authorized discovery to be consistent with the goal of the just, speedy, and inexpensive disposition of the arbitration.

16.6. Pre-Hearing Conference.

As soon as practicable after the arbitrator's appointment, the arbitrator shall schedule a pre-hearing conference. The following issues shall be discussed at the pre-hearing conference:

1. type, subject matter, and timing of discovery, including discovery response deadlines and a deadline for the close of all discovery;
2. deadlines for the exchange of preliminary and final lists of hearing exhibits and witnesses;
3. a deadline for the filing of pre-hearing motions;
4. a mutually agreeable hearing date;
5. stipulations regarding the issues in dispute and hearing exhibits; and

6. such other matters as may facilitate the just, speedy, and inexpensive disposition of the arbitration.

The arbitrator shall issue an order reciting the action taken at the pre-hearing conference.

16.7. Telephonic Hearings and Conferences.

The pre-hearing conference and all other conferences and hearings except the hearing on the merits may be conducted telephonically and, if the arbitrator does not reside or have a place of business in Santa Fe County, shall be conducted telephonically.

16.8. Burden of Proof; Order of Presentation.

The grievant – i.e., the party alleging the violation of this Agreement – shall have the burden of proof in grievances. The County shall have the burden of proof in appeals of disciplinary actions. The party with the burden of proof shall present their case first and, after presentation of the other side's case, shall, subject to the arbitrator's authority to reject evidence that is cumulative, unreliable, unnecessary, or of slight value, be allowed to offer evidence to rebut the other side's evidence.

The standard of proof in all arbitrations under this Agreement shall be by the preponderance of the evidence.

16.9. Power of Arbitrator.

The arbitrator shall not have the authority under any circumstances to:

1. award punitive damages;
2. award attorney's fees or other expenses of arbitration;
3. make any award that adds to, subtracts from, modifies, amends, or in any other way changes the provisions of this Agreement, it being the intent of the parties that any arbitral award shall be based exclusively upon the terms of this Agreement rather than any general theories of labor law or justice; or
4. substitute their judgment for that of the County or the Union in any matter where the County or Union is vested with discretion under this Agreement.

16.10. Evidence.

At the hearing, the parties may offer evidence that is relevant to any issue of consequence to the determination of the arbitration. The arbitrator shall be the judge of the relevancy of the evidence offered, and conformity to legal rules of evidence shall not be necessary. The arbitrator may request offers of proof and may reject evidence deemed by the arbitrator to be cumulative, unreliable, unnecessary, or of slight value compared to the time and expense involved. All evidence shall be taken in the presence of the arbitrator and all of the parties, except where (i) any of the parties is absent, in default, or has waived the right to be present or (ii) the parties and the arbitrator otherwise agree.

16.11. Recording of Hearing; Transcript.

The hearing on the merits shall be tape recorded. Either party may arrange for a transcription to be made from the recording or to have the hearing on the merits also recorded by stenographic means. Unless the parties otherwise agree, the cost of creating

such a transcript or the cost of the stenographer shall be borne by the party making the arrangements.

16.12. Award.

The arbitrator's award shall be in writing and shall include the decision, the rationale, and, if appropriate, relief. The arbitrator shall issue their award within thirty (30) days of the close of the hearing.

16.13. Responsibility for Arbitrator's Fees and Costs and Other Expenses.

The parties shall share the arbitrator's fees, expenses, and costs equally. All other costs associated with the arbitration, including the cost of securing witnesses and attorney's fees, shall be borne by the party incurring the costs.

Prior to the selection of an arbitrator, the parties shall each deposit into an escrow bank account an amount equal to 50% of the average arbitrator fees, expenses, and costs for the previous two (2) arbitrations involving the Union (or bargaining unit employees) and the County. Until two (2) such arbitrations occur, the parties will, prior to the selection of an arbitrator, each deposit \$1,000.00 into an escrow account to cover the arbitrator's fees, expenses, and costs. The arbitrator's fees, expenses, and costs will be paid from the escrow account. If fees, expenses, and costs exceed the amount escrowed, the parties will share the additional fees, expenses, and costs equally. If the fees, expenses, and costs are less than the amount escrowed, the unused escrowed funds shall be divided equally among the parties.

17. Sufficient Appropriations and Budget Availability.

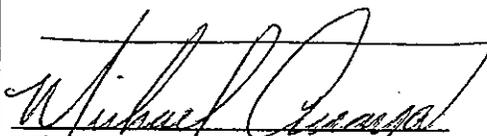
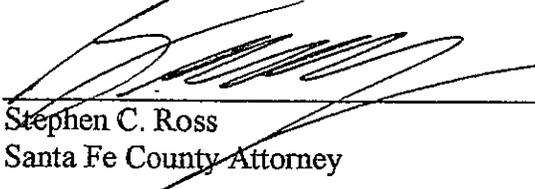
Pursuant to NMSA 1978, § 6-6-11 and § 10-7E-17(E), the County's financial obligations under this agreement in future fiscal years (e.g., FY2007, FY 2008, etc.) are contingent upon the availability of funds and sufficient appropriations being made by the BCC to meet such obligations. If sufficient funds are not available for or if sufficient appropriations are not made by the BCC in any fiscal year, the parties agree to reopen negotiations over such financial obligations.

18. Items and Issues Not Addressed in this Agreement.

The County and the Union agree that all issues not specifically addressed in this Agreement shall be governed by the Human Resources Management Rules and Regulations and policies and/or Fire Department policies and directives, as such may be promulgated or amended from time to time. Such issues include but are not limited to the following:

1. Accrual rates for annual leave and sick leave.
2. Medical, dental, vision, life, disability insurance, and other benefits.
3. County-issued uniforms, equipment and supplies.
4. Annual leave and sick leave request policies.
5. Violence in the work place, sexual harassment, and drug testing policies.
6. FLSA 28 day work period.
7. Shift trade policies.

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the dates indicated.

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| <p>SANTA FE COUNTY:</p> <p> _____ Michael D. Anaya, Chairman Board of County Commissioners</p> <p>Date: _____</p> <p>ATTEST:</p> <p> _____ Valerie Espinoza Santa Fe County Clerk</p> <p>APPROVED AS TO FORM:</p> <p> _____ Stephen C. Ross Santa Fe County Attorney</p> | <p>THE SANTA FE COUNTY FIREFIGHTERS ASSOCIATION, I.A.F.F. LOCAL 4366:</p> <p> _____ By: <u>Mike Neely</u> (Print Name)</p> <p>Its: <u>President</u> (Print Title)</p> <p>Date: <u>11-18-05</u></p> |
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