AFSCME Council 18, Local 2499, MDC Contract
2009-2010
Index

PAGE		
2.	Agreement	
3.	Article 1	Purpose
4.	Article 2	Recognition
5.	Article 3	Management Rights
6.	Article 4	Representation
7.	Article 5	Non-Discrimination
8.	Article 6	Non-Interference
9.	Article 7	Communications
10.	Article 8	Records Information
11.	Article 9	Overtime
12.	Article 10	Bidding
13.	Article 11	Work Week, Work Period, Overtime/Stand-By/No Pyramiding
14.	Article 12	Seniority
13.	Article 13	Layoffs and Recalls
14.	Article 14	Holidays
17.	Article 15	Sick Leave
19.	Article 16	Membership and Check-Off of Union Dues
20.	Article 17	Discipline
22.	Article 18	Grievance Procedure
28.	Article 19	Leaves and Scheduling
31.	Article 20	Modified Duty
32.	Article 21	Workers' Compensation/Injury Time
34.	Article 22	Economics
36.	Article 23	Drug and Alcohol Testing
24.	Article 24	Firearms Qualifications
41.	Article 25	Telephones
42.	Article 26	Outside Employment
43.	Article 27	Internal Affairs and Polygraph Examination
46.	Article 28	Issued Equipment
47.	Article 29	Wellness Fitness
48.	Article 30	Nepotism
49.	Article 31	Partial Invalidity, Separability, and Waiver
52.		Appendix – A / Local 1888 Employee Dues Check-Off Authorization

AGREEMENT

Entered into this ___ day of October 2009 between the County of Bernalillo, hereinafter referred to as the "County" and AFSCME Council 18, Local 2499, hereinafter referred to as the "Union" and will take effect the first full pay period in July 2009 and end June 30, 2010.

In applying this Agreement, the use of the masculine gender herein, shall be construed to include the feminine gender. The use of the singular shall be construed to include the plural.

NOW THEREFORE IT IS AGREED:

ARTICLE 1
PURPOSE

1.1 It is the purpose of this Agreement to promote and maintain harmony, cooperation and understanding among the County, its employees, and the Union in fulfilling their mutual and respective obligations.

1.2 It is further the purpose of this Agreement to provide orderly and constructive labor management relations between the County and the Union and to secure the prompt and fair disposition of grievances in order to assure the efficient operation of the Metropolitan Detention Center ("MDC") and uninterrupted service to the County. This Article is not grievable.

ARTICLE 2
RECOGNITION

2.1 Pursuant to the certification issued by the Bernalillo County Labor Relations Board on October 10, 2006, the County recognizes the Union as the exclusive bargaining representative for collective bargaining for those employees in the job series identified in the certification issued by the Bernalillo County Labor Relations Board.

ARTICLE 3
MANAGEMENT RIGHTS

3.1 The County, in accordance with applicable statutes, rules and regulations, except as expressly limited, altered or modified by provisions of this Agreement, or appendices hereto or subsequent modifications by written instrument signed by the parties, which written instrument shall specifically identify and refer to the particular Article and subsection of this Agreement addressed therein, subject to the parties' duty to meet and confer over mandatory subjects of bargaining (Bernalillo County Code Section 2-201, et seq.) retains the exclusive right and authority to:

3.1.1 (1) maintain the efficiency of government operations entrusted to it by law; (2) determine the mission of County government; (3) determine the resources to be allocated to accomplish the mission and goals of the Department as a unit of County government; (4) determine methods, means, and personnel by which its operations and the operation of the Department are to be conducted; (5) determine the number of employees to be employed and the capacity of such employment at any time; (6) act in furtherance of all other duties and responsibilities imposed upon it by the Constitution, federal and state statutes, ordinances and administrative regulations; (7) determine the location and operation of its facilities; (8) insure the maintenance of uninterrupted service to the community; (9) take all such actions necessary to maintain such service.

3.1.2 (1) direct employees, establish and enforce reasonable rules and regulations governing the conduct and safety of its employees; (2) establish schedules and take such other actions necessary to carry out the functions entrusted to, or imposed upon, it and the Department by law; (3) hire, promote, transfer, assign, and retain employees in positions; (4) suspend, demote, dismiss and otherwise discipline employees for just cause; (5) layoff or otherwise relieve employees from duty for lack of work or other legitimate reason; (6) determine qualifications for, select and hire supervisory personnel; (7) determine the qualifications for, select and hire new employees; (8) determine the qualifications and select employees for promotion and transfer; (9) determine the number and arrangement of work schedules, shifts and the starting and stopping times thereof; (10) evaluate, test and provide for the examination of employees and applicants for employment to determine their fitness and suitability for duty and employment; and (11) determine and implement all policies, procedures and standards not otherwise restricted, limited or prohibited by the specific provisions of this Agreement.

3.2 It is understood and agreed that the functions of management listed herein are not all inclusive and that all such rights, powers, or authority not otherwise relinquished in this Agreement shall be retained by the County.

3.3 It is further understood and agreed that any provision in this Agreement or appendices hereto, or other written modifications which limit, modify or alter any management right set forth in this Article shall prevail and take precedence over said management right.

ARTICLE 4
REPRESENTATION

4.1 The Union retains the exclusive right to define its organization and to manage its internal affairs and the County shall recognize those employees designated as representatives of the Union in all matters arising from the administration of this Agreement. The Union shall advise the County Manager of the names, addresses and current working telephone numbers of Union representatives and identify their official positions within the Union. The Union shall promptly advise the County Manager of any changes in the foregoing information.

4.2 The County may allow Union representatives to visit the MDC for the purpose of administering the provisions of this Agreement at such times and places which do not interfere with the operations of the facility, subject to the prior written approval of the Chief of Corrections.

4.3 The Union shall appoint eleven (11) Stewards to include the Chief Steward and provide the County with a list of such Stewards and their primary areas of coverage. The Union reserves the right to make any changes of Union Stewards at any time so long as the County is informed within a reasonable period of time.

4.4 The Union shall furnish the County with a list of all Union representatives, who are not County employees, who would have reason to visit MDC. All visits shall require 24 hours advance notice and the prior written approval of the Chief of Corrections, which shall not be unreasonably withheld.

4.5 For any meeting called or agreed to by the County with respect to labor management relations issues (other than matters pending before the Labor Board) between the County and the Union, at which a Union representative is required by the County to be present (and the Union representative would otherwise be required to use annual leave or leave without pay in order to attend) such Union representative shall be paid at his appropriate rate of pay for the time spent at that meeting and any travel time between the location of the meeting and the MDC.

ARTICLE 5
NON-DISCRIMINATION

5.1 The Parties shall not discriminate against any employee based on race, color, religion, age, sex, sexual orientation, marital status, gender, creed, national origin, political affiliation, Union membership or non-membership, veteran status, handicap or disability. The County shall not encourage or discourage membership in the Union.

5.2 Any allegation of discrimination of the nature set forth in this Article shall be pursued under the procedures set forth in applicable County policies, with the EEOC or in accordance with such other appropriate statutory or administrative procedures as are available.

ARTICLE 6
NON-INTERFERENCE

6.1 The Parties acknowledge that each is free to conduct its affairs and business in the manner which each respectively believes to be in its own best interests. Accordingly, the Parties agree that neither shall interfere with the internal business affairs of the other; nor with the officials or representatives of the other in the conduct of their internal business affairs and other matters not involving the collective bargaining relationship.

ARTICLE 7
COMMUNICATIONS

7.1 It is understood by the Parties that inaccurate information, incomplete information or the failure to exchange information is one of the major causes of breakdowns in the labor-management relationship. In the interest of preventing misunderstandings stemming from such lapses in communications the Parties agree to furnish information as follows:

7.1.1 The County shall:

a. provide copies to the Union, at its actual cost, copies of all new MDC policies, which are determined to be relevant by the Department;

b. upon written request allow the Union access to MDC policies, at reasonable times and places;

7.1.2 The Union shall provide the County with a current list of Union officers, trustees, stewards and alternates. Such list shall describe the authority possessed by each individual, and shall be updated within one week of any such change.

7.2 The Parties agree to communicate only through the appropriate officials as designated by the County and the Union respectively.

7.3 Labor Management Relations Committee.

7.3.1 The Labor-Management Relations Committee shall be composed of three (3) County representatives, selected by the County, and three (3) Union representatives.

7.3.2 The Committee shall meet on the request of either party and at least once quarterly to discuss all matters of mutual concern.

7.3.3 A Party wishing to convene the Labor-Management Relations Committee shall provide written notice to all members of the Committee. The written notice shall identify the specific Article or provision of the Agreement to be addressed, Committee members shall meet and confer within fourteen (14) calendar days of receipt of the written notice.

7.3.4 In the event a meeting is called to address the intent or interpretation of a specific provision of this Agreement, the County and the Union shall be permitted to invite members of the current negotiating teams to discuss the intent of the provision as negotiated.

7.3.5 No grievance over an issue of contract intent or interpretation shall proceed to arbitration until after first presenting the matter to the Labor-Management Relations Committee for review and possible resolution. This meeting shall be held within ten (10) days of the grievant's appeal to arbitration. This period may be extended upon mutual agreement of the Parties.

ARTICLE 8
RECORDS INFORMATION

8.1 The County shall promptly furnish the Union upon request, copies of documents and records, which come within the definition of public records. It is understood that it may be necessary to charge the Union in advance for such copies. In those instances where it is necessary to charge the Union for copies the cost shall be $0.10 per page for documents that are 8.5" x 11" and 8.5" x 14" and the actual costs of reproducing documents that are unable to be copied by the County. The Union shall be charged $25.00 per CD or DVD.

8.2 No material within County control, which contains adverse personnel actions or comments, shall be placed in an employee's personnel file without the employee being informed within five (5) working days thereof. The employee may insert a written response to any such matter in his file. An employee shall be permitted to inspect any departmental maintained or official personnel file that is maintained concerning his employment with the County. Copies of requested materials from an employee's personnel file shall be provided to the employee at a cost of $0.10 per page.

8.3 All personnel files shall be confidential, except as abridged by law, to the employee or the employee's supervisory line of authority with the following exceptions:

8.3.1 Responding to or investigating complaints of discrimination or harassment;
8.3.2 An employee provides the Human Resources Department with a written authorization for release of the personnel file to a Union representative;
8.3.3 A Department Director as part of the hiring or promotional process; and
8.3.4 As part of a discovery request in a judicial or administrative proceeding.

ARTICLE 9
OVERTIME

9.1 The County shall prepare, maintain and post an up-to-date voluntary overtime list by classification in seniority order. This list shall be maintained in the Telestaff system. It will be the responsibility of each employee who signs up for the voluntary overtime list to provide one (1) current phone number for purposes of being contacted for overtime work. Employees will be required to sign-up for the voluntary overtime list up to one hour into the start of their shift (0800, 1600, or 0000) that they are requesting to work. When the Department determines that there is a need for bargaining unit employees to work overtime, the Department shall offer such overtime assignments to bargaining unit employees based on the voluntary overtime list in Seniority Order. If the employee was unable to be reached, at the phone number provided, the employee will have five (5) minutes in which to respond without relinquishing seniority position. All policies governing the Telestaff system will be in concert with this Article.

9.2 If no employee on the voluntary overtime list is available, involuntary overtime will be required. Involuntary overtime will be assigned in reverse order of seniority within classification from the master seniority list. Officers already on duty will be required to remain on duty until a replacement is obtained. If no replacement is obtained within three hours of the start of the shift, the Officer being held over may be required to work the remainder of the shift.

9.3 Employees shall not work more than sixteen (16) hours straight time except for declared emergency situations. An eight-hour break will be observed between the end of the emergency shift and the next scheduled work shift.

9.4 Employees called in for an overtime assignment, and who appear at the facility or other duty post shall receive a minimum of two (2) hours pay at the overtime rate.

9.5 Employees will not be ordered to work more than two double shifts within two consecutive days, unless the needs of the Department dictate, as determined by the Chief of Corrections in writing to the Union President.

9.6 Employees working a voluntary overtime assignment on their regular day off will not be ordered to an additional overtime shift on that assigned day off.

9.7 Employees assigned to the Internal Affairs Unit shall only be permitted to work overtime in the Internal Affairs Unit, whether it is voluntary or forced.

9.8 Cancellation of Overtime. If the Shift Commander determines that the Department has more employees working in an overtime status than are necessary for that shift, the Shift Commander shall offers those employees working overtime the ability to be relieved of duty in order of seniority. If an insufficient number of employees accept the offer to be relieved, the Shift Commander shall be able to relieve employees who are working overtime in reverse order of seniority.

ARTICLE 10
BIDDING

10.1 Employees will be allowed to bid semi-annually for shift and days off in seniority order.

10.2 The Local 2499 President may appoint up to two (2) employees to assist in the development and administration of the bidding process. The Department will pay both employees identified. The Union President will identify in writing to the Department which employees will assist in the bidding process.

10.3 The bidding procedures will be established by Department policy with input from Local 2499. The policy will include a section that allows for individuals, by classification and seniority, to request unit/area assignments.

10.3.1 Lieutenant and Sergeant bidding will take place during the month of February to take effect in March and August to September.

10.3.2 Corrections Officer bidding will take place during the month of March to take effect in April and September to October.

10.4 Should roster vacancies occur between shift bides, for a position (shift and days off) occupied by a bargaining unit member, the vacancy will be posted for seven (7) days. Vacancies will be filled by seniority order from the employees responding to the posting.

10.5 Any change of work schedule (shift/days off) requires a two week notice in writing by the Chief of Corrections.

ARTICLE 11
WORK WEEK, WORK PERIOD, OVERTIME/STAND-BY/NO PYRAMIDING

11.1 Work Week - A normal work week shall consist of either five (5) consecutive days of eight (8) hours within a seven (7) day period or four (4) consecutive days of ten (10) hours within a seven (7) day period or 12 hour shifts. Prior to the implementation of a 12-hour shift schedule the Chief will meet and confer with the President of Local 2499.

11.2 Pay Period A two-week period of which there are twenty-six (26) specified per year.

11.3 Overtime Employees shall be paid at the rate of time and one-half their regular straight time rate of pay for all time worked in excess of forty (40) hours in any one work week. All overtime shall be authorized by the Chief of Corrections according to financial and budgetary constraints. Holidays shall be counted as hours worked for overtime calculation purposes. Administrative leave, sick leave, annual leave and any other authorized leave status shall not qualify as time worked for the purpose of calculating overtime pay.

11.4 Stand-by.

11.4.1 The Chief of Corrections or his designee may place employees on stand-by status. Stand-by status is defined as duty status wherein an employee is required and assigned to be available for immediate call-out at times when the employee is otherwise not assigned to his regular duty post. During such call-out period the employee shall be issued a pager and expected to remain fit for duty within range of the paging system.

11.4.2 Employees shall not be assigned stand-by duty for time periods less than seven (7) consecutive days in duration. If, in the exercise of his sole discretion, the Chief of Corrections or his designee requires an employee to be placed on stand-by status for periods longer than one week, such assignments in excess of one week shall be made in multiples of seven days (i.e., 14 days, 21 days, 28 days, etc.)

11.4.3 Employees shall not be placed on stand-by status while on leave.

11.4.4 An employee assigned stand-by duty, shall be paid two (2) hours at his overtime rate for each week so assigned.

11.4.5 The employee's pay shall begin at such time as the employee is officially so notified.

11.5 Call Back. When an employee is called back to work after his regularly scheduled shift, he shall be guaranteed two (2) hours pay at one and one-half (1-1/2) times his base hourly rate. Should the call back period last more than two (2) hours the remaining time shall be calculated at the appropriate hourly rate based on the number of hours worked by the employee in that pay period. Call back is defined as the employee who has completed their regular shift and having to return to work after having physically left the MDC property.

11.6 No Pyramiding Compensation shall not be paid more than once for the same hours under any provision of this Agreement.

ARTICLE 12
SENIORITY

12.1 Seniority within Bernalillo County is defined as length of continuous unbroken service, which includes adjusted hired date for Metropolitan Detention Center Employees that transferred on July 1, 2006. Continuous unbroken service means there have been no breaks in employment other than annual leave, sick leave or County authorized leave without pay for less than six (6) months.

12.2 Seniority within Classification is defined as the total length of unbroken and active service in the specific classifications as a Correction Officer, Sergeant or Lieutenant.

12.2.1 In the event an employee is promoted to a new classification the employee's classification seniority shall not be terminated until the 31st day following the change in classification.

12.3 Seniority within Department is defined as total length of continuous unbroken service within the department as a full-time non-probationary employee.

12.4 Seniority rights shall terminate with no further accrual under the following circumstances:

a. Termination of employment by voluntary resignation;
b. Discharge for just cause;
c. In a leave-without-pay status for more than six (6) months;
d. Retirement;
e. Failure to timely respond to recall notice, or rejection of recall; or
f. Layoff status for a period greater than the employee's seniority.

ARTICLE 13
LAYOFFS AND RECALLS

13.1 Layoffs. In the event of a reduction in the number of employees, employees shall be laid-off in the reverse order of their seniority; i.e., the employee with the least Seniority shall be the first to be laid off and so on. Employees who hold the rank of Lieutenant or Sergeant and are scheduled for layoff shall be first given the opportunity to accept demotion to their previous rank held or accept the layoff. When the date of hire is identical the parties shall draw from a standard deck of cards with the employee drawing the lowest card being laid off first.

13.1.1 Employees shall receive fourteen (14) calendar days notice of the layoff.

13.2 Recalls. Employees shall be recalled to work in the inverse order of the sequence in which they were laid-off.

13.2.1 Employees shall be reassigned as to rank in accordance with the procedures set out in 13.1 above.

13.3 Notice of recall. Employees on lay-off shall be recalled by certified mail, return receipt requested sent to their last known address as reflected in the official County records. Laid-off employees shall be given a period of seven (7) days to respond to such notice, indicating whether or not the employee intends to return to work. Laid-off employees shall have a period of seven (7) days, from the date of the receipt of recall notice to notify the Human Resources Department Director of acceptance or rejection of the recall opportunity and of the date on which he is available to return to work. The employee must return to work no later than twenty (20) calendar days from the date the employee receives the recall notice, unless the employee is unavailable to return due to military service or short term disability. Failure to respond within the time period, or rejection of the recall opportunity shall be considered a voluntary termination. It shall be the obligation of the employee to demonstrate that his response was timely.

ARTICLE 14
HOLIDAYS

14.1 Legal holidays for all employees shall be as follows:

Holiday	Observed
New Year's Day	January 1
Martin Luther King Jr. Day	On date of Federal Observance
Spring Break Day	Friday prior to Easter
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veterans Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day following Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

Any legal holiday the County Commission declares in addition to the above listed holidays will be granted to the collective bargaining unit.

14.2 Holiday Premium Pay. An employee who works on a holiday shall be compensated at his regular straight time hourly rate plus time and one-half for the first eight (8) hours worked. Thereafter, the employee shall be compensated at his regular straight time hourly rate, until such employee qualifies for overtime under the provisions of this Agreement.

14.3 To receive Holiday Premium Pay, the employee must be scheduled and required by the Chief of Corrections to work the holiday and must actually work the holiday. Administrative leave (as defined in Article 19.7), sick leave, annual leave and all other authorized leave shall not qualify as time worked for the purpose of receiving Holiday Premium Pay.

14.3.1 To receive Holiday Premium Pay, the employee must be in a work status, leave with pay status, or on their regular day off, on the day preceding or the day following a holiday.

14.4 If a holiday occurs while an employee is on a regularly scheduled day off, administrative leave, annual leave or sick leave, the employee shall receive straight time pay for such holiday, and the day shall not be charged against accrued annual leave or sick leave; provided, the employee has worked his last scheduled day prior to the holiday, and his first scheduled day after the holiday, unless the employee's absence has been otherwise excused or authorized.

14.5 In addition to the holidays set out in Article 14.1, each employee shall be entitled to two (2) personal holidays per fiscal year. Personal holidays shall be taken in full eight-hour increments and not be cumulative from fiscal year to fiscal year.

ARTICLE 15
SICK LEAVE

15.1 Sick leave shall accumulate without limitation, at the rate of one (1) hour for each twenty (20) regular straight-time hours in a paid status.

15.1.1 Sick Leave shall not qualify as time worked for the purpose of calculating overtime.

15.2 Sick leave shall be granted when an employee is unable to perform normal job duties due to personal, spousal or parental medical considerations including, but not limited to illness, injury, pre-approved medical or dental examinations, quarantine, therapy or counseling.

15.3 Sick leave shall not be used for relief from the effects of a second job (moonlighting). Violation of this provision may result in disciplinary action up to and including dismissal. An employee dismissed for cause shall forfeit all accumulated sick leave.

15.4 A physician's excuse shall be required when an employee has used three (3) or more consecutive days of sick leave. An employee may be required to submit a physician's certificate for an absence when an employee has utilized fewer than three (3) consecutive days of sick leave, if the County determines that a pattern of sick leave abuse or misuse is being established by an employee. A physician's certification may be requested by the Chief of Corrections to support sick leave when a pattern of absences or excessive sick leave usage in relation to longevity of employment develops. Pattern of absences is defined as, but is not limited to, when an employee's attendance record shows a sequence of absences, i.e., always Mondays and Fridays, in conjunction with scheduled days off, in conjunction with holidays, certain weeks during a month, following pay day, etc. Excessive sick leave usage in relation to longevity of employment is defined as an employee having a sick leave balance that is less than 50% of the total sick leave available based on years of employment. Major illness or injury, or periods of approved FMLA leave, shall not be counted in considering the issue of usage in relation to longevity of employment. Major illness or injury shall be documented and accompanied by a physician's statement and shall be of a duration of more than (6) workdays. Failure to submit a physician's certificate when requested shall prohibit the employee from receiving sick leave with pay for the period in dispute and may result in disciplinary action up to and including dismissal.

15.5 As a benefit and incentive for the proper use of sick leave benefits, employees may convert accrued sick leave as follows:

15.5.1 An employee who has a minimal balance of 104 hours straight time and accrued more than sixty-four (64) hours of sick leave in a calendar year shall be eligible to receive a cash payment for a maximum of forty (40) hours of regular straight time pay for all such hours in excess of sixty-four (64) accrued within that calendar year. Payment for the excess hours shall be made the first payday in December. All such converted hours shall be deducted from the employee's sick leave balance.

15.5.1.1 For the purpose of this Article a calendar year is from November to November.

15.5.2 Convert any amount of sick leave in excess of two hundred and fifty (250) hours to annual leave at the rate of three (3) sick leave hours for each two (2) annual leave hours when such hours are to be used within a designated payroll period. Conversion of sick leave to annual leave pursuant to this provision requires the prior written approval of the County Manager or designee.

15.5.3 An employee who is eligible for retirement under the Public Employees Retirement Act may convert up to a maximum of 1250 hours of all accrued and unused sick leave to annual leave at the rate of one (1) hour of sick leave for one (1) hour of annual leave. An employee, who is eligible for retirement, may convert all remaining accrued and unused sick leave hours at a rate of three (3) sick leave hours for two (2) annual leave hours.

15.6 In the event an employee is killed while acting within the course and scope of his duties and in accordance with the MDC's policies and procedures, at the time of his death, and is otherwise in good standing the employee's sick leave balance shall be converted to annual leave at the rate of one (1) hour of sick leave to one (1) hour of annual leave, and paid to the estate of the deceased employee.

ARTICLE 16
MEMBERSHIP AND CHECK-OFF OF UNION DUES

16.1 No employee shall be required to join, maintain membership in, or pay dues or fees to, the Union as a condition of acquiring, or maintaining employment.

16.2 During the term of this Agreement, an employee who is a member of the Union may execute a Dues Check-Off Authorization form, authorizing that a portion of his wages representing monthly dues or fees be withheld and forwarded to the Union. The Dues Check-Off Authorization shall be in the form set out and attached hereto as Exhibit A.

16.3 Upon receiving a properly executed Dues Check-Off Authorization form from an employee, the County shall, as soon as practicable, effect such payroll deductions.

16.3.1 The deduction of such dues shall commence with the first paycheck after receipt of the Dues Check-off Authorization form.

16.3.2 Such deductions shall be strictly limited to the amount, as from time to time, may be certified in writing by the President as constituting the monthly dues or fees uniformly required as a condition of acquiring and retaining membership.

16.3.3 No deduction shall be made during any pay period in which an employee has insufficient wages to cover the authorized dues deduction.

16.4 The Union shall indemnify and hold harmless the County and its Departments, as may be appropriate, from any and all liability which may arise, or be claimed to arise, out of or in connection with said dues deductions.

ARTICLE 17
DISCIPLINE

17.1 General Statement.

17.1.1 The County shall discipline employees only for just cause.

17.1.2 The purpose of this Article is to encourage the use of counseling and positive discipline as methods of assisting employees in correcting work violations and behavior and improving job performance.

17.1.3 All disciplinary action, constructive criticism, or counseling shall be conducted in private.

17.1.4 A written notification of investigation will be initiated within ten (10) working days of the commission, omission or discovery of the act that precipitated the charges and the investigation. In cases where extensive investigation is required, disciplinary action will not be initiated until the facts have been established.

17.1.5 All disciplinary action in the nature of suspension, demotion or dismissal shall be preceded by a written Notice of Intent to Discipline which shall include the conduct, action or omission which form the basis for the contemplated disciplinary action. The notice of intended discipline shall also identify any policy, regulation, procedure or statute violated.

17.1.6 Upon receipt of a Notice of Intent to Discipline or written reprimand the employee or his representative shall be entitled to review all documentation or recorded statements that relate to the disciplinary action. The predetermination hearing shall not be held until the employee or his representative have had a reasonable opportunity to review the information.

17.1.7 Prior to the final disciplinary action of suspension, demotion or dismissal, a pre-determination hearing shall be held.

17.1.8 Thereafter, a Notice of Final Action shall be issued and served upon the subject employee, and shall be limited to those matters set forth in the Notice of Intent to Discipline.

17.2 Range of discipline. The range of discipline is as follows:

17.2.1 Written Reprimand.

An employee is typically issued a written reprimand in circumstances where the infraction is perceived to be of a greater consequence than that for which an oral reprimand is typically issued or if a prior oral reprimand to correct the same or similar behavior was ineffective. Written reprimands shall be placed in the employee's official personnel file after providing the employee with a copy of the reprimand. The employee shall acknowledge having received the reprimand by affixing his signature to the reprimand. So doing shall not be construed as the employee's agreement that the reprimand was warranted

17.2.2 Suspensions and Demotions.

An employee may be suspended without pay for a period not to exceed thirty (30) working days, and/or demoted for a single serious offense or for continued substandard job performance or misconduct when previous attempt(s) to correct behavior have failed.

17.2.3 Dismissal.

An employee may be dismissed when other discipline has failed to improve unacceptable behavior or job performance, or when an employee has engaged in a single serious event which is unacceptable for County employees.

17.3 Procedure/Written Reprimands.

17.3.1 Disputes regarding written reprimands may be contested through the Grievance Procedure hereof, but shall not be subject to Arbitration.

17.3.2 Upon receipt of a written request from the employee, one (1) year after a written reprimand has been issued, the written reprimand shall be removed from his personnel file, provided that the employee has received no further discipline for the same or similar offense. In the event of a same or similar offense within the one (1) year period, the written reprimand shall be permanently included in the employee's personnel file.

17.4 Procedure - Suspension, Demotion or Dismissal.

Disputes regarding suspensions, demotions or dismissals shall be contested utilizing the Grievance Procedure set forth in this Agreement.

ARTICLE 18
GRIEVANCE PROCEDURE

18.1 Statement of Purpose. The parties agree that the prompt and equitable resolution of grievances hereunder is essential to the proper and efficient operation of the MDC; and, that all reasonable efforts shall be made by the parties and the employees to resolve all grievances in a timely and mutually satisfactory manner. To that end, the parties agree to attempt to resolve all grievances at the lowest possible step.

18.2 No employee who uses or participates in the grievance procedure shall be subjected to retaliation of any kind or nature for having participated in this procedure, nor shall he be threatened, intimidated or coerced in any manner, for having done so.

18.3 All grievances shall be maintained in separate grievance files and shall not be included in the personnel file of any individual grievant.

18.4 All references to the "grievant" shall be construed to include the Union or individual grievant as may be required by the context of the reference.

18.5 The procedures for filing a grievance shall be the same for all grievances.

18.6 Unless agreed upon in advance by the parties to the grievance, tape recorders or other electronic recording devices shall not be used by any party or employee or employee representative participating in the grievance at Step One or Step Two of the grievance procedure. The County shall provide an audio tape recording system and shall audio tape the arbitration proceedings. This audiotape shall serve as the official record of the proceedings unless a party utilizes a certified court reporter to make a verbatim transcription of the proceedings as provided in Article 18.18 hereunder.

18.7 This procedure shall be the sole and exclusive method of resolving any and all disputes concerning the application, interpretation or meaning of this Agreement, except as may be otherwise provided by law or regulation. No alleged violation of this Agreement shall be submitted to the Bernalillo County Labor Relations Board.

18.8 Definitions.

18.8.1 "Grievance"- A grievance is any difference, dispute or disagreement concerning the application, interpretation or meaning of this Agreement or the appeal of a disciplinary action involving a dismissal, suspension or demotion. As used in this Agreement "grievance" means any formal complaint by or on behalf of a particular employee or group of employees alleging that the grievant's rights, benefits, privileges or interests specifically set forth in this Agreement have been violated or that this Agreement has been misapplied with respect to the grievant in a particular situation. The Grievance and Arbitration Procedures of this Agreement shall not be available when other avenues of relief are available such as that which may be obtained through the filing of charges with the Human Rights Commission, EEOC or the filing of a worker's compensation claim, or other such matters for which a statutory remedy is provided, but excluding seeking relief from the Bernalillo County Labor Relations Board.

18.8.2 "Grievant" - A grievant is any employee, group of employees or Party to this Agreement, who files a grievance under the procedures set forth in this Article.

18.8.3 "Time" - All time periods referred to herein shall be measured in working days, Monday through Friday excluding holidays recognized by the County.

18.8.4 "Settlement"- means the agreed-upon resolution of the grievance, set out in writing and signed and dated by the parties.

18.8.5 "Waiver"- Any step of this procedure may be waived by mutual agreement of the Parties.

18.9 Time Limits.

18.9.1 All time limits and requirements set out in this Article shall be of the essence and shall be strictly enforced and shall not be waived or amended by any grievance form. Any of said time limits may be extended with respect to a specific grievance by written agreement of the parties to the grievance.

18.9.2 If the County fails to respond within the designated time limits, the grievance shall be deemed denied, and shall be automatically advanced to the next step of the grievance procedure. If the County issues a written response at Step One or Step Two of this Grievance Procedure and the grievant fails to appeal to the next step within the time limits, the grievance shall be deemed settled on the basis of the County's last response.

18.10 Resolution of Employee Grievances.

Informal Resolution Step: The grievant may at any time prior to the filing of a grievance at Step One first attempt to resolve the problem informally with his Chief or Designee.

18.11 Step One:

The grievant shall initiate a grievance by submitting a formal written grievance, on the approved grievance form (Exhibit B hereto), within ten (10) days of the event giving rise to the grievance, or within ten (10) days of when the grievant knew or should have known of the event giving rise to the grievance, and submitting the same to the Department Chief of Corrections. The Step One grievance shall identify the current grievance step, the event upon which the grievance is based and the date, upon which it is alleged to have occurred, the specific provision(s) of the Agreement which are alleged to have been breached and the remedy sought. The grievance shall be dated and signed by the grievant(s).

18.12 The Chief of Corrections shall note the date and time of receipt on the grievance form, and shall respond in writing within five (5) days from the date of receipt. The response shall be made on the grievance form and a copy of the completed form shall be returned to the grievant, steward or Union representative, as the case may be.

18.13 Step Two:

If the grievance is not settled at Step One of this procedure, the grievant may, within ten (10) days of receipt of the Step One response, appeal the grievance to the County Manager or his designee on the grievance form. The Step Two grievance shall identify the current grievance step, the event upon which the grievance is based and the date, upon which it is alleged to have occurred, the specific provision(s) of the Agreement which are alleged to have been breached and the remedy sought. The Step Two grievance shall be signed and dated by the grievant. The grievance shall be dated and signed by the grievant(s). Upon being appealed to Step Two, the grievance shall be treated as a final document, and no amendments shall thereafter be permitted. The County Manager or his designee shall note the time and date of receipt of the appeal on the grievance form. A conference with the County Manager or his designee to discuss the grievance and any settlement thereof shall be scheduled and held by the parties within ten (10) days of receipt of the appeal. If the grievance is settled at the conference, the settlement shall be reduced to writing, noting the terms thereof, the date and the time of settlement, and shall be signed by the parties, and the grievant, if appropriate.

18.14 If the grievance is not settled at the Step Two conference, the County Manager or his designee, within ten (10) days thereof, shall set out in writing, his response to the grievance either on the grievance form, or attached thereto. The response shall be signed, dated and returned to the grievant or steward.

18.15 Arbitration.

18.15.1 If the grievance is not settled at Step Two, the grievance may be appealed to arbitration within ten (10) days of receipt of the County Manager's or his designee's written response. The appeal to arbitration shall be submitted to the County Manager's Office on the grievance form.

18.15.2 Any individual employee or group of employees shall have the right at any time to have a grievance adjusted through arbitration, provided the adjustment is not inconsistent with the terms of this Agreement, and provided further, that with respect to grievances involving the intent, interpretation or application of any provision of this Agreement, the Union has been given the opportunity to be present at such adjustment.

18.15.3 Arbitration shall be limited to grievances as defined in Article 18.8.1 above.

18.15.4 The arbitration proceedings and appeals therefrom shall be conducted in accordance with the Uniform Arbitration Act as enacted by the State of New Mexico, §44-7-1 et seq. NMSA 1978.

18.15.5 The County shall maintain a panel of no fewer than three (3) arbitrators.

18.15.6 Within five (5) days of filing an appeal to arbitration, the parties shall meet and select an Arbitrator from the list of names appearing on the panel. In the event they are unable to reach mutual agreement on the selection of an arbitrator, the grieving party shall strike the first name from the list and the parties shall alternately strike names until only one (1) name remains. That individual shall serve as the Arbitrator

18.15.6.1 The County shall mail a letter, or if a telefax number is available shall send the letter by telefax, to the arbitrator within two (2) days of his selection notifying the arbitrator of the selection and requesting that a Pre-Hearing Conference be scheduled within three (3) weeks of receipt of the letter and inquiring whether the arbitrator is available to conduct a hearing on the merits within ninety (90) days of being selected.

18.15.6.2 In the event the selected arbitrator is unable to conduct the hearing on the merits within ninety (90) days the parties may by mutual agreement select a new arbitrator. The new arbitrator shall be selected by utilizing the process identified in Article 18.15.6.

18.15.7 The Arbitrator shall schedule and conduct a Pre-Hearing Conference by such method deemed appropriate by the Arbitrator. The Arbitrator will address Pre-Hearing Motions during the Pre-Hearing Conference which may include, but are not limited to, motions to reduce the number of witnesses called by a party or to limit the testimony of witnesses, in the event that it is apparent that the testimony of such witnesses will be cumulative. Each party shall submit a Pre-Hearing Statement to the Arbitrator and the opposing party, in advance of the Pre-Hearing Conference, containing the following information:

a. a statement of the issues;
b. proposed stipulations of fact;
c. a list of witnesses to be called and a summary of their testimony;
d. a list of exhibits;
e. requests for subpoenas; and
f. estimate of the amount of time needed for the hearing.

18.15.7.1 The County shall mechanically record any Pre-Hearing Conference at which the arbitrator is hearing a dispositive motion. The Association may also mechanically record the Pre-Hearing Conference. However, the County shall maintain the official record.

18.15.7.2 Following the Pre-Hearing Conference, the arbitrator shall issue a Pre-Hearing Order which shall contain:

a. the issues submitted for arbitration;
b. stipulations of fact;
c. a deadline for disclosure of witnesses and exhibits;
d. a deadline for the close of discovery;
e. a deadline for filing pre-hearing motions;
f. a hearing date or dates, which may be continued for good cause.

18.15.8 The Arbitration shall be conducted in the Legal Department's conference room or some other place mutually agreed upon by the parties to the Arbitration proceeding. The arbitration hearing shall be open to the public unless the parties agree to the contrary. The costs of arbitration services shall be borne as follows: the losing party shall pay all fees and expenses of the arbitrator; and the arbitrator shall designate the losing party for the purposes herein. The arbitrator may find that both parties lost in part (e.g. reduction of disciplinary action to lesser penalty), and apportion fees and expenses accordingly. However, each party shall bear all of its own costs.

18.16 The grievant may have no more than two (2) personal representatives, one of whom may, but need not, be an attorney, represent him at any stage of the grievance procedure or at the Arbitration proceedings. The County may be represented by an attorney and may have present one (1) additional representative appearing on behalf of the Department.

18.17 The Arbitrator shall have no authority to add to or to arbitrate away in whole or in part any provision of this Agreement. The Arbitrator shall, within the time limits set forth below, issue his Award and a written opinion in support thereof. His Opinion and Award shall be confined to an interpretation of the Agreement and a resolution of the specific grievance under consideration, as set forth at the Step Two conference. The Arbitrator shall have no authority to determine any issue not specifically so submitted. The Arbitrator shall have no authority to grant interest in connection with any award of back pay or benefits.

18.18 Either party may request that a verbatim stenographic transcript be taken of the arbitration proceedings by a certified court reporter. Any party so doing shall bear the cost thereof.

18.19 The opinion and award of the Arbitrator shall be final and binding on the parties to the extent provided by applicable law or regulation.

18.20 The Arbitrator's Opinion and Award shall be mailed to the parties within thirty (30) days of close of the hearing.

18.21 The parties may agree to expedited Arbitration and request the Arbitrator to issue his Opinion and Award orally from the bench at the conclusion of the hearing.

ARTICLE 19
LEAVES AND SCHEDULING

19.1 Requests or Use of Leave. It is the County's policy to approve all requests for leave in a fair and equitable manner, consistent with staffing requirements. Inappropriate requests or use of leave may result in such leave being denied, or the leave may be deemed as unauthorized.

19.2 Unauthorized Leave Without Pay (ULWP). Employees who fail to appear for work without authorized leave, or who appear for work but who are in violation of MDC policy governing their readiness for work, shall be considered to be on Unauthorized Leave Without Pay and may be subject to disciplinary action up to and including dismissal. Employees shall not be paid for any periods of unauthorized leave and shall not accrue sick or annual leave during periods of unauthorized leave. Unauthorized absence for three (3) or more consecutive work days shall be considered as abandonment of the position and voluntary resignation with the County.

19.3 Military Leave. All employees authorized military leave shall be granted such leave in accordance with applicable state and federal law. It is the responsibility of the employee to provide military orders with notification of the required absence at least (15) fifteen days prior to the commencement of leave or promptly upon receiving such notification. The employee shall also provide original and one copy of the military leave orders if such orders are written.

19.4 Leave Without Pay (LWOP). The County Manager or his designee may authorize leave without pay for six (6) months or less, upon written request of the employee concerned. An employee shall be returned to his former position or be reassigned to a comparable position if the employee returns to work within six (6) months of the day LWOP became effective. This requirement may be waived by written agreement of the employee. The County shall have no obligation to return the employee to his former or comparable position if the LWOP is for a period greater than six (6) months. Neither annual leave nor sick leave shall be accrued while on LWOP. Failure to report back to work upon expiration of approved LWOP shall be considered as ULWP.

19.5 Bereavement Leave. Bereavement leave is leave with pay for which the employee is not charged due to the death of an immediate family member. It may be granted by the Chief of Corrections or designee upon the employee's request. Bereavement leave may be granted for a period not to exceed five (5) working days. For purposes of this Article, immediate family members is defined as: mother, father, sibling, grandparents, spouse, children either natural or adopted, grandchildren, aunts (limited to sister of parent) and uncles (limited to brother of parent) and like relatives of employee's spouse.

19.5.1 An employee shall complete a Bereavement Leave Request form and receive written approval for such leave prior to taking Bereavement Leave, whenever possible. In those situations where it is not possible to complete the Bereavement Leave Request form prior to seeking approval for Bereavement Leave, the employee shall complete the Bereavement Leave Request form within five (5) days of returning to work. The Chief of Corrections or designee upon receipt of the Bereavement Leave Request form may then adjust the amount of Bereavement Leave granted to the employee and shall be permitted to charge the employee's annual leave for the balance of any disapproved Bereavement Leave. If the employee does not have adequate annual leave balances he shall be charged with leave without pay. Failure to provide adequate documentation within thirty (30) days to prove familial relationship shall result in the employee being charged with leave without pay.

19.6 Annual Leave. All employees covered by this Agreement shall be entitled to annual leave with pay in accordance with the following schedule:

Seniority	Reg. Hrs. Worked	Accrual	Days Accrued
6 mos - 5 yrs	20	1.0 hrs	13.0 days
5 yrs - 10 yrs	20	1.3 hrs	16.9 days
10 yrs - 15 yrs	20	1.5 hrs	19.5 days
15 yrs - 20 yrs	20	1.7 hrs	22.1 days
20 yrs or more	20	2.0 hrs	26.0 days

19.6.1 During each full calendar year of employment, no more than two hundred and eighty eight hours of accrued annual leave may be carried forward into the following calendar year.

19.6.2 Employees shall not be required to work an involuntary overtime assignment during any shift on the day before or following a day that an employee is on annual leave.

19.7 Administrative Leave. For the purpose of this Agreement, an employee placed on Administrative Leave shall be required to call-in on a daily basis as directed at the time the employee is placed on such leave status. Call-in shall not be required on weekends or those holidays recognized in Article 14 of this Agreement.

19.8 Jury Duty Leave. An employee, when called for jury duty by a federal, state, metropolitan or magistrate court, shall be given a paid leave of absence, provided that the employee provides adequate proof of dates and time served and returns to the County the jury fee received (other than meals and travel allowances). Such time shall be counted as hours worked. An employee may elect to use annual leave in lieu of paid jury duty leave and may then keep the fee provided by the Court.

19.9 Voting Time. An employee who is registered and eligible to vote in a state or federal election, shall be given, upon request, leave with pay for two (2) hours for the purposes of voting. However, an employee is not eligible for such paid leave if the employee's shift begins more than two (2) hours subsequent to the time of opening of the polls or ends more than three (3) hours prior to the time of the closing of the polls.

19.10 Family and Medical Leave Act Leave. Employees may also be entitled to leave as provided under the Family and Medical Leave Act.

19.11 Humanitarian Leave. Humanitarian Leave shall be available for employees who have exhausted all paid leave and are experiencing a long term and serious illness or disability that is not work related. The leave shall not exceed twenty (20) workdays.

19.11.1 The leave shall be drawn from a pool of Humanitarian Leave days contributed by employees. Only employees who contribute to the pool will be eligible for this leave. The pool shall not exceed one thousand hours at any time.

19.11.2 A Humanitarian Leave Committee shall be established. The committee shall be composed of three (3) Union appointees and two (2) County appointees. The committee shall receive and evaluate all requests for Humanitarian Leave. The decisions of the committee shall be final and shall not be subject to this Agreement's grievance and arbitration procedure.

19.11.3 An employee who is in a Humanitarian Leave status shall not accrue sick and annual leave during such period.

19.11.4 Upon ratification and approval of this Agreement, the Humanitarian Leave Committee shall meet to develop rules and regulations for this provision. No Humanitarian Leave shall be awarded until the rules and regulations have been approved by the Union President and the County Manager.

19.12. Annual leave conversion contributed to sick leave.

19.12.1 An employee, who has more than 150 hours of accrued annual leave, may at the discretion of the County be permitted to contribute annual leave to another bargaining unit employee when the following criteria are met:

19.12.1.1 The employee is in need of sick leave hours due to critical circumstances as determined by the Human Resources Department.

19.12.1.2 The annual leave hours contributed are transferred from one employee to another in hourly increments.

19.12.1.3 A Conversion Leave Form is submitted to the Human Resources Department.

19.12.2 Hours transferred shall be converted to the other employee's account based on value of hours contributed, but recorded as converted hours based on value of hours used.

19.12.3 The maximum leave that can be donated per employee will be forty (40) hours per calendar year.

ARTICLE 20
MODIFIED DUTY

20.1 An employee who has been on authorized leave due to a work related illness or injury, upon release from his physician may be permitted to return to work in a temporary modified duty assignment within the County, if such position is available. Such employee shall not be assigned to a position which could jeopardize or aggravate his physical condition. The intent of this provision is to permit such employee to return to work as soon as it is medically permissible for him to do so. Modified duty refers to duty other than normal job duties and it is not the intent of this provision that such duty is of a "make work" nature.

ARTICLE 21
WORKERS' COMPENSATION/INJURY TIME

21.1 An employee injured on the job or suffering from occupational diseases, as defined in the New Mexico Workers Compensation Statute, shall receive Worker's Compensation benefits as prescribed by law.

21.2 All job-related injuries requiring medical attention shall be reported to the employee's immediate supervisor as soon as possible, but in any event, no later than fifteen (15) days following the accident. The County's Risk Management Department shall receive a "First Report of Accident Form" within forty-eight (48) hours of the accident, but in no event later than fifteen (15) days after the accident.

21.3 Supervisors shall complete a "Supervisor's Accidental Investigation Report" and a signed medical authorization to be submitted to the Risk Management Department within twenty-four (24) hours, of the employee's submitting the First Report of Accident form, and in no event more than fifteen (15) days following the accident.

21.4 An employee who incurs a job-related injury/illness shall visit a County contracted physician. The County contracted physician, and/or his professional team may treat the employee or refer the employee to a non-contract physician depending upon the nature of the medical problem.

21.5 When an obvious medical emergency situation exists, the employee shall be taken, or go to the nearest emergency room or urgent care center. Treatment subsequent to emergency treatment shall be coordinated by the County contract physician.

21.6 An employee who works a minimum of forty (40) hours per week is eligible for a maximum of eight hundred (800) working hours, twenty (20) weeks, of injury time compensation.

21.6.1 During the eight hundred (800) hour period of injury time, the County shall pay the employee's share of all those employee benefits sponsored by the County.

21.6.2 In the event that two-thirds (2/3) of the employee's gross salary exceeds the maximum paid by Worker's Compensation, the County will pay the employee the difference between the amount paid by Worker's Compensation and the two-thirds (2/3) of the employee's gross salary during the eight hundred (800) hours of injury time. However, the County shall not be responsible for paying the difference if the Worker's Compensation benefit is reduced as the result of a garnishment, tax levy or other Court Order.

21.6.3 An employee injured on the job may use accrued annual or sick leave for each regularly scheduled work day after the injury occurs for all such days not paid by Worker's Compensation. Employee shall not be entitled to any Worker's Compensation benefit for all days where annual leave or sick leave was received by the employee in lieu of Worker's Compensation. Annual leave or sick leave used by the employee in lieu of Worker's Compensation shall be re-credited to the employee upon receipt of the reimbursement by Worker's Compensation after the expiration of the statutory waiting period.

21.6.4 An employee shall accrue annual leave and sick leave while on injury time.

21.7 In the event of a lump sum settlement with Worker's Compensation, the settlement shall be adjusted for the injury time payments previously received, provided that in no case shall the deduction exceed the amount of the lump sum settlement.

21.8 An employee shall return to his former position or be reassigned to a comparable position if the employee obtains a physician's certification indicating that the employee is able to return to work and perform the essential functions of his position and the employee returns to work within six (6) months of the date of injury.

21.9 An employee returning from Worker's Compensation disability may return to Modified Duty if an appropriate position is available or if the County can reasonably accommodate the employee by modifying the job requirements and the employee's physician certifies that the employee is capable of returning to a modified work schedule.

21.9.1 If an employee is on injury time and working twenty (20) or more hours but less than forty (40) hours per week, the County shall continue to pay its share of the employee's benefits on a pro-rata basis, based on hours worked.

21.9.2 An employee on modified duty will not be placed in a position which could jeopardize or aggravate their physical condition. The intent of this provision is to permit the return to work as soon as it is medically possible.

21.10 If an employee who is receiving or due to receive benefits pursuant to the Worker's Compensation Act does not qualify for a Modified Duty assignment and has not been able to return to work during the six (6) months that the employee's position is held open and the County is subsequently hiring for that position within twenty-four (24) months of the accident, the County shall offer to rehire the employee subject to the "rehire" provisions of Article 37.6 if said employee applies for his pre-injury job and subject to the following conditions:

21.10.1 The employee's treating health care provider certifies that the employee is fit to carry out the pre-injury job without significant risk of re-injury, and

21.10.2 The County has the pre-injury job or modified work available.

ARTICLE 22
ECONOMICS

22.1 Wages. Effective the first full pay period following ratification and approval the base hourly compensation shall be:

22.1.1 Corrections Officer Year Two through Year Four	$ 16.77
Corrections Officer Five Plus Years	$ 19.01
22.1.2 Sergent (SGT.)	$ 21.24
22.1.3 Lieutenant (LT.)	$ 25.71

22.2 P.E.R.A.

The County will provide P.E.R.A. Municipal Detention Officer Plan Coverage to all appropriate members of the bargaining unit (Lieutenants, Sergeants, Corrections Officers). The County will pay Eight point seven six percent (8.76%) of the Employee's portion with the Employee paying the remaining Seven point eight nine percent (7.89%).

22.3 Differential Pay.

22.3.1 Employees assigned to the swing shift shall receive twenty five cents ($ .25) per hour shift differential pay.

22.3.2 Employees assigned to the graveyard shift shall receive thirty cents ($ .30) per hour shift differential pay.

22.3.3 Swing and Graveyard shifts will be defined by Department.

22.4 Clothing/Cleaning Allowance. All uniformed employees covered by this agreement shall receive a clothing and personal properties allowance of six hundred fifty dollars ($650.00) per year to be paid in equal monthly installments on the first pay period of each month. Payments may be prorated on a pay period basis, twenty-six (26) equal payments per year.

22.5 Personal Property Placement.

22.5.1 The County shall reimburse the employee who has not been negligent for damage to glasses (frames and lenses), hearing aids, dentures, watches, or any article of regulation uniform, based upon current/replacement value, when such items are lost or damaged as a result of duty requirements, not to exceed $300.00 unless otherwise approved by the Chief of Corrections. The following steps must be implemented:

22.5.1.1 Submit the claim on an Incident Report to the employee's immediate supervisor on the date of occurrence, if possible but no later than the employee's next active duty shift.

22.5.1.2 Submit the claim with the damaged equipment or personal property and receipt.

22.6.2 The request for reimbursement shall be reviewed by the County Finance Department.

22.6.3 This process shall be accomplished within twenty (20) days of occurrence.

22.7 Insurance Coverage.

22.7.1 Health. For each employee the County shall pay up to a maximum of eighty percent (80%) of the monthly premium for any health insurance plan offered to employees by the County. The employee shall pay the balance of the monthly premium.

22.7.2 Dental. For each employee the County shall pay up to a maximum of sixty percent (60%) of the monthly premium for any dental insurance plan offered to employees by the County. The employee shall pay the balance of the monthly premium.

22.7.3 Inoculation and Immunization. Where health and/or Worker's Compensation insurance do not provide coverage for inoculation or immunization for contagious diseases, the County agrees to provide coverage for such inoculation or immunization for the employee and those family members residing in the same household as the employee. The County is obligated to provide coverage only for those procedures that are proven to be medically effective. In the event the employee or any family member fails or refuses to timely complete the required series of such inoculation or immunization procedures pursuant to this provision, the employee shall be liable to reimburse the County for all expenses thus incurred.

22.8 Specialty Pay. Employees eligible to receive specialty pay as detailed below are limited to receive no more than two (2) such pays per employee. Should an employee qualify for more than two pays, the employee shall identify the pays for which he qualifies.

The employees assigned by the Chief of Corrections to the following activities shall be compensated as follows:

C.E.R.T	$25.00 per pay period
Field Training Officer	$25.00 per pay period
Identification	$25.00 per pay period
Academy Instructor	$25.00 per pay period*
Bi-Lingual	$25.00 per pay period
Operator of Commercial Motor Vehicle	$25.00 per pay period

Department Policy will define the criteria for number of employees assigned, length of service and payment.

*An employee who provides instruction for the Training Academy in a given pay period shall receive the Academy Instructor specialty pay during that pay period.

Should any other County employee receives a monetary increase during the life of this agreement the same amount will be awarded to the Bernalillo County Corrections Officer Association.

ARTICLE 23
DRUG AND ALCOHOL TESTING

23.1 The use of drugs and alcohol, whether on or off the job or for "recreational purposes" or otherwise, constitutes a serious threat to the health and safety of the public, to the safety of the employees, and to efficient operation of the County. In recognition of this principle, the following procedure shall be utilized to eliminate the adverse impact of drugs and alcohol in the workplace:

23.1.1 Whenever the County requires a drug test, the employee's urine shall be tested for the following drugs or their metabolites and a positive test result shall be reported to the Medical Review Officer at the indicated levels:

amphetamines - 1000 NG/ML
barbiturates - 200 NG/ML
benodiazepines - 200 NG/ML
cannabinoids - 50 NG/ML
cocaine metabolites - 300 NG/ML
methadone - 300 NG/ML
methaqalone - 300 NG/ML
opiates - 300 NG/ML
phecyclidines - 25 NG/ML
propoxyphene - 300 NG/ML

23.1.1.1 County Human Resources may add to this list as necessary with County Manager approval.

23.1.1.2 Alcohol shall be tested by the use of a breath analysis and a positive test shall be reported at an alcohol concentration of greater than .02.

23.1.2 An employee shall be required to undergo a drug/alcohol test if there is a reasonable suspicion that the employee's alcohol or drug use could impair job performance and/or safety.

23.1.3 Reasonable suspicion shall mean that there is objective evidence, based upon known specific, articulable observations of the employee's appearance, behavior, speech or body odor that would lead a reasonable person to believe that the employee is under the influence of alcohol or drugs while on duty.

23.1.4 When a reasonable suspicion has been developed to lead a supervisor, to believe that an employee is under the influence of drugs or alcohol, he shall report such suspicion to the Chief. The Chief or in his absence the Chief's designee may order an analysis of the concerned employee's breath or urine for the exclusive purpose of detecting the use of drugs or alcohol.

23.1.5 The County shall be responsible for transporting the employee to the testing site.

23.1.6 An employee assigned to any of the sections identified hereunder shall undergo an analysis of his breath or urine for the purpose of detecting the use of drugs or alcohol prior to commencing such assignment as well as random testing as part of a pool of employees in each category throughout the period of such assignment:

a. Corrections Emergency Response Team (CERT);
b. Security Threat Group (STG);

23.1.6.1 Employees in these categories shall also be subject to random testing as part of the pool of bargaining unit employees.

23.2 Any employee who is involved in an accident with a County owned vehicle, or personally owned vehicle during the course and scope of their employment, shall be required to submit to a post-accident breath and urine test. An accident shall be defined as all events involving a County vehicle during the course and scope of their employment which results in damage to any vehicle, injury to a person or damage to any property.

23.3 Any employee required by his assignment to maintain a Commercial Driver's License (CDL) shall be subject to the provisions of the County's Substance Abuse and Alcohol Misuse Policy.

23.4 Self-Identification. An employee who believes or suspects that he may have a problem with controlled substance use and/or alcohol misuse may voluntarily identify themselves to the County Personnel Department's Controlled Substance and Alcohol Coordinator (CSAC) or CSAC's designee. The CSAC or CSAC's designee shall refer the employee to the County Employee Assistance Program (EAP) for evaluation by a Substance Abuse Professional (SAP).

23.4.1 Within three (3) working days of self-identification, an employee shall elect to participate in the County approved treatment plan or resign from employment with the County, or otherwise be subject to dismissal from the County of Bernalillo.

23.4.2 If the SAP determines that an employee who has self-identified for alcohol misuse also abuses substances or that an employee who has self-identified for substance abuse also misuses alcohol, the SAP can require that the employee be tested for substance abuse and alcohol misuse.

23.4.3 An employee may self-identify at anytime except within thirty-two (32) hours after an accident or after being notified that they must submit to a pre-employment, random or reasonable suspicion testing and shall only be allowed to self-identify once for either substance abuse or alcohol misuse during any employment with the County, regardless of any break-in-service or change in job position.

23.4.4 All costs of the initial evaluation by the SAP shall be the County's responsibility. All costs for counseling or rehabilitation shall be the employee's responsibility.

23.4.5 An employee who self-identifies shall only be granted leave in conjunction with self-identification as determined necessary by the SAP. In the event the SAP determines leave is necessary, the employee shall be granted either annual leave, sick leave or leave without pay status.

23.4.5.1 In the event the employee is eligible for benefits under the Family and Medical Leave Act (FMLA), any leave taken by the employee, either paid or unpaid, shall be considered leave taken under FMLA.

23.4.6 An employee who self-identifies is subject to substance abuse and/or alcohol testing at the discretion of the SAP any time between self-identification and when the SAP's certifies the employee is again able to perform his job duties.

23.4.7 An employee who self-identifies shall be in compliance with the County approved treatment plan upon the SAP's certification that the employee is able to perform his job duties, but in no event shall the period to return to performing his job duties exceed ninety (90) calendar days after self-identification.

23.4.7.1 Compliance with the County approved treatment program means that the employee has submitted to a return-to-duty substance abuse test with a "verified negative" result and/or an alcohol test with either an alcohol concentration of 0.02 or less or an alcohol concentration of zero if any use of alcohol is prohibited by the employee treatment plan, and the employee is cooperating in the County approved treatment plan.

23.4.7.2 Non-compliance with the County approved treatment plan shall subject the employee to dismissal.

23.4.8 Once an employee has been released to work after self-identification and return-to-duty testing, the employee shall be subject to unannounced follow-up alcohol and/or controlled substance testing as directed by the Substance Abuse Professional (SAP). An employee shall be subject to a minimum of at least six (6) tests in the first twelve (12) months following the employee's return-to-duty.

23.4.9 An employee who undergoes a controlled substance test at any time after self-identification, and receives a "verified positive" result, shall be dismissed.

23.5 In the event the County requires an employee to submit to a "reasonable suspicion" drug or alcohol test, the County shall place the employee on paid Administrative Leave pending the final test results.

23.5.1 The County shall bear the cost of the initial drug or alcohol test. The employee shall bear the cost of a test of the split sample. The County shall reimburse the employee for the cost of the test of the split sample in the event the result of the test is negative.

23.5.2 Any employee who refuses to appear for drug or alcohol test shall immediately be removed from assignment and shall be terminated.

23.6 Random Testing Due to the safety sensitive nature of their positions all employees shall be subject to random testing. The selection of employees shall be made by a computer based random number generator from a pool of all bargaining unit employees.

23.6.1 The dates for administering unannounced testing of randomly-selected employees shall be spread reasonably throughout the calendar year; and

23.6.2 The number of employees randomly selected for drug/alcohol testing during the calendar year shall be a minimum of twenty percent (20%) and a maximum of fifty percent (50%) of the total number of employees in the pool.

23.7 An employee who receives a verified positive test result as the result of a reasonable suspicion, post-accident or random drug or alcohol test shall be dismissed.

23.8 Supervisors will receive a minimum of sixty (60) minutes of drug and alcohol specialized training. Non-supervisory employees will receive a minimum of sixty minutes training on the effects and consequences of prohibited drug and/or alcohol use.

23.9 Prior to conducting any testing under this Article, the County shall prepare and implement a Drug and Alcohol Testing Policy to be distributed to employees and supervisors, and all employees and supervisors shall receive training on the Policy. The County shall provide drafts of the Policy to the Association President for review and comment during the drafting of the Policy. The County shall also provide the final Policy to the President of the Association for review and comment, prior to its implementation.

ARTICLE 24
FIREARMS QUALIFICATIONS

24.1 All employees required to carry a handgun as part of their job assignment shall be required to qualify every calendar quarter with the handgun carried by that employee while on duty.

24.1.1 All employees required to carry a shotgun as part of their job assignment shall be required to qualify with the shotgun annually.

24.2 Qualifications shall be conducted under guidelines submitted to the New Mexico Law Enforcement Academy.

24.3 If an employee working in an assignment that requires the use of the firearms listed does not qualify, the Chief may authorize the employee to participate in a remedial training program as outlined in Department Policy. If the employee fails to qualify after remedial training, the employee will be permanently removed from the firearm use assignment.

24.4 In the event an employee attempts to qualify but fails to fire a qualifying score with the firearms mentioned above, he or she shall immediately be reassigned to a position that does not require the carrying of a firearm.

ARTICLE 25
TELEPHONES

25.1 Employees shall have telephones at their residences, if available, and shall report changes of their telephone numbers or addresses to Chief of Corrections and/or Human Resources within two (2) working days after such changes. Home telephone numbers and addresses are confidential, and shall not be released to anyone outside of the MDC or Human Resources without express approval from the concerned employee, or as the result of the issuance of a valid subpoena or other court or administrative order. If the employee does not have a telephone at their residence but does have a cellphone the employee shall be required to provide that number to the Chief of Corrections and/or Human Resources.

ARTICLE 26
OUTSIDE EMPLOYMENT

26.1 An employee may engage in outside business activity or outside employment provided it is not inconsistent, incompatible, and does not conflict and does not interfere, with the proper discharge of the employee's duties and responsibilities.

26.2 Approval for outside business activity or employment shall be secured from the Chief of Corrections or his designee and the Human Resources Department Director prior to initiating such activity or employment.

26.3 The approval shall only be valid for a twelve (12) month period.

ARTICLE 27
INTERNAL AFFAIRS AND POLYGRAPH EXAMINATION

27.1 The Internal Affairs Unit (I.A.U.) is responsible to the Chief of Corrections and is established to conduct administrative investigations with three (3) major purposes:

27.1.1 To protect innocent employees;
27.1.2 To assist in maintaining Department integrity; and
26.1.3 To identify members or employees guilty of misconduct so that they may be retrained and corrected, or if unacceptable for further police service, be removed from employment through proper administrative action.

27.2 The internal affairs interview of an employee shall be scheduled for a reasonable hour convenient to all parties concerned and preferably when the employee I on duty, unless circumstances dictate otherwise. Internal affairs interviews and investigations shall be concluded without unreasonable delay.

27.2.1 Any time an employee is in a paid status, he is considered on duty. All internal affairs interviews shall be conducted on duty.

27.3 Prior to the commencement of the internal affairs interview, the employee under an internal affairs investigation shall be informed of the nature of the internal affairs investigation. If it known that the employee being interviewed is a witness only, he should be so informed at the initial contact.

27.4 The questioning shall not be unreasonably long in duration. Reasonable respites shall be allowed. Time shall also be provided for personal necessities, meals, telephone calls, and rest periods as may be required by the circumstances.

27.5 Internal affairs interviews shall be limited in scope to activities, circumstances, events, conduct or acts which are relevant to the incident which is the subject of the internal affairs investigation. Nothing in this Article shall prohibit questioning the employee about information which is developed during the course of the internal affairs interview.

27.6 The complete internal affairs interview of the employee shall be recorded and shall be transcribed. There shall be no *off the record* questions or statements. All recesses called during the questioning shall be noted on the record. The tape recording shall be preserved and may be introduced before an Arbitrator, in the event the employee declines to sign the *verbatim* transcript of the recording.

27.7 In the event it is determined that the complainant falsified his internal affairs statements, the Department shall take whatever action it deems appropriate and the employee may at his discretion pursue whatever legal remedies are available.

27.8 Any employee found to be knowingly withholding evidence or information pertaining to an internal affairs investigation shall be subject to disciplinary action up to and including dismissal.

27.9 No matter handled by the Internal Affairs Unit shall be included in the employee's official personnel file unless formal disciplinary action is taken.

27.10 When an I.A.U. investigation indicates an employee is likely to be charged with the commission of a crime, the matter will be turned over to the Bernalillo County Sheriff's Office (BCSO), Albuquerque Police Department (APD), New Mexico State Police (NMSP) or other appropriate Law Enforcement Agencies.

27.11 The Chief of Corrections may by written directive, order any employee to submit to any deception detecting examination or technique, including but not limited to, the following types: mechanical, physical or psychological.

27.12 The Chief of Corrections or designee may order a polygraph examination as a condition of continued employment and only after the following has been done:

27.12.a After the Department Director has carefully reviewed the entire case.

27.12.b All investigative leads have been exhausted.

27.13 Polygraph examiners utilized by the Department shall have been trained in a reputable course of instruction and accredited by the American Polygraph Association, and shall be qualified as an expert under the New Mexico Rules of Evidence Rule 11-707(B).

27.14 The employee who is being examined by a polygraph device shall not be entitled to an employee representative present in the examination room during the examination, provided that an employee representative was permitted to be present during the pre-polygraph examination and the polygrapher utilizes only the questions developed in that examination. Such representative may witness the examination from the observer's room. The conditions regarding the employee representative applicable to Internal Affairs' investigations are applicable to polygraph examinations.

27.15 The name of the person making allegations shall be disclosed to the alleged wrongdoer by the investigator. Disclosure of the complainant's name will not be required if revealing his/her name jeopardizes the investigation.

27.16 The interrogation shall be completed as soon as possible and the actual interrogation shall be completed as follows:

27.16.a A maximum of three (3) three (3) hour periods within a period of twenty-four (24) hours with a one (1) hour break between sessions. In no event shall the employee's interrogation sessions exceed eleven (11) hours. The one (1) hour break shall be defined as time worked.

27.16.b In all instances in addition to the one (1) hour breaks provided for in paragraph (a) above, time shall be provided for personal necessities as reasonably necessary.

27.17 The employee shall not be subject to coercion or promises of reward as an inducement to answer questions. Nothing herein is to be construed to prohibit the investigating officer form informing the Employee that his/her conduct can become the subject of disciplinary action.

ARTICLE 28
ISSUED EQUIPMENT

The County agrees to furnish all required equipment set forth under the Corrections Department's Policy and Procedure. A list of such items may be kept current in the Department Policy and Procedure. The Chief of Corrections may make changes to the Policy and Procedure with the Labor Management Relations Committee (LMRC) input.

The employee shall be responsible for normal care and maintenance of all issued equipment.

An employee leaving the service of the County whether through resignation, retirement, layoff or discharge is responsible for returning any County property that he/she may have in his possession.

If an employee fails to return issued equipment, the County shall be permitted to offset the cost of such equipment against any compensation for annual leave accruals that would be paid at the time of separation of employment.

ARTICLE 29
WELLNESS FITNESS

29.1.1 Bernalillo County will develop and implement a mandatory Wellness Fitness Program Policy for employees covered within this Collective Bargaining Agreement.

29.2 Local 2499 will provide input to the Department on Wellness Fitness Program Policy.

ARTICLE 30
NEPOTISM

30.1 The County shall comply with the provisions of the then current New Mexico general anti-nepotism statute.

ARTICLE 31
ANNUAL LEAVE CONVERSION CONTRIBUTED TO SICK LEAVE

31.1 The collective bargaining unit employee may, at the discretion of the County, be permitted contribute annual leave to another full-time non-probationary or part-time employee when the following criteria are met:

31.1.1 The collective bargaining unit employee is in need of sick leave hours due to critical circumstances as determined by the Human Resources Department.

31.1.2 The annual leave-hours contributed are transferred from one employee to another in hourly increments.

31.1.3 A Conversion of Leave form is submitted to the Human Resources Department.

31.2 Hours transferred shall be converted to the other collective bargaining unit employee's account based on value of hours contributed, but recorded as converted hours based on value of hours used.

31.3 The collective bargaining unit employee using contributed hours and not eligible for Family and Medical Leave Act leave shall be assured a County position for which he qualifies as a position becomes available, but shall give up the right to his current position once he has started using contributed hours. For purposes of accrual of sick and annual leave, an employee on contributed hours shall be considered on leave without pay and shall not accrue sick and annual leave. An employee receiving worker's compensation shall not be eligible to receive contributed hours.

ARTICLE 32
PARTIAL INVALIDITY, SEPARABILITY, AND WAIVER

32.1 This Agreement shall be effective upon ratification and execution by both parties and shall remain in effect until a new Agreement has been ratified and executed by both parties.

32.2 Should neither party to this Agreement request the opening of negotiations, at least one hundred twenty (120) days prior to June 30, 2010, this Agreement shall continue in full force and effect from year to year thereafter.

32.3 In the event that any of the provisions of this Agreement shall be declared by a Court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the remaining provisions thereof. In such event, the parties shall immediately meet to negotiate a suitable provision to replace the invalid or unenforceable provision.

32.4 This Agreement is the only Agreement between the parties and supersedes any and all previous agreements and understandings.

32.5 Should applicable law or circumstances render invalid, unenforceable or no longer appropriate any provision of this Agreement, the parties shall meet to negotiate a suitable provision to replace the invalid or unenforceable provision. Such replacement provisions shall become effective immediately upon ratification according to the respective procedures and regulations of the parties, and shall remain in effect for the duration of the Agreement.

32.6 In the event that an ambiguity exists with respect to, any provision of this Agreement, the parties may meet to negotiate a Memorandum of Understanding with respect to the affected provision, as well as any other provision whose interpretation or implementation is dependent or contingent thereon. Such Memorandum of Understanding shall be executed by appropriate representatives of the parties and shall remain in effect for the duration of the Agreement.

32.7 In the event that any of the provisions of this Agreement shall become invalid or unenforceable, such invalidity or be shall not affect the remaining provisions thereof.

32.8 This Agreement specifically describes the entire Agreement between the parties. In applying this Agreement, the parties agree that state and/or federal laws and regulations enacted shall take precedence over this Agreement and any Department Standard Operating Procedures (S.O.P.). Provided, this Agreement shall take precedence over any conflicting Department Policies or S.O.P.s.

32.9 The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from collective bargaining, and the agreements arrived at by the parties after the exercise of that right and opportunity and are set forth in Agreement. Therefore, the County and the Union, for the life of this Agreement, each voluntarily and unqualifiedly waives the right, and each agrees that they shall not be obligated to bargain collectively with respect to any subject or matter referred to, or covered in this Agreement, or with respect to any subject or matter not specifically referred to or covered in this Agreement, even though such subject or matter may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this Agreement subject to the County's duty to bargain over the impact or implementation of mandatory subjects of bargaining. Provided however, this provision shall not constitute a waiver of the right to grieve the effect upon the bargaining unit of matters otherwise excluded hereby. The parties further agree that upon the ratification and approval of this Agreement all past practice between the parties shall be null and void.

IN WITNESS WHEREOF, the parties have executed this instrument by their duly authorized officers or representatives on this ___ day of _____, 2010.

AFSCME COUNCIL 18
LOCAL 2499

Eric R. Allen, President

BOARD OF COUNTY COMMISSIONERS

Art De La Cruz, Chair

Maggie Hart Stebbins, Vice-Chair

Alan B. Armijo, Member

Michael Brasher, Member

Michael C. Wiener, Member

APPROVED AS TO FORM:

Bernalillo County Legal Department

Date: 1/26/10

ATTEST:

Maggie Toulouse Oliver, County Clerk

Dated: 1/26/10

BERNALILLO COUNTY COUNTY CLERK SEAL STATE OF NEW MEXICO

EXHIBIT A
LOCAL 1888 EMPLOYEE DUES CHECK-OFF AUTHORIZATION

Date:

I, _____, am employed by the Bernalillo County in Albuquerque, New Mexico, and I do hereby designate the Corrections Officers Local 1888 as my representative for the purposes of bargaining with the County of Bernalillo concerning my hours of work, compensation paid therefore and other terms and conditions of my employment.

In accordance with the provisions of Article ____ of the Agreement between the Union and the County, I hereby authorize the County of Bernalillo to withhold from my compensation and pay over to the Union, such amount as is certified by the President of the Union as representing the dues or fees uniformly required for Local 1888 Corrections Officers:

Membership Dues $_____

This Dues Check-Off Authorization shall remain in full force and effect for the term of Said Agreement or until such time as I revoke the same in writing.

Signature: _____

Social Security Number: _____

Address: _____

City, State, Postal Zip Code: _____

Telephone Number: _____