

ITEM # 17-0973

AGREEMENT

BETWEEN

THE CITY OF SANTA FE

AND THE

**AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES**



Whole Agreement in Effect

July 1, 2017 through June 30, 2020

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- B. The Union will be allowed access to City facilities and communication with bargaining unit employees as follows:
1. For the purpose of the administration of this Agreement, Union representatives shall have reasonable access to bargaining unit employees, subject to Sections 2 and 3 of this Article and with advance notice to the supervisor. Such access should not interfere with the work of employees.
 2. Union officials may request to use City conference rooms and meeting facilities for union meetings, subject to advance scheduling and availability.
 3. The City will identify a space approximately 4' by 4' at work sites around the City where the Union may place information on bulletin boards. These bulletin boards may be used for posting of Union official notices and literature. The Employer and employees shall not tamper with information posted on these bulletin boards.
 4. City vehicles shall not be used for union business unless requested by management or unless the employee is on call and assigned a city vehicle.
 5. City equipment and supplies may be used for Union/City business by mutual agreement.
 6. The City's intra-departmental mail system and Internet e-mail system may be used by Union officers only, for notification of Union meetings, bulletins regarding Sick Leave Bank and/or emergencies.
- C. Outside mail and hand-delivered mail marked "personal" or "confidential" and addressed to Union staff, officials, stewards and/or members shall be treated as confidential and shall not be opened by anyone except the addressee.

Section 5 New Employee Orientation

The Employer shall notify the Union and allow a Union representative and a trainee to be present at each scheduled, formal new employee orientation meeting. The Employer shall provide a copy of this Agreement in all newly hired employee packets along with a dues deduction authorization form. The Union shall also be afforded up to twenty-five (25) minutes for the purpose of conducting an overview of this Agreement to new employees during regularly scheduled orientation sessions.

ARTICLE 6 MANAGEMENT RIGHTS

It is agreed that, except as expressly modified by the terms of this Agreement, the Employer exclusively retains all rights, including but not limited to:

1. Determine the mission, budget, organization and number of employees allocated by position to meet the minimum staffing levels of each department;
2. Determine qualifications for employment; validate content of examinations; make requests for position audits and reclassifications; and ensure that best practices exist for the recruitment, interviewing and selection of applicants;

3. Direct employees and evaluate their performance based on standards of work established by the Employer;
4. Make assignments, transfer, or retain employees in positions, and make determination of job duties;
5. Provide reasonable rules and regulations governing the conduct of employees;
6. Provide reasonable standards and rules for employees' safety;
7. Determine the location and operation of its facilities;
8. Determine standards for work, hiring, promotion, transfer, assignment and retention of employees in positions;
9. Initiate corrective and/or disciplinary action including, but not limited to, coaching and guidance, written reprimands, suspensions, demotions, alternate forms of discipline, transfers and terminations for just cause pursuant to Article 9 of this Agreement;
10. Determine scheduling and all other actions necessary to carry out the Employer's functions;
11. Relieve an employee from his/her duties because of lack of funds or other legitimate reason;
12. Maintain efficiency of government operations; determine methods, means, equipment and personnel by which the Employer's operations are to be conducted;
13. In cases of an emergency or declared disaster, take such actions as may be necessary to carry out the missions of the Employer that might not implicitly follow all articles in this Agreement; and
14. Act in furtherance of all other duties and responsibilities set forth in the Constitution, federal laws, state statutes, administrative regulations, and executive orders of the Governor, as well as City of Santa Fe Ordinances, and Rules and Regulations.

ARTICLE 7 NON-DISCRIMINATION AND FAIR TREATMENT

Section 1 Compliance With Laws

Both the Employer and the Union agree to comply with all city, state and federal employment laws, including the Public Employees Bargaining Act (PEBA).

Section 2 Non-Discrimination

The Employer shall not practice nor tolerate discrimination against employees through employment practices including, but not limited to, recruitment, hiring, training, education, reassignment and promotion on the basis of any non-merit factors such as race, color, religion, sex, ancestry, ethnicity,

resolve workplace disputes. Before mediation begins, all parties must be willing to engage in this process.

- B. Any mediation provided shall be funded by the Employer.
- C. Mediation may precede, but is not considered a part of the formal grievance process. If mediation fails to resolve conflicts or disagreements in the workplace, the Union or the employee(s) may elect to utilize the grievance process in accordance with the provision set forth in this Agreement.
- D. Any City mediation services contractor shall conduct annual training sessions for City supervisors and AFSCME Local 3999 officers and stewards, pertaining to the advantages and approaches to using mediation to resolve workplace conflicts or disputes. An alternate provider may be substituted if mutually agreed upon by the Employer and Union.

ARTICLE 11 GRIEVANCE AND ARBITRATION

Section 1 Grievance

- A. A "grievance" is an allegation made by the Union against the Employer that a violation, misapplication or misinterpretation of any provision of this Agreement has occurred. A bargaining unit member can not file a grievance against another bargaining unit member.
- B. The Union may file grievances on its own behalf, or on behalf of an employee or group of employees covered by this Agreement.
- C. An individual employee may file a grievance under the provisions of this article and have it adjusted without the intervention of the Union as long as:
 - 1. The adjustment is consistent with the terms of this Agreement;
 - 2. At any hearing or meeting on a grievance brought forward by an individual employee, and who has not requested the intervention of the Union, the Union shall still be afforded the opportunity to be present and make its views known;
 - 3. At any step of the grievance process, should the employee seek legal representation, the Union has no obligation to represent the employee, and any cost associated with this legal representation shall be borne by the employee; and
 - 4. An individual employee may not invoke arbitration under this article.
- D. Before filing a formal grievance under the procedures established in this Article, employees are encouraged to try and resolve any issues with their immediate supervisor and if not, with their next level manager.
- E. Grievances initiated by an employee or by the Union shall be filed within ten (10) calendar days of the day after the grievant was aware, or reasonably could have become aware, of the provision in the Agreement that allegedly was being violated.

- F. The Employer, Union, and/or employee shall make an effort to hand deliver any grievance documentation, correspondence, memos and/or forms as outlined in this article and shall be considered served immediately upon hand delivery. In cases where hand-delivery is not possible, such materials shall be mailed priority, certified return receipt requested, and shall be considered served on the date of postmark by the U.S. Postal Service.

Section 2 Steps in the Grievance Procedure

- A. All steps in the formal grievance process must be documented in writing via an Official Grievance Form. Employees and/or the Union must submit grievances in writing that include the specific details of what provision(s) in the Agreement was violated, and how and when it was violated.
- B. The Official Grievance Form shall include the following information:
1. The employee's name, job title and work site;
 2. The name, address and telephone number of the Union representative, if any;
 3. The article(s) of the Agreement alleged to have been violated;
 4. The date of the violation;
 5. How the violation occurred: The grievant shall provide a detailed description of all the event(s) that resulted in specific violation and all the persons responsible for the violation;
 6. The relief requested;
 7. Any attempt(s) the grievant or Union made to resolve the matter with the immediate supervisor and/or with their next level manager; and
 8. The signature of the grievant or of the Union representative.
 - The President or Vice President shall sign off on the Official Grievance Form to assure the form is complete and that the grievance is justified.
- C. Grievance relief actions agreed upon by the parties at any of the steps listed below shall be binding.

Section 3 Step 1: Section Manager Level

- The Union or grievant shall meet with the section manager to attempt to resolve the matter within ten (10) calendar days of the day after receipt of the Official Grievance, unless the section manager is the person the grievance is against, or if the employee does not have a section manager. In that case the Union and division director shall meet within ten (10) calendar days of the day after receipt of the Official Grievance to attempt to resolve the matter. The Human Resources Department shall participate at this meeting if requested by either the Union or the Employer.
- The section manager or division director, whomever met with the Union, shall within ten (10) calendar days of the day after the meeting, write a response to the grievant explaining the resolve or response to the allegations specified in the grievance.

Section 4 Step 2: Division Director Level

- If there was a section manager meeting and section manager response per Section 3, and the grievance is not satisfactorily resolved at the section manager level, the Official Grievance shall be submitted to the division director. The division director shall respond in writing within ten (10) calendar days of the day after receipt of the written grievance and may within this time period, request a meeting with the grievant and/or the Union to discuss the grievance and its settlement.
- If a satisfactory solution is not reached the Official Grievance shall be filed with the department director within seven (7) calendar days of the day after the grievant's receipt of the division director's written response.

Section 5 Step 3: Department Director Level

- If the grievance is not satisfactorily resolved at the division director level, the Official Grievance shall be submitted to the department director. The department director shall respond in writing within ten (10) calendar days of the day after receipt of the written grievance and may, within this time period, request a meeting with the grievant and/or the Union to discuss the grievance and its settlement.
- If the grievance is not satisfactorily resolved at this level, the grievance shall be submitted to Step 4 by filing with the City Manager within seven (7) calendar days of the day after receipt of the written response by the department director.

Section 6 Step 4: City Manager Level

- If the grievance is not satisfactorily resolved at Step 3, the department director level, the grievant and/or Union shall submit the Official Grievance to the City Manager within seven (7) calendar days of the day after receipt of the department director's written response. The City Manager shall respond in writing to the grievant and/or Union within ten (10) calendar days of the day after receipt of the Official Grievance and may within this time period, request a meeting with the grievant and/or Union to discuss the grievance and its settlement.
- If the grievance is not satisfactorily resolved at this level, the Official Grievance, if it meets the definition of a Prohibited Practice, may be submitted to the Public Employees Labor Relations Board by the Union, but not by the individual grievant, within fifteen (15) calendar days after receipt of the City Manager's written response. The Official Grievance may also be submitted to final and binding arbitration by the Union, but not by the individual grievant, within thirty (30) calendar days after receipt of the City Manager's written response.

Section 7 Arbitration

- A. Within fourteen (14) calendar days of the written demand for arbitration, the Union shall make a request from a panel of seven (7) arbitrators from the Federal Mediation and Conciliation

Service (FMCS), unless the parties by such time can agree upon an arbitrator or alternative panel of arbitrators from which to select an arbitrator.

- B. Within fourteen (14) calendar days of the receipt of a list of arbitrators, the parties will confer to select the arbitrator. The selection shall be made by the Union and the Employer alternately eliminating names. The last name remaining shall be the arbitrator. The parties shall flip a coin to determine who shall strike the first name. If the Employer fails or refuses to strike a name from the list, the Union may request that the FMCS unilaterally appoint an arbitrator to hear the matter. Once an arbitrator is either selected by the parties or appointed by the FMCS, the arbitrator shall have full jurisdiction.
- C. The decision of the arbitrator shall be based upon the facts established by the testimony and documents presented in the case.
- The arbitrator shall have no power to add to, subtract from, alter or modify any of these terms of the Agreement, but may give appropriate interpretation or application to such terms and provide appropriate relief.
 - The arbitrator shall not have authority to make an award which includes a fine or other punitive damages or award of attorney's fees.
 - Each party shall pay one-half (1/2) of the arbitrator's fees and expenses.
 - The arbitrator's decision shall be final and binding on the parties.
 - In arbitration cases challenging a disciplinary action, the Employer shall have the burden of proof not less than by a preponderance of the evidence. In arbitration cases where the Union alleges a contractual violation or dispute over a working condition, the Union shall have the burden of proof.

Section 8 Miscellaneous

- A. Tape recorders or other electronic recording devices shall not be used by any party participating in the grievance, except by mutual agreement of the parties. This provision shall not apply to arbitration hearings.
- B. Any of the time limits or steps set out in this procedure may be extended, waived, or otherwise modified by written mutual agreement of the parties.
- C. If at any step of the grievance procedure the Employer fails to respond within the designated time limits, the grievance shall be automatically forwarded to the next level.
- D. Any grievance shall be considered as settled on the basis of the last answer of the Employer if not appealed to the next step or arbitration within the time limitations set forth herein.
- E. A party to this Agreement or an individual grievant may be represented by counsel at any step of the grievance procedure at their own cost.
- F. The issue of non-grievability may be properly raised at any step of the grievance procedure. The arbitrator shall decide all issues regarding the grievability of grievances.

- G. Grievances may be withdrawn by the Union at any step of the grievance procedure without prejudice and without precedence except as to objections to timeliness.
- H. The arbitration procedure set forth in this article shall not apply to events which occur before the effective date of this Agreement.

ARTICLE 12 DRUG AND ALCOHOL TESTING

A. CDL Drug and Alcohol Testing

The provisions of Rule 16 and Rule 16A, as may be amended, of the City of Santa Fe Personnel Rules and Regulations are hereby incorporated. The positions of Swim Instructor and Swim Pool Lifeguard are deemed safety sensitive and shall be subject to random drug and alcohol testing in accordance with Rule 16A. Rule 16A will apply to Swim Instructors and Swim Pool Lifeguards.

B. Reasonable Suspicion Drug and Alcohol Testing Policy

The provisions of the City's Reasonable Suspicion Drug and Alcohol Testing Policy are hereby incorporated.

C. Reasonable Suspicion Training

The Employer agrees to provide reasonable suspicion training for the Union President, Vice President and Chief Stewards on an annual basis.

D. Reasonable Suspicion Notification

The Union President, Vice President or one of the Chief Stewards will assist in evaluating bargaining unit employees suspected of being under the influence of drugs and/or alcohol during working hours. The Union representative must arrive within sixty (60) minutes of notification from the Risk and Safety Division. If the Union representative does not arrive within 60 minutes, the evaluation will proceed. The Reasonable Suspicion determination will be made primarily by the notifying supervisor and the Union representative present. If there is a disagreement in this determination, a designated member of the Risk Management and Safety Division shall provide the majority ruling.

E. Certifications and Documentation of Drug and Alcohol Testing

- a. The employer shall provide copies of certifications and documentation from the approved testing laboratory to the Union President a minimum of twice annually in January and July, and as changes occur, including but not limited to:
 - Testing equipment
 - Testing technicians
 - Federal laboratory certifications

Section 6 Classification Displacement

If a laid-off employee is placed in a lower paying classification as acceptance of a recall opportunity, the employee shall be reassigned to the former classification prior to layoff, upon the first available vacancy in that classification, based upon city seniority.

ARTICLE 20 FILLING OF VACANCIES

Section 1 Posting of Vacancies

- A. All vacant classified Union positions shall be advertised for a minimum of ten (10) calendar days. All advertisements will be posted on designated City bulletin boards by the office manager or designee. The Union and the Employer may mutually agree in writing to lower the recruitment period on a case-by-case basis. Applications will be accepted concurrently from applicants not currently employed by the City of Santa Fe.
- B. The position vacancy posting shall contain the classification of the position, the testing requirement for applicants, the minimum qualifications for the position, the FLSA and Union status; the work location of the vacancy; a description of working conditions; a general description of the position; examples of work; the pay range of the position; the location where applications are to be filed; the opening and closing dates; and the time frames for accepting applications.

Section 2 Selection

- A. Union employees covered by this agreement who have met the minimum qualifications for the vacant position will be placed on the List of Eligible Candidates that identifies them as (1) qualified Union employees separate from (2) qualified nonunion and external candidates.

Qualified Union employees shall be interviewed first for all Union positions. The interview will, among other things, confirm that the employee understands the essential functions and requirements of the position and holds the knowledge, skills and abilities as advertised for the position, has a satisfactory job performance and that there are no performance issues (e.g., excessive tardiness or absenteeism, etc.) or work agreements in place. If the choice is between equally qualified Union and nonunion candidates, the Union candidate shall be given preference. If the choice is between equally qualified Union candidates, preference shall be given based on City seniority.

- B. Qualified Union employees who applied within the time limits and were not selected, after having gone through the interview process, shall be notified verbally and in writing by the hiring supervisor. The Human Resources Department shall notify in writing all unqualified or untimely applicants within seven (7) calendar days of certification of the eligibility list. After evaluating all candidates, with Union candidates considered first, the candidate who is best qualified for the position shall be selected.
- C. If a bargaining unit employee is offered a promotion to another bargaining unit position and subsequently refuses to accept the position because of the salary, the Employer shall not hire an

employee from outside the City at a pay rate higher than what was offered to the bargaining unit employee, unless mutually agreed to in writing by the Union and Employer.

Section 3 Promotion

A promotion shall be defined as movement of an employee from his/her position to a position of a higher pay grade within the bargaining unit. Promotions may result in a salary increase from five to twenty percent (5% - 20%), or the minimum of the new grade, whichever is greater. However, a promotion shall not result in an hourly pay rate that exceeds the top of the pay grade for the job classification into which the employee is being promoted. This allows the flexibility to maintain consistency of pay with other employees in the same job classification and to address budgetary limitations. Promotional increases shall not create pay inequities based upon City seniority with other bargaining unit employees whose City seniority is higher than the person being promoted in the same classification.

Section 4 Classification Reduction Without Prejudice

- A. Bargaining unit employees who are promoted and subsequently voluntarily agree to a classification reduction without prejudice shall have their pay reduced to the hourly rate received prior to promotion. Any hourly pay increases they would have received had they not been promoted will be added to their new hourly rate.
- B. Bargaining unit employees who have never been promoted (e.g., hired into their current job classification) and voluntarily agree to a classification reduction without prejudice, shall have their pay reduced from five to twenty percent (5% to 20%), to allow the flexibility to maintain equity of pay with other employees in the same job classification and to address budgetary limitations.

Section 5 Transfer

- A. At the request of a department director and upon approval of the City Manager, the Employer may transfer an employee from one position, division or department to another position, division or department within the City, provided the following conditions are met:
 - The employee meets the minimum qualifications of the new classification;
 - The employee is not being transferred because the Employer has failed to address poor work performance or behavior;
 - The transfer is not being made for arbitrary or unjustified reasons;
 - The Union President is notified within fourteen (14) calendar days prior to the transfer.
- B. Employees who voluntarily transfer from one position to another, or from one division/department to another, shall provide written notice to their current immediate supervisor no less than two (2) weeks in advance, when possible. Transfers will not be considered effective until the beginning of a new pay period. Employees will retain all accrued annual, sick and personal leave time, and compensatory time.
- C. Lateral transfers from one pay grade to a different bargaining unit position of the same pay grade shall not result in a pay increase.

Section 6 Probationary Period

Probationary employees are not covered by this Agreement. The probationary period shall be six (6) consecutive months and may be extended up to three (3) additional months pursuant to the City of Santa Fe Personnel Rules and Regulations.

Section 7 Temporary Appointment

- A. Temporary appointments shall be governed by the applicable City of Santa Fe Personnel Rules and Regulations.
- B. The duration of a temporary appointment shall not exceed 12 months. .
- C. When the Employer and the Union mutually agree that a temporary position shall be classified, the position shall be re-advertised pursuant to Article 20, Sections 1 and 2.

Section 8 Emergency Appointment

- A. An emergency appointment is the employment of a person when an emergency condition exists. The circumstances of the emergency hire, and proof that there are no candidates available on a valid list of eligibles, shall be documented by the Employer. The Human Resources Department shall make such documentation available to the Union within ten (10) working days from the date of request.
- B. The duration of an emergency appointment shall not exceed ninety (90) calendar days.

ARTICLE 21 LEAVES OF ABSENCE

Section 1 General

- A. All requests for leaves of absence, with or without pay, shall be made to the immediate supervisor for approval on forms prescribed by the Employer. All requests shall be submitted in advance of the beginning date of the leave as specifically outlined in this article – except for requests of unanticipated sick leave which shall be submitted for approval at the earliest possible time.
- B. Rule 13 of the Personnel Rules and Regulations shall apply; however, the Employer shall recognize and comply with the exceptions and deviations to Rule 13 as listed in the following sections of this article. Annual and sick leave accruals shall be calculated on a pro-rated basis based upon hours worked and paid leave status, up to a maximum of eighty (80) work hours per (2) two-week pay period.

Section 2 Sick Leave

- A. Bargaining unit employees shall accrue and utilize sick leave pursuant to the provisions of the current Rule 13.30 (A)(1), except for 13.30 (A)(2) and (3)(F)(1), and pursuant to Article 21, Section 1, above. To qualify for sick leave buy back, an employee shall have or maintain a minimum balance of four hundred fifty (450) hours at the end of each calendar year.

IN WITNESS THEREOF, the parties have signed their names and affixed the signature of their authorized representatives on this 30th day of August, 2017.

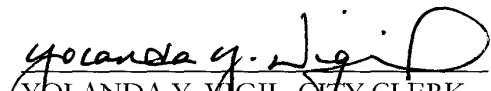
CITY OF SANTA FE:



JAVIER M. GONZALES, MAYOR

DATE: 9/13/17

ATTEST:



YOLANDA Y. VIGIL, CITY CLERK
CC mtg. 8/30/17

APPROVED AS TO FORM:



KELLEY BRENNAN, CITY ATTORNEY

APPROVED:




ADAM JOHNSON, FINANCE DIRECTOR

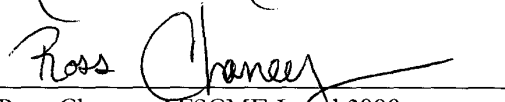


Renee Martinez, Management Chief Negotiator

AFSCME REPRESENTATIVES:



Michelle Gutierrez, President Local 3999



Ross Chaney, AFSCME Local 3999
Chief Negotiator