

**UFCW Local 1564**  
**Non-Economic Proposal**  
**August 2, 2018**  
**Retail**  
(Including Santa Fe, Farmington and Price Rite)

**Section 1.**  
**Recognition of the Union**

1.1 Bargaining Unit. ....Modify the sixty-five (65) mile radius to "State of New Mexico".

1.5 (new) The Employer agrees that no employee who is a member of another union or the BCGTM shall perform work under the jurisdiction of the Union in any classification covered in this Agreement.

**Section 2**  
**Employment Procedures**

2.3 – (a) UFCW Local 1564 shall be notified at least 72 hours prior to and allowed to attend new hire orientation classes. Union representatives will be allowed up to 30 consecutive minutes to talk with New Hires about the Union and their union contract.

2.4 – Work Experience. Previous, provable, comparable work experience within the past ten (10) years from the date of present employment shall be the basis for determination of an employee's rate of pay.

- a. For credit to be given, the employee must indicate the experience at the time of employment on the application for employment furnished by the employer. If requested and if it can be provided the prospective employee will furnish verification of experience. Experience shall be credited retroactive for a maximum of sixty (60) days, upon receipt of such written verification.
- b. Comparable work experience shall be work of similar duties. Self-employment will not be credited.
- c. Employees will receive credit for previous experience in full increments set forth in Appendix 'A' Wages.
- d. Experience shall be credited retroactively for a maximum of sixty (60) days from the date of acceptance of verification which can be submitted up to one hundred twenty (120) calendar days after employment, provided previous experience has been within the last ten (10) years and has been comparable work. Claims filed after one hundred twenty (120) days from the date of employment shall be forfeited and waived and failure to provide information on the application blank will also waive any right of the employee to any future claim of experience credit for the experience so omitted.

**Section 4**  
**Discharge and Discrimination**

~~4.7 (new) — The Employer agrees that employees being called to help check or bag groceries does affect the amount of time to complete their other duties or department needs.~~ **Withdrawn**

4.8 (new) Drug and Alcohol testing – The Employer may not require any worker to submit to a test for drugs or alcohol without reasonable cause. The parties agree that reasonable cause must be based on the first-hand observation of the worker by a trained supervisor and if at all possible, corroborated by the first-hand observation of a second trained supervisor.

- a. Reasonable cause means objective evidence about the worker's workplace conduct that

would cause a reasonable person to believe that the worker is demonstrating physical signs of impairment due to drugs or alcohol, such as difficulty in maintaining balance, slurred speech, erratic behavior and an inability to safely perform assigned tasks. The fact that a worker has been involved in an accident or has suffered an injury or illness does not by itself constitute reasonable cause.

b. The Employer agrees that positive test results do not constitute just cause for discipline or discharge; provided, the worker attends and completes a mutually agreeable substance abuse program. The employer agrees that the worker has the right to continue working at the worker's current job while the worker attends the program.

c. Employees will not be terminated for testing positive to THC or Marijuana, providing they can supply a medical prescription, or recreational use is allowed by law.

## **Section 6**

### **Rights of Management**

6.4 (new) – The Employer agrees that workers are the Employer's most valuable resource. The Employer therefore agrees that when dealing with workers, its managers and supervisors will use all reasonable efforts to consciously regard and respect workers' feelings and self-esteem.

## **Section 7**

### **Union Affairs**

7.2 (a) (new) – Mutual Respect- All of the Agents or Management of Smith's/Kroger, and the UFCW Local 1564 (and it's agents) covered by this agreement, agree to treat each other with mutual business respect. When the agents of UFCW 1564 are in the work place they will respect the Company's need to produce product for their customers, and the Company will respect the need of the agents to service their members. Neither party will engage in negative discussion about each other, nor will the Company tell employees it opposes or supports the Union. Smiths/Kroger and its Managers will not coerce and will not interfere with the rights of its employees to choose to join a Union. UFCW 1564 and it Agents will not coerce and will not interfere with the right of Smith's/Kroger employees to choose not to join a Union.

## **Section 8**

### **Working Hours and Overtime**

8.1(a) (new) - Each store shall maintain 25% of its workforce to Full-time scheduling. This shall be maintained on a store by store basis.

8.6 Modify by changing the posting of work schedule from Friday to Wednesday.

8.6 (b) Modify by adding to existing ...In addition, the schedule will list employees in order of seniority.

8.6(e) – Revise: Discipline for a no call/no show to first infraction three day suspension, 2<sup>nd</sup> infraction a one week (5 day) suspension and a third no call/no show may result in termination within a one year period.

8.6 (g) Delete and replace with: Part-time employees wishing to be scheduled more than five (5) days in a work week must provide their manager with a written six day request, 24 hours or more prior to the posting of the schedule. Such six day scheduling shall in no way violate any seniority provision of this agreement. Employees who are scheduled six days without this consent will be paid 1 ½ for all hours worked on the sixth day.

8.6 (i) Modify by changing 72 hours prior notice for time off to 48 hours prior to the posting of the work schedule.

8.6 (k) (new)- CSM's who perform cashier duty will be included on the cashier schedule in order of seniority with other cashiers and shall be maximized pursuant to Section 9.6 of this agreement among those cashiers for that day in question.

8.6 (l) (new)- The Employer will provide the Union with Electronic schedules if requested.

8.8 Rest Periods: Modify the last sentence as follows:

".....Employees working or scheduled to work six (6) hours or more but less than eight (8) hours shall receive one twenty-five (25) minute paid rest period towards the middle of their shift.

8.9 (a) Scheduling or hours will not be determined by ELMS.

## **Section 9 Seniority**

9.5 – Delete last sentence of first paragraph-

9.7 (new) renumber accordingly) - Schedule **Preference**. After the posting of the schedule and for twenty four hours after posting, employees shall be allowed to claim their schedule with a weekly schedule of a less senior employee. Claims must be submitted in writing to the Store Director or other designated person to receive such claims. To be honored such claim must meet the following criteria:

(a) The claim must be for hours within the same department, classification and store of the claiming employee.

(b) The claimant must be able to perform the work of the claimee with relative equal skill and ability, and the claimee must be able to perform the work of the claimant without additional training.

## **Section 10 Vacations**

Delete and Replace:

10.1 – **Vacation Eligibility**. All employees coming under the jurisdiction of this Agreement who have been employed for a period of:

A. One (1) year of continuous service, shall have earned a vacation period of (1) uninterrupted calendar week;

B. Three (3) years of continuous service, shall have earned a vacation period of two (2) uninterrupted calendar weeks / pay.

C. Seven (7) years of continuous service, shall have earned a vacation period of three (3) uninterrupted calendar weeks/ pay.

D. Fifteen (15) years of continuous service, shall have earned a vacation period of four (4) uninterrupted calendar weeks / pay.

E. Twenty (20) years of continuous service, shall have earned a vacation period of five (5) uninterrupted calendar weeks / pay.

Employees who have three (3) years or more of service may elect to receive their vacation pay on their anniversary, or elect to schedule such time off with pay.

10.2 **Vacation Selection**. The selection of vacations shall be by seniority within the Job Assignment on a store basis, based upon the following:

- a. On a vacation schedule posted by the Employer in December of the prior year, employees shall be allowed to select their vacations for the calendar year up to May 15th. When multiple employees select the same weeks, employees having the most seniority shall be granted first choice.
- b. The Employer will make every reasonable effort to maximize the number of employees permitted to select vacations during the period of May 15 to September 15.
- c. Employees who do not make a vacation selection by May 15, will be allowed to select unscheduled available weeks, but in no event shall they be allowed to displace any persons who have selected their vacations by May 15th.
- d. After September 15th of each calendar year, those employees who have not selected their vacation shall be assigned a vacation week by the store Director. No employee shall forfeit any vacation pay.
- e. After May 15<sup>th</sup>, the vacation schedule may only be changed by mutual agreement between the Store Director and the employee.
- f. The Employer retains the right to determine the number of employees that will be allowed to be off on vacation during any given week(s), depending on individual store needs and legitimate business circumstances. The Employer will make reasonable efforts to allow some employees time off during holiday weeks.
- g. Vacation time off in excess of two (2) consecutive weeks must be mutually agreed by the store manager and the employee. Any unused vacation shall be paid out following the employee's next anniversary date.

10.3 – **Computing Vacation Pay**. All employees shall receive vacation pay based upon the employee's average weekly earnings during the twelve-month period immediately preceding the vacation for each week of vacation the employee is entitled to. (Twelve month's earnings divided by the number of weeks actually worked.)

10.4 – Employees whose services are terminated and who have earned and are eligible for a vacation in accordance with the above provisions, shall receive pay for such vacation whether it be one, two, three, four or five weeks, depending upon their eligibility for such vacation.

10.5 – **Pro-rata Vacation Pay**. All regular employees who have completed one (1) year of continuous service and who terminate, shall be entitled to a pro-rata vacation pay.

- a. To be eligible for pro-rata vacation pay, the above described employee must give one (1) weeks' notice of intent to terminate their employment or, in the case of discharge, pro-rata vacation will be paid in all cases except theft in connection with their employment or place of work.
- b. Pro-rata vacation pay shall be based upon full months of employment and neither the partial anniversary month of employment nor the partial month in which the termination occurs will be used in determining the fraction of vacation pay due the employee.
- c. Employees who must enter military service shall receive a pro-rata of their vacation pay at the time they leave for active duty; and upon their reinstatement shall be eligible for a pro-rata vacation for the year which they are restarted, based upon their original anniversary date of employment.

10.6 – If any of the holidays enumerated in Section 13 hereof falls during an employee's vacation, the employee shall receive an extra day's vacation pay because of it.

**Section 11**  
**Wages and Classifications**

11.6 Courtesy Clerks; delete the following from second paragraph: "handle and assist with outdoor plants, Christmas Trees and products, handle/assemble Seasonal merchandise, and assist with floral tent selling.

11.9 Modify by removing the 2<sup>nd</sup> sentence talking about brackets, and the Bargaining Note added 6-6-10.

11.10 Delete Work Between classifications

11.12 (new) The Employer agrees to pay employees weekly for all hours due in the form of automatic deposit or paycheck if requested by the employee.

**Section 12**  
**General Provisions**

12.4 (a) New – When an injured employee reaches maximum medical improvement, and cannot return to the previous position the Company shall not reduce the employee's pay rate in their new position.

12.7- USCAN- Remove the one hour exception(s) in the first hour (60 minutes) and the last one hour (60) minutes.

12.8 (new) - Nepotism- The Employer permits the employment of individuals with "close relationships" to employees as long as the employment does not create actual or perceived conflicts of interest. The term "close relationship" is defined as a spouse, child, parent, sibling, corresponding in-law or "step" relation, or co-habitation with a co-worker. Individuals in a close relationship are permitted to work in

the same facility provided no direct reporting or supervisory/management relationship exists. No employee should work within the "chain of command" of someone with whom they have a close relationship. Store level management is not permitted to work with individuals they have a close relationship with, and the non-bargaining unit manager will be relocated where this exists.

**Section 14**  
**No Strike – No Lockout**

~~14.4 ——— Delete in entirety and renumber accordingly~~ **Withdrawn**

**Section 15**  
**Grievance and Arbitration**

15.2 (a) – Modify Step one (1) from 15 days to 30 days.

15.2(c) (iv) – The parties will draw lots to determine who strikes first.

15.2 (c) (vi) - Both parties agree to make every effort to schedule a hearing date as soon as possible.

15.7 – (new) for matters involving terminations or scheduling issues, as identified by the Union, parties agree that panels will include only Arbitrators who agree to provide at least three

days of availability within 60 days of the request. Parties also agree that they will make themselves available to arbitrate on at least one of those three days.

## **Section 16 Health and Welfare**

The Parties come to an agreement on wording that is no longer relevant and has no future bearing since the merger with Arizona Health Fund has been consummated.

## **Section 17 Leaves of Absences**

17.1 (b) Occupational Illness or Injury – Modify to reflect two (2) years total leave.

## **Section 21 Technological Change**

21.1 – The parties recognize that automated equipment and technology is now available for the Retail Food Industry. The Employer recognizes that there is a desire to protect and preserve work opportunities. At the same time, the Union recognizes that the Employer has the right to avail itself of modern technology with this common objective, the parties agree that in the event the Employer introduces major technological change which for the purpose of this Section is defined a electronic price marking, electronic scanner, and any electronic or automated device or machine which would have a direct material Impact affecting Bargaining Unit work, sixty (60) days advance notice of such change will be given to the Union. In addition, the parties agree:

- (a) The Employer has the right to install such equipment
- (b) Any training or necessary retraining will be furnished expense free by the Employer to affected employees.
- (c) No employee will be laid off as a result of such technology. In the event employees are displaced by such installation, the employee may elect to be transferred, retrained or if eligible elect severance pay.
- (d) If an employee is not re-trained, transferred or elect severance and would be displaced as a direct result of major technological change, as defined above, then the employees would qualify for separation pay, if:
  - 1. The employee has two (2) or more years of continuous service.
  - 2. Does not refuse a transfer within a twenty-five (25) mile radius.
  - 3. Does not refuse to be re-trained.
  - 4. Such action does not occur more than one (1) year from date of installation.
  - 5. Does not voluntarily terminate employment.
- (e) Severance pay would be paid at the rate of one (1) week's pay for each year of service in excess of two (2) years not to exceed eight (8) weeks.
- (f) Severance pay would equate the average number of hours worked the fifty-two (52) weeks preceding displacement.

## **Section 22 Store Closing**

22.1 (new) renumber accordingly- If the Employer provides the Union with evidence demonstrating that the Employer's financial status or profitability in a facility or store makes it necessary to close the facility or store, the Employer may request that the parties discuss possible modifications of this Agreement necessary to keep the Employer from closing the facility or store. To decide whether to agree to the Employer's request and, if the Union does, to assess the

Employer's proposals, the Employer agrees to provide the Union with all information and documents relevant to the Employer's financial status or profitability, and the value of any modification at the Union's request.

(a). If the parties agree to modify the Agreement, the parties will describe all modifications in a separate agreement, along with a process to have such modifications reversed.

**Section 28 (new)**  
**Successors and Assigns**

(Renumber Accordingly)

28.1 New Owner. In the event of bona fide sale or transfer of any store covered by this Agreement during the period hereof, the new owner or such transferee shall be notified of the existence of this Agreement. The Employer shall require the new owner to honor this agreement. The Employer shall be required to meet any and all monetary benefits that employees have accumulated under this Agreement, but, except as provided in this Section, shall have no further or other obligations whatsoever, notwithstanding any other provision to the contrary in this Agreement.

28.1 Accrued Vacation. It is further agreed by the parties hereto that, upon sale or transfer of ownership of any store or upon dissolution of business, vacation pay for all months worked for which no vacation pay has been given shall be immediately paid to all employees coming under this Agreement, regardless of length of time said employee has been with the Employer.

**Section 28**  
**Term of Agreement**

Length of Agreement to be discussed during economic proposal

UFCW Local 1564 reserves the right to alter, modify or withdraw any of these proposals or others made during the course of negotiations. It also reserves the right to offer additional proposals. All other terms and conditions of the current collective bargaining agreement not affected by the Union's proposal shall remain the same in the successor Agreement. Any proposal made and later withdrawn shall not be brought up or used against the Union in any grievance, arbitration or other contract interpretation proceeding.