

**AGREEMENT**

**Between**

**CITY OF MITCHELL**

**And**

**MITCHELL CITY EMPLOYEES**

**AFSCME LOCAL 2922**

**JANUARY 1, 2017 TO DECEMBER 31, 2019**

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## AGREEMENT

This agreement entered into this \_\_\_\_ day of \_\_\_\_\_, 2016 but effective January 1, 2017, by and between the City of Mitchell, a political subdivision of the State of South Dakota, hereinafter referred to as the "City", and Local 2922, American Federation of State, County and Municipal Employees, AFL-CIO, hereinafter referred to as the "Union".

### ARTICLE I RECOGNITION

Section 1.0 The City recognizes the Union as the sole and exclusive bargaining agent for all the full time and regular part-time employees of the City of Mitchell, excluding elected officials, police officers, managers, confidential employees, exempt employees, seasonal and casual employees and supervisors.

Section 1.1 All regular part-time employees of the City shall earn benefits based upon a prorated basis equal to their standard equivalent workday. For the purpose of this agreement, regular part-time employees shall be defined as an employee whose normal schedule of work is more than 1560 hours in a calendar year.

For the purpose of this agreement the seasonal employee shall be defined as an employee whose employment is fixed at the time of employment not to exceed four (4) consecutive months, but may be extended at four (4) consecutive month segments provided the total period of employment does not exceed one (1) year and is for the purpose of meeting staffing shortages, seasonal needs, staffing short term projects and relieving for employee absences, or is irregular and casual.

Section 1.2 The City will not make any agreement with any individual, group or organization for the purpose of undermining the Union or which is in conflict with this agreement.

### ARTICLE II MANAGEMENT RIGHTS/EMPLOYEE RIGHTS

Section 2.0 It is understood and agreed by the parties that the Employer possesses the sole right to operate the agency so as to carry out its statutory mandates and all management rights repose in the Employer unless specifically modified by this agreement; likewise, all rights guaranteed to the employee and union by law are retained unless specifically modified by this agreement.

Section 2.1 The exercise of management rights shall not be used for the purpose of undermining the Union or discriminating against any employee.

## ARTICLE III HOLIDAYS

Section 3.0 The following holidays shall be recognized and observed as paid holidays:

New Year's Day; Martin Luther King, Jr. Day; President's Day; Good Friday 1/2 Day (PM); Memorial Day; Independence Day; Labor Day; Native Americans Day (second Monday in October); Veterans' Day; Thanksgiving Day; Christmas Eve (December 24 1/2 (PM); and Christmas Day.

Section 3.1 Full time employees shall receive eight (8) hours pay for each of the holidays listed above on which they perform no work. All regular part-time employees shall receive holiday pay based upon a prorated basis equal to their standard equivalent workday. Whenever any of the holidays listed above shall fall on a Saturday, the preceding Friday shall be observed as the holiday. Whenever any of the holidays listed above shall fall on a Sunday, the succeeding Monday shall be observed as the holiday.

Section 3.2 Employees shall be eligible for pay for the holiday falling within a pay period for which they have received compensation, provided, however, that they have worked the day before and the day after the holiday unless otherwise excused or unless the time is credited to either accrued vacation leave, compensatory time, sick leave or workers compensation leave.

Section 3.3 Employees who are called into work on a holiday that is not part of their regular schedule shall receive, in addition to their holiday pay, overtime pay at one and one half (1 ½) times their usual rate for all hours worked.

Section 3.4 Any employee scheduled to work on a holiday is paid for time worked and scheduled eight (8) hours of holiday pay with time off on another day within thirty (30) days of the actual holiday.

Section 3.5 An employee on annual leave during a holiday will receive holiday pay and will not be charged for that day as annual leave.

Section 3.6 In the event the President of the United States, the Governor of the State of South Dakota, or the Mayor should declare a holiday in addition to those days set forth in Section 3.0, then such holiday shall be celebrated as a paid holiday in addition to those days set forth in Section 3.0 of this article. Days declared a holiday for state employees only by the Governor shall not apply.

## ARTICLE IV VACATIONS

**Section 4.0** Employees shall accrue annual paid vacation leave starting immediately upon employment at the rate specified below:

Date of hire – 5 years	80 working hours	Pay Period 1	5 hours
		Pay Period 2-26	3 hours
6 -12 years	120 working hours	Pay Period 1	7.5 hours
		Pay Period 2-26	4.5 hours
13 – 19 years	160 working hours	Pay Period 1	10 hours
		Pay Period 2-26	6 hours

All regular part-time employees of the City shall accrue vacation based upon a prorated basis equal to their standard equivalent workday.

**Section 4.1** The rate of vacation pay shall be the employee's regular rate of pay times the number of hours that would have been worked had the employee not been on vacation.

**Section 4.2** Vacation leave must be scheduled with the employees' supervisor at the earliest possible time prior to the use of such leave. Vacation requests submitted before March 15<sup>th</sup> shall be determined by seniority. Vacation requests submitted after that date shall be determined in order of first received for that time period. The supervisor must approve or deny the vacation within five (5) working days. If the nature of the work makes it necessary to limit the number of employees on vacation at the same time, the employee with the greatest seniority shall be given his choice of vacation period. Vacations may be taken in fifteen (15) minute increments.

**Section 4.3** Any accrued and unused vacation shall be paid to the employee or the employee's estate on termination of employment.

**Section 4.4** Vacation hours not used during the calendar year in which they are earned may be carried over into successive years. The maximum allowable accrued vacation shall be no more than twenty (20) hours over the maximum accrual.

**Section 4.5** Any hours above the maximum accrual will be lost if not used by the last day of the payroll in which the employee's anniversary date occurs.

**Section 4.6** When an employee's vacation time falls on a holiday, such time is not to be subtracted from the employee's vacation leave balance.

## ARTICLE V SICK LEAVE

Section 5.0 Introductory and regular full-time employees will receive sick leave credits at the following rate:

Pay Period #1	8.5 Hours
Pay Period #2-26	3.5 Hours

Section 5.1 Sick Leave Pay – In the event of illness an employee will receive sick leave hours equivalent to their regularly scheduled shift hours for each regular workday he/she is absent from work to the extent of his/her earned sick leave credits. Employees shall be charged for sick leave only for absence on days when they would otherwise work and receive pay.

Section 5.2 Using Sick Leave – Sick leave shall be guaranteed to employees using the following guidelines:

1. When an employee is incapacitated for the performance of their duties due to illness, injury, pregnancy, and/or confinement. This will also coincide with the Family Medical Leave Act (FMLA) if it is a qualifying event.
2. If an employee's immediate family (parent, spouse, child, step child, step parent) is suffering from an illness or injury, up to forty (40) hours of sick leave may be utilized.
3. For a medical, dental, or optical examination or treatment.
4. When, through exposure to illness, the presence of the employee at his/her post of duty would jeopardize the health of others.
5. For the birth of a child.
6. The Department Supervisor may require a doctor's certification to establish the employee illness.
7. When an employee's sick leave extends beyond three (3) workdays, the City may require a doctor's certification clearing the employee for a return to work.

Section 5.3 An employee absent from work due to illness or disability shall notify his/her immediate Supervisor before scheduled to work, or as soon as possible. If an emergency situation exists, indicate the nature of the situation and the expected length of absence. If an employee is absent three (3) consecutive days without proper notification he/she will be considered to have voluntarily resigned his/her position. Any employee found to have abused his/her sick leave privileges may be subject to disciplinary action.

Section 5.4 Carry-Over of Sick Leave – Sick leave benefits not used during the calendar year in which they were earned may be carried over and used during the succeeding calendar years.

**Section 5.5** Reimbursement of Accrued Sick Leave – Upon retirement from employment with the City as defined by the South Dakota Retirement System, twenty-five percent (25%) of the accrued sick leave balance will be reimbursed at the employee's current wage rate. Upon separation of employment other than retirement, an employee will be eligible for a payout of 1% per year of service of their accrued sick leave retroactive to their first year of employment, starting at the beginning of year 6 under the condition the employee separated on good terms and has provided two weeks' notice to the City. The maximum payout for separation of employment is 25%.

**Section 5.6** The City shall treat Maternity Leave the same as any other temporary disability. Three (3) days' sick leave shall be granted, upon request, for paternity leave. Up to five (5) full days may be granted if there are medically verified complications with the mother or child. All sick leave under this section shall be taken within the first thirty (30) days following the birth and/or adoption of the child.

**Section 5.7** Workers Compensation. South Dakota Workers' Compensation Law requires that an employee report all work-related injuries or illnesses within three (3) days knowledge of the occurrence. If any injury should occur, notify your supervisor or the Human Resources Department immediately.

This fund is designed to protect employees against medical costs and salary loss as a result of injuries while on the job. The City pays the contribution cost for this coverage. If an employee is injured on the job, all eligible work-related medical costs would be paid as well as the compensation rate for salary loss as set by the State of South Dakota.

Any employee involved in any on-duty accident shall immediately report accident and any physical injury sustained to his/her Supervisor. When required by the City, the employee before starting his/her shift, shall complete an accident report on forms furnished by the City and shall supply all available names and addresses of witnesses of accident. The employee shall receive a copy of the accident report that is submitted to the employer.

Failure to comply with this policy may be grounds for disciplinary action by the City. All employees shall also immediately report all safety hazards to his/her Supervisor. In the event an employee encounters an open and obvious danger at the work site, he/she may refuse to work at such site until such time as proper safety measures and/or tools are available.

A full-time employee injured on the job and in the line of duty, and who is, by direction of a medical doctor temporarily unable to work, and who is entitled to workers compensation payments shall be allowed up to 90 eight hour days (or 42 twenty-four hour days for 24 hour shift employees) of injury leave without charge to the employee's sick leave account. The rate of pay while on injury leave shall

be the difference between the employee's regular daily rate of pay (gross) being received at the time of injury and the employee's daily benefit entitlement under the applicable Workers' Compensation Law.

An employee who has used the entire injury leave benefit provided by this section (i.e. 90 eight hour days or 42 twenty-four hour days) may elect to use accumulated sick or annual leave, on a day for day non pro-rated basis, to continue receiving the difference between his daily regular gross pay, and his daily Workers' Compensation benefit as provide above.

Employee benefits shall continue uninterrupted while an employee is on injury leave as defined by this section, including while sick or annual leave is applied. Annual, sick, and holiday leave, earned while on injury leave, shall accrue at the employee's regular rate.

The City may at any time require examination or re-examination of an employee by a medical doctor for the purpose of determination of continued eligibility for injury leave benefits.

## ARTICLE VI FUNERAL LEAVE

Section 6.0 A paid funeral leave of up to three (3) days will be granted to any regular full-time employee to attend the funeral of a member of his/her family. A member of his/her family shall be interpreted to mean husband, wife, son, daughter, father, mother, brother, sister, grandmother, grandfather, grandchild, step-son, step-daughter, step-father, step-mother, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law of the employee, or domestic partner, or spouse's equivalent.

Section 6.1 Funeral Leave as set forth in Section 6.0 shall be with full pay and benefits and shall not be deducted from any other paid leave.

## ARTICLE VII INSURANCE AND PENSION

Section 7.0 The City offers major medical insurance to all eligible employees upon written application. The City reserves the right to make program modifications to the Employee Benefit Plan as may be necessary from time to time to maintain and improve the effectiveness, quality and cost-effectiveness of the plan. This plan is negotiated yearly by the insurance committee and agreed to by the City Council.

Section 7.1 Health and Dental Insurance Benefits for newly hired regular full-time employees are effective the first day of the month following thirty (30) days of employment.



Section 7.2 There shall be a Health Insurance Committee appointed by the Mayor, and shall include one employee chosen by the Union. The committee shall review the health insurance plan annually. The committee shall request and review bids for the health insurance plan when deemed necessary.

Section 7.3 The City will not make any change in the health and dental insurance coverage during the contract year without negotiations with the Union except for changes mandated by state or federal law or the provider.

Section 7.4 In the event of an employee's termination of employment (except for gross misconduct) or reduction of hours, the employee, spouse, and dependent children are entitled by law to purchase continuing health care coverage under the City's group plan for up to 18 months. If the employee or any family member is disabled, the disabled individual and non-disabled family members are entitled to an additional 11 months of continuation coverage. In the event of an employee's death, divorce, legal separation, or retirement the employee's family have the option of purchasing continuing coverage under City's group health plan for up to thirty-six (36) months.

Employees or qualified beneficiaries electing extended coverage (COBRA) are responsible for paying the cost of the extended health care coverage. The purchase price of continuing coverage is the full cost of the premium the City pays for similarly situated active employees, plus administrative costs. During the eleven (11) months of extended coverage for disabled employees or their family members, the cost of the premium rate may increase. By enrolling in the Health Care Continuation Plan (COBRA), employees and his/her family members receive the benefit of purchasing the same extensive coverage provided to active employees at favorable group rates.

This continuing coverage terminates before the expiration of the 18-, 29-, or 36-month period if the employee or qualifying family members becomes covered under another group health plan that provides comparable benefits and does not penalize the newly covered individual(s) for preexisting conditions. The City's continuing coverage also terminates if premiums are not paid on time or if the City discontinues all of its group health plans for all employees.

In order for the City to meet its legal obligations in providing continuing health care coverage, all employees must inform the Human Resources Department within sixty (60) days of a change in status such as divorce or legal separation or when a dependent child reaches 26 years of age. It also is essential that the Human Resources Department have a current address for all employees and family members. This policy statement is a brief description of the Health Care Continuation Plan and does not fully explain employee's rights. Employees should read the notice he/she receives when he/she first enrolls, or upon termination, in the group health plan or the Summary Plan Description for a full

explanation. Copies of the notice and Summary Plan Description can be obtained from the Human Resources Department.

All benefits granted in this Section are subject to change due to State or Federal law mandates.

Section 7.5 The City shall provide each employee with a \$15,000.00 term life insurance policy at no cost to the employee.

Section 7.6 The City shall provide dental insurance with benefits as negotiated by the insurance committee and agreed to by the City Council. The City shall pay one hundred per cent (100%) of the premium for employee coverage.

Section 7.7 Retirement Benefit. An employee hired prior to January 1, 2016, who retires from the City of Mitchell through SDRS or who is accepted into the SDRS Disability Program may elect to remain in the health insurance plan until he or she reaches the age of 65 or otherwise qualifies to enroll in the Medicare program, the Exchange, or the retiree qualifies for a different health plan through another employer. The retiree must pay 100% of premium cost to remain enrolled in the City health insurance plan. An employee's spouse is eligible for enrollment in the City health insurance plan only if enrolled prior to the employee's retirement. An employee will not be able to add a spouse to the plan except during regular open enrollment times. A discount on the retiree rate will be granted to retirees that meet the following stipulations: (a) the employee must have completed 10 consecutive years of service with the City of Mitchell, and (b) the employee must be retired through SDRS or SDRS Disability, and satisfy the following conditions: Class A employees must be age 60 or older, Class B Public Safety employees must be age 50 or over and meet the Rule of 75, and those on SDRS Disability do not have age requirements. The discounted rates are available only to those employees hired prior to January 1, 2013.

## ARTICLE VIII LEAVES OF ABSENCE

Section 8.0 Employees shall be eligible for leave of absence without pay for up to ten (10) days duration with prior approval from their Department Head. The leave may be extended beyond the ten (10) day limit for good reasons. Leaves of absence shall not be denied without good cause. Before being eligible for a leave of absence the employee must have exhausted all vacation benefits.

Section 8.1 Employees while on leave of absence shall accrue seniority and benefits and employees shall be returned to the position they held at the time the leave of absence was granted when they return from the leave of absence.

Section 8.2 Employees who are summoned for jury duty or if legally required to testify as a witness on city matters during assigned work hours shall receive their

regular pay. Any juror fees received for serving on the jury will be returned to the City. Mileage and expenses reimbursement shall be retained by the employee.

Section 8.3 Any employee who is a duly qualified member of any Reserve Component of the United States Armed Forces shall be entitled to receive military training with the armed forces of the United States and shall be entitled to a leave of absence from City work for a period not to exceed fifteen (15) work days, in any one military fiscal year. At the conclusion of such service, the employee shall be entitled to return to city employment without loss of status, pay, or seniority, provided the employee is still able to perform the duties of the city position. The employee shall give the Department Head at least thirty (30) work days' notice of the need for Military Training Leave prior to the time of the leave. The employee must return to the city position immediately upon being relieved from such military service and not later than the time herein limited for such unless prevented from so returning by physical or mental disability or other such cause not due to the employee's own fault, or unless the employee is required by proper authority to continue in such military service beyond the time herein limited for military training leave. An employee may be eligible to receive the difference between their military pay received and their authorized salary, provided that the military pay is less than the authorized City salary. This difference may not be paid to exceed fifteen (15) regular working days in any one (1) calendar year. In order to receive compensation, the employee must file a statement of earnings from the military with the Finance Department payroll clerk. The period of military service will be counted as full service with the City for the purpose of accruing leave.

Section 8.4 Any employee who enlists or is called into Active Duty for the military service or the United States or who, voluntarily enlists for active duty shall be granted military leave for the time necessary to permit completion of the military service.

In order to have re-employment rights, a person leaving active duty in the military service of the United States must apply to the city for re-employment within 90 days after his/her separation from active duty, or within 90 days after his/her release from hospitalization continuing after such separation for not more than one year. This applies to inductees and enlistees, as well as to reservists and National Guard members performing full active duty, as opposed to initial duty for training, or active or inactive duty training, or other active duty where different re-employment rights are defined by Federal Statute.

Section 8.5 Any employee who requests a leave of absence because of official Union business shall receive an unpaid leave of absence not to exceed ten (10) days per year. No more than five (5) employees may use leave of absence at one time.

## ARTICLE IX HOURS OF WORK

Section 9.0 The forty (40) hour workweek shall begin at 12:00 AM Sunday and end at 11:59 Saturday.

Section 9.1 During a regular scheduled day of eight (8) continuous hours or more an employee shall be entitled to a lunch period of not more than one (1) hour and two paid fifteen minute breaks. The lunch period of thirty to sixty (30-60) minutes may be unpaid if uninterrupted. Employees who work less than an eight (8) continuous hour shift are entitled to one fifteen minute paid break every four (4) hours worked. Shift workers and employees working in varied work locations or stations shall take breaks when able during the shift.

Section 9.2 Except for emergency situations, work schedules shall not be changed without one week notice unless the changes are mutually agreed upon by the Union and the City.

Section 9.3 Flex scheduling is defined as "an occasional alteration of the start/stop time in the regularly scheduled work hours". This arrangement may be allowed if the schedule or work permit and it is mutually agreed upon by both employee and supervisor.

Section 9.4 The City payroll is biweekly systems in which you receive pay every two (2) weeks. The normal pay periods consist of two forty (40) hour workweeks, making a total of 80 hours. Payday falls every other Friday following the close of a pay period at 11:59 PM on the preceding Saturday. All payroll is direct deposited on the appropriate day.

## ARTICLE X WAGES

Section 10.0 All employees shall migrate from the 2016 wage schedule to Appendix A at, but not less than, their actual rate of pay on December 31, 2016. The migration shall be as described on Appendix B.

Section 10.1 Following the implementation of Section 10.0 above, a 1.25% wage increase shall be effective from January 1 through December 31, 2017 for all bargaining unit employees by increasing all wage rates on Appendix A by said amount.

Section 10.2 The wage rates for 2017 are attached as Appendix C.

Section 10.3 Effective January 1, 2018, through December 31, 2018, all bargaining unit employees shall receive a 2.25% increase, by increasing all wages on the 2017 pay schedule (Appendix C) by that amount.

Section 10.4 Effective January 1, 2019, all bargaining unit employees shall

receive a 3.0% increase, by increasing all wages on the 2018 pay schedule by that amount.

Section 10.5 The City shall provide a clothing allowance of up to \$250.00 per year as approved by the supervisor. The City shall also provide any clothing mandated by state or federal law.

Section 10.6 In addition to the above wage rates, each bargaining unit employee shall receive longevity pay according to the following schedule: Fifty dollars (\$50) per year for each year of service completed to be paid in a separate check in the first pay period in December annually.

Section 10.7 The City shall reimburse employees for the use of their personal vehicle for City business at the applicable State rate. If a City vehicle is not available it shall be at the higher rate. If a City vehicle is available it shall be at the lower rate.

Section 10.8 The City shall pay for required DOT physicals for bus drivers.

Section 10.09 During the term of this collective bargaining agreement and/or any extensions thereof, should any recognized bargaining unit reach a signed agreement that results in higher wage increases or across-the-board benefits than provided to bargaining unit employees represented by AFSCME Local 2922 for each respective year of the Agreement, the City agrees to adjust the wages and across-the-board benefits of AFSCME bargaining unit employees to the equivalent amount.

## ARTICLE XI FAMILY AND MEDICAL LEAVE

Section 11.0 The Family and Medical Leave Act of 1993 (FMLA) guarantees the right of eligible employees to take up to a total of twelve (12) weeks of leave per year, either in one continuous absence or on an intermittent basis, for one or more of the following reasons:

- (a) Upon the birth of the employee's child;
- (b) Upon the placement of a child with the employee for adoption or foster care;
- (c) When the employee is needed to care for a child, spouse, or parent who has a serious health condition; or,
- (d) When the employee is unable to perform the functions of their position because of a serious health condition.
- (e) Employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-weeks entitlement to address certain qualifying exigencies.

Eligible employees may take up to 26 weeks of leave to care for a covered service member during a single 12-month period.

Section 11.1 If the employee has accrued paid time available the employee shall utilize the paid time available prior to any unpaid leave during the FMLA 12 week leave.

Section 11.2 During the term of family or medical leave, the employee shall receive any group health, life and dental benefits that were in effect at the time of the commencement of such leave or new benefits which are provided by the employer during the FMLA leave. Group health, life and dental insurance shall be continued in force for the duration of family or medical leave and the City shall continue to pay that portion of benefits normally paid by the employer.

Section 11.3 During the FMLA leave, the employee shall remain on the seniority list and continue to accrue seniority.

Section 11.4 Upon expiration of an absence under this article, the employee shall be reinstated to the same position held at the time such leave commenced or an equivalent position with the same or an increase in pay, benefits, and other terms and conditions of employment. No employee shall be interfered with, discriminated against, disciplined, or otherwise restrained from exercising their rights under the Family and Medical Leave Act.

## ARTICLE XII CALL IN PAY

Section 12.0 Any employee called in to work outside of their regularly scheduled work shift shall be paid for a minimum of two (2) hours work at one and one-half (1 1/2) times their regular rate of pay. In the event that the employee is required to work longer than one hour such employee shall be paid one and one-half (1 1/2) times their regular rate of pay for all hours worked which are outside of their regularly scheduled work shift.

Section 12.1 If the call time assignment and the employee's regular shift overlap, the employee shall be entitled to work his regular shift.

Section 12.2 If called in to work before the beginning of the scheduled shift, an employee may request compensatory time, in lieu of overtime pay. Compensatory time or call-in pay shall be paid at the rate of 1 ½ times the number of hours actually worked.

## ARTICLE XIII OUT OF CLASS PAY

Section 13.0 Any employee who is required to do work in a higher pay range shall receive the higher rate of pay for all hours worked in that classification.

## ARTICLE XIV ON-CALL PAY

Section 14.0 An employee who is scheduled for on-call time during other than normal working hours shall receive on call compensation in the amount of eight (8) hours per week.

Section 14.1 If called in to work before the beginning of the scheduled shift, an employee may request compensatory time, in lieu of overtime pay. Compensatory time or call-in pay shall be paid at the rate of 1 ½ times the number of hours actually worked.

Section 14.2 The employee shall be paid in accordance with Section 12.0 if called in to work.

Section 14.3 Department Heads shall prepare an on-call list and make it available for all employees concerned. Employees who are on call shall not trade on call dates without the approval of the Department Head.

## ARTICLE XV OVERTIME

Section 15.0 Overtime is defined as hours that are worked in addition to the forty (40) hours worked in a one-week period.

Section 15.1 Overtime shall have the prior approval of the Department Supervisor. Such request and determination of overtime/comp time shall be reduced to writing on the prescribed form and filed with the Finance Officer promptly along with the employee's time sheet.

Section 15.2 Overtime shall be compensated at the rate of time and a half (1 ½) the regular rate of pay for each hour worked over forty (40) hours.

Section 15.3 Comp time and sick leave hours paid for but not worked shall not be used for the purpose of computing any overtime.

Section 15.4 Holiday hours and annual leave hours (vacation) shall count as time worked in computing overtime pay.

Section 15.5 If an employee works overtime, the employee may, with the approval of the Department Head or designee, choose to take compensatory time instead of overtime pay. Compensatory time shall be awarded at the rate of one and one-half (1½) hours of compensatory time for each hour of overtime worked. The days to be taken off shall be at the option of the employee with the approval of the Department Head or designee. An employee may accumulate no more than eighty (80) hours of compensatory time off. Upon termination of employment, the employee will be paid for any unused comp time.

Section 15.6 Overtime is to be distributed equally to all employees of a department. If an employee is requested to work overtime and because of other conditions and commitments cannot perform the overtime work assigned, then the Supervisor will attempt to find a qualified employee to work the overtime. The employee scheduled to work the overtime shall immediately notify the Superintendent of any conflict so that the Supervisor may select and obtain a qualified employee to perform the overtime work prior to the conclusion of the workday.

## ARTICLE XVI SENIORITY

Section 16.0 Seniority shall mean an employee's length of continuous service with the city since their last date of hire. The principal of seniority shall govern and control in all conditions of employment. An employee's continuous service shall be broken by voluntary resignation, discharge for just cause, and retirement. There shall be no deduction from continuous service for any time lost which does not constitute a break in service.

Section 16.1 No employee shall be added to the seniority list until they have completed six (6) months of service with the City. All employees hired by the City shall for the first six (6) months be on probationary status but shall be entitled to receive the City health insurance and dental plans on the first of the month following thirty (30) days of employment, and City retirement plan, sick leave, vacation, and paid holidays from the date of hire.

Section 16.2 The employer shall keep the seniority list up to date at all times and will post an up to date seniority list on department bulletin boards. A copy of the seniority list shall be furnished to the Union when it is posted.

Section 16.3 If a job is to be consolidated, or eliminated (other than by retirement or voluntary separation) which would result in the elimination of a job or lay-off of an employee, the City shall do the following:

- (a) Provide sixty (60) days' notice to the Union and employee.
- (b) Within sixty (60) days of the Union's receipt of notice of lay-off an employee whose job is eliminated may bump an employee with less seniority in any City department provided that the employee meets the minimum qualifications of the job. An employee who is bumped by an employee with more seniority shall then be allowed to bump an employee with less seniority in any department provided that the employee meets the minimum qualification of the job. Employees who bump into another position must be able to do the new job within thirty (30) work days.
- (c) Employees who bump into a position shall be placed on the step within



the corresponding pay grade for the new position based on the employees' prior and related experience. This determination shall be made by the appropriate management personnel but subject to the grievance procedure.

- (d) Any employee whose job is eliminated or who lost his position by being bumped under paragraph (b) will be placed on a lay off status in accordance with the terms of this contract and may apply for open positions as provided in Section 16.4.

Section 16.4 Transfers and promotions shall be posted City wide for five (5) working days. The City may advertise job openings to the general public at the same time but city employees shall be given first chance to fill the job if they have the ability and qualifications. The City shall award all job openings based on seniority, qualifications and ability.

## ARTICLE XVII GRIEVANCE PROCEDURE

### Section 17.0 Definitions:

A. **Grievance:** A complaint by an employee, or a group of employees, based on an alleged violation, misinterpretation or inequitable application of any existing agreement, contract, ordinance, resolution, policy, rule, regulation or law.

B. **Employee:** An employee of the City and may include an individual or group of employees who are similarly affected by a grievance.

C. **Days:** All days referred to shall be calendar days.

Section 17.1 Any grievance or dispute which may arise between the parties including the application, meaning or interpretation of this agreement, contract, ordinance, resolution, policy, rules, regulations and laws, may be processed during working hours without loss of pay and shall be settled as hereinafter set forth.

Section 17.2 **Step One:** The employee, and/or his Union representative, who feels that he has a dispute or grievance shall discuss the matter with the supervisor within twenty-one (21) days of the event leading to the dispute or grievance, or the employees' knowledge of its occurrence. The Supervisor shall attempt to resolve the matter within fourteen (14) days.

Section 17.3 **Step Two:** If the matter is not resolved at Step One, the Union representative, or his designee, with or without the employee, shall present in writing the grievance or dispute to the Department Head within fourteen (14) days of the meeting with the Supervisor. The Department Head shall attempt to adjust the matter and shall respond, in writing, to the Union representative and

the employee within fourteen (14) days.

Section 17.4 Step Three: If the matter is not resolved at Step Two, it shall be presented to the Human Resource Director within fourteen (14) days from the date of the written response of the Supervisor. The HR Director shall hold a hearing to investigate and resolve the matter within fourteen (14) days of receipt of the grievance. The HR Director shall respond in writing, to the Union and the employee within fourteen (14) days of the hearing.

Section 17.5 Step Four: If the matter is still unsettled, either party may, within thirty (30) days after the reply of the HR Director, submit the matter to the South Dakota Department of Labor, Division of Labor and Management for resolution.

Section 17.6 Either party may appeal the decision of the Department of Labor as prescribed by law.

Section 17.7 An employee who has been dismissed or suspended may submit a grievance starting at Step Three of the grievance procedure.

Section 17.8 In the event the employee filing the grievance, or alleging and asserting that a dispute exists, or in the event that the Union files a grievance or alleges a dispute, fails to comply with any time limitation herein such failure shall constitute a withdrawal of the grievance or claimed dispute. The failure of the City to comply with any time limitation shall constitute a settlement of the grievance in accordance with the requested remedy. Time limitations may be extended by mutual agreement of the parties in writing.

Section 17.9 No employee or group of employees shall be reprimanded, disciplined, or discriminated against for exercising their rights under this Article.

Section 17.10 An employee who is called into any conference, interview, or meeting that could in any way lead to being disciplined or terminated or have any effect on his/her personal working conditions shall have the right to be represented or not represented by a union representative of their choice. Without union representation the employee may choose not to participate in the meeting.

## ARTICLE XVIII DISCIPLINARY ACTIONS

Section 18.0 No employee shall be disciplined or discharged without just cause. If just cause is determined, disciplinary action shall be progressive considering the seriousness of the offense and the past record. Rules, orders, and penalties shall be reasonable and applied evenly and without discrimination.

Section 18.1 If just cause is determined, disciplinary action may include any of the following:

1. Reprimand: The Supervisor may reprimand any employee for just cause. Such reprimand will be in writing and addressed to the employee. A signed copy will be placed in the employees' personnel folder with a copy to the Union.

2. Probation: Upon finding just cause, the employer may place an employee on probation for a period of not more than six (6) months. A written notice of such action will be issued by the Department Head or designee to the employee with a copy to the Union.

3. Suspension: The Employer may suspend without pay any employee for just cause for a period or periods not to exceed forty work days in a twelve month period; no single suspension will be more than ten (10) working days. The Department Head or designee will notify the employee concerned in writing no later than one (1) day after the suspension is made effective. A copy of the written notification, which will include reasons for and the duration of the suspension, will be placed in the employee's file. A copy of the written notification shall be given to the Union.

4. Dismissal: The Employer shall not dismiss any employee without just cause. The employee involved will first be suspended with pay for a period of one (1) working day. The employee shall have the right to receive a written statement of the reasons for dismissal, which shall be provided to the employee at the time of the dismissal. A copy of the statement will be placed in the employee's personnel file and a copy to the Union.

Section 18.2 Records of disciplinary action shall be maintained in the employee's personnel folder but time in effect shall be limited to one (1) year.

Section 18.3 Any disciplinary action may be the subject of the grievance procedure as set forth in Article XVII of this contract.

## ARTICLE XIX DISCRIMINATION

Section 19.0 The City will not interfere with, restrain or coerce the employees covered by this agreement because of membership in or activity on behalf of the Union. The City will not discriminate in respect to: hire, tenure of employment or any term or condition of employment against any employees covered by this agreement because of membership or activity on behalf of the Union, nor will it discourage or attempt to encourage membership in another Union. Neither the City nor the Union will engage in any discriminatory practices contrary to any existing federal law or regulation or any amendment of the same, or any state law or regulation or any amendment to the same, and the City and the Union will not discriminate against any employee on account of race, color, national origin, sex, creed, age or disability.

Section 19.1 The City shall not discriminate against any employee with respect to their employment with the City

## ARTICLE XX SAFETY

Section 20.0 The City shall provide a safe and healthful workplace for all employees and correct all hazards. Nothing shall imply that the Union has undertaken or assumed any portion of that responsibility.

Section 20.1 An employee shall not be subject to disciplinary action by reason of their failure or refusal to operate or handle any unsafe piece of equipment or work in any unsafe work situation.

Section 20.2 The City and the Union shall have a joint Safety Committee composed of eight (8) members; four (4) appointed by the City and four (4) appointed by the Union. The Safety Committee shall assure that proper safety and health standards are maintained. They shall identify workplace health and safety problems and make recommendations for corrective action. This committee shall meet at least every other month, or at the call of any member.

Section 20.3 The City shall provide employees with all necessary safety equipment. Questions on equipment necessity shall be referred to the Safety Committee.

Section 20.4 The City shall establish and maintain a program for adequate safety training in each department.

Section 20.5 Employees and the Union may exercise all legal rights to secure a safe and healthful workplace without threats, loss of pay, or other reprisals of any kind.

## ARTICLE XXI Committee for Union – Management Cooperation

Section 21.0 The parties recognize that during the period in which this agreement is in effect, problems of administration of this agreement may arise which is not now anticipated by either party. They also recognize that during such period more mutually constructive and productive relationships are likely to exist between the City and the Union if both the City and the Union continue efforts to gain a better appreciation and understanding of each other's problems and objectives.

Section 21.1 The committee formed as a part of this Article shall meet at least twice a year. Either party may request additional meetings if desired with 1 week notice. It is understood that such meetings will be held for the purpose of appraising and discussing problems, of the Agreement or other matters which

either party believes will contribute to the improvement in the relations between them within the framework of this agreement. This committee shall not serve as a continuation for negotiations.

Section 21.2 The committee shall be composed of three (3) members designated by the Union and three (3) members designated by the Human Resources Director. Subject to mutual agreement of the respective members of the committee, The Federal Mediation Conciliation Services shall provide training to the Labor Management Committee to ensure the principles, benefits and philosophy of the committee be fulfilled.

Section 21.3 Minutes shall be kept of all meetings and shall be distributed to the City and the Union.

## ARTICLE XXII ALTERATION OF AGREEMENT

Section 22.0 No agreement, alteration, understanding, variation, waiver or modification of any terms or conditions or covenants contained herein shall be made by any employee or group of employees with the City, and in no case shall be binding upon the parties of this contract unless such agreement is made and executed in writing between the parties of this contract.

Section 22.1 Any and all privileges enjoyed by the employees prior to this agreement will not be denied to them because of the execution of this agreement, unless the parties, through collective bargaining, mutually agree to change or have specifically waived any of these privileges.

## ARTICLE XXIII SAVINGS CLAUSE

Section 23.0 If any section, paragraph, sentence, clause, phrase, or other part of this agreement is determined, or declared to be contrary to, or in violation of, any State or Federal Law, the remainder of this agreement shall not thereby be affected or invalidated. Such section declared invalid shall be renegotiated within thirty (30) days from the date of declaration of invalidity for amendment to this contract.

Section 23.1 The terms and conditions of this agreement shall supersede ordinances and resolutions wherein there is a conflict with the terms of this agreement and if enacted may be challenged by the Union.

## ARTICLE XXIV CHECKOFF

Section 24.0 Upon written request to the City Finance Officer by employees, payroll deductions from wages of an amount equal to the regular monthly dues applicable to members of AFSCME Council 65. shall be made by the City each pay period. Further, the deduction shall be sent to AFSCME Council 65.

Section 24.1 This authorization shall remain in effect and shall be irrevocable unless any employee wishing to revoke it submits a written notice to both the City and to AFSCME Council 65 during the period no less than thirty (30) and not more than forty-five (45) days before the annual anniversary date of said employee's authorization, in accordance with the check-off authorization signed by said employee.

Section 24.2 When an employee remains employed in a position represented by AFSCME this authorization shall be automatically renewed from year to year unless an employee revokes it in writing during the window period described in Section 24.1 above.

Section 24.3 Any changes in the amount of dues to be withheld by the City shall be furnished to the City Finance Officer, in writing, by the Union. This notice shall be submitted to the City at least twenty (20) days in advance of such change.

Section 24.4 A list of those employees signing such authorization and the amount withheld will be furnished to the Union at the time of the remittance of the same.

Section 24.5 Any changes in the amount of dues to be withheld by the City shall be furnished to the City Finance Officer, in writing, by the Union. This notice shall be submitted to the City at least twenty (20) days in advance of such change.

Section 24.6 Payment by the City of the amount withheld shall be made to the Union no later than the 10<sup>th</sup> day of the month immediately following the month for which such dues were collected.

## ARTICLE XXV CONDUCT OF UNION AFFAIRS

Section 25.0 The City agrees that during working hours on the City's premises and without loss of pay, Union representatives shall be allowed to spend a reasonable amount of time to perform the following:

1. Post union notices.
2. Distribute union literature.
3. Transmit communications authorized by the Union or its officers to the employer or its representative.
4. Investigate and process grievances, pursuant to the provisions of Article XVII of this Agreement, and to consult with the City or its representatives, Union officers or representatives concerning the enforcement of any provisions of this Agreement, providing that such times shall not be used in computing weekly overtime.
5. Attend contract negotiations sessions with the City, provided that

such time shall not be used in computing weekly overtime.

Section 25.1 The employer agrees that the accredited representatives of the Union shall have full and free access to the premises of the employer during normal working hours to meet with members of the bargaining unit, and shall give notice.

Section 25.2 The employer will provide bulletin boards in each department, which may be used by the Union for the posting of official union business or matters.

Section 25.3 Members of the Union elected to attend a function of the Union such as educational conferences and conventions shall be granted leave of absence using paid benefits or without pay, to attend such conferences or convention. The City has the right to limit absences for the orderly operation of each department subject to the grievance procedure.

## ARTICLE XXVI OUTSIDE EMPLOYMENT

Section 26.0 All City employees shall immediately report engagement in secondary work or business activities, which shall be subject to City approval, and provided that:

- a. Employment with the City of Mitchell is considered primary employment of the individual working in a full-time capacity.
- b. The outside employment does not interfere with the proper discharge of his or her normal duties and responsibilities or negatively impact the integrity and credibility of the City.
- c. The employee does not wear any City uniform or insignia on any clothing that refers to the City of Mitchell. The employee does not avail himself or herself of City equipment, records, documents, files, or services.
- d. The employee in no way exploits his connection with the City of Mitchell.
- e. Such employment is not contrary to federal, state or local law.
- f. City approval for such employment shall not be unreasonably withheld.
- g. Prior to taking any action related to outside employment based upon the above paragraphs, written notice of the non-approval or withdrawal of approval shall be given to the employee, union and

Human Resources.

Section 26.1 The City shall not be held liable for any of the employee's activities directly related to his outside employment.

## ARTICLE XXVII DURATION

Section 27.1 This Agreement shall be effective as of the 1<sup>st</sup> day of January, 2017, and shall remain in full force and effect until December 31, 2019. It shall be automatically renewed from year to year thereafter unless either party shall notify the other in writing no later than April 1 that it desires to modify, or renegotiate this agreement.

Section 27.2 In the event that such notice is given, negotiations shall begin no later than June 1. The Agreement shall remain in full force and effect during the period of negotiations or until mutually terminated thereafter, in writing, by the parties.

IN WITNESS WHEREOF, the parties below have set their hands this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

FOR AFSCME LOCAL 2922:

FOR The City of Mitchell:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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## Appendix A

## Appendix B

## Appendix C

ARTICLE XXVII DURATION

Section 27.1 This Agreement shall be effective as of the 1<sup>st</sup> day of January, 2017, and shall remain in full force and effect until December 31, 2019. It shall be automatically renewed from year to year thereafter unless either party shall notify the other in writing no later than April 1 that it desires to modify, or renegotiate this agreement.

Section 27.2 In the event that such notice is given, negotiations shall begin no later than June 1. The Agreement shall remain in full force and effect during the period of negotiations or until mutually terminated thereafter, in writing, by the parties.

IN WITNESS WHEREOF, the parties below have set their hands this 17<sup>th</sup> day of October, 2016.

FOR AFSCME LOCAL 2922:

[Signature], PRES.  
Craig A. [Signature], TREAS.

FOR The City of Mitchell:

Jerry Toomey  
MAYOR

