

**COLLECTIVE BARGAINING AGREEMENT
FOR 2021 & 2022**

between the

CITY OF ABERDEEN

and

F.O.P. LODGE #4 LABOR COUNCIL

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**COLLECTIVE BARGAINING AGREEMENT BETWEEN THE
CITY OF ABERDEEN AND F.O.P. LODGE #4 LABOR COUNCIL**

This Agreement made and entered into at Aberdeen, South Dakota, pursuant to the provisions of SDCL 3-18-8, by and between the City of Aberdeen, a South Dakota municipal corporation, hereinafter called the City, and F.O.P. Lodge #4 Labor Council, hereinafter referred to as the Labor Council or the Union.

WITNESSETH:

WHEREAS, both of the parties to this Agreement are desirous of reaching an amicable understanding with respect to the employer-employee relationship which exists between the City and the employees covered by this Agreement and to enter into a complete agreement covering wages, rates of pay, hours of work and other conditions of employment, and,

WHEREAS, the parties recognize that all of the provisions of this Agreement must meet the requirements and procedures required by law and the provisions of the statutes of the State of South Dakota, and

WHEREAS, the parties do hereby acknowledge that this Agreement is the result of the unlimited right and opportunity afforded each of the parties to make any and all demands and proposals with respect to the wages, rates of pay, hours of work and other conditions of employment with respect to the unit of employees covered hereby,

NOW, THEREFORE, in consideration of the execution of this Agreement and covenants and agreements mutually expressed herein and arrived at by the parties hereto, it is hereby agreed as follows:

ARTICLE 1

RECOGNITION

- 1.1 Pursuant to the provisions of SDCL Ch. 3-18, and the applicable regulations of the South Dakota Department of Labor, Division of Labor and Management, the Labor Council was certified on the 31st day of July, 2000, as the exclusive representative for the purpose of meeting and negotiating with the City, pursuant to statute, with respect to rates of pay, wages, hours of employment, and other conditions of employment. Pursuant to such certification, the City hereby recognizes the Labor Council as the exclusive representative of the employees in the unit described as follows:

All police officers, sergeants, and detectives of the City of Aberdeen Police Department, excluding Police Chief and Captains.

- 1.2 The Labor Council recognizes the responsibility assumed by it as the exclusive representative of all employees in the unit.
- 1.3 The Aberdeen Police Department will not inhibit the free speech of any officer, unless such speech would prevent an individual from properly performing their duties or functions or unduly disrupts the efficiency and operation of the police department or any on-going investigation or prosecutions. Speech that adversely effects or jeopardizes the operations of the department may be the subject of review and potentially discipline.
- 1.4 When a formal complaint is filed, Aberdeen Police Department Policies and Procedure Manual Chapter 6 – Internal Investigation/Discipline will be followed. Individuals taking reports should ensure that the complaint is in writing or recorded on tape and includes outlining the specific allegations(s) of misconduct and/or complaint, the date, time and location of the incident that gave rise to the complaint and/or allegation of misconduct. Notice of a complaint including the written complaint will be presented to the individual against whom the complaint was filed. Once the notice of complaint is presented to the individual, they may request a representative.

ARTICLE 2 MANAGEMENT RIGHTS

- 2.1 The City Administration, reserves the right to operate and manage its affairs in accordance with its responsibility and the powers or authorities. These management rights include, but are not limited to, the following:
- (a) To utilize personnel, methods and means in the most appropriate and efficient manner possible; to manage and direct the employees of the City; to hire, schedule, promote, transfer, assign, train, or retrain employees in positions with the City, and to suspend, demote, discharge or take other appropriate action against employees;
 - (b) To determine the size and composition of the work force, to eliminate or discontinue any job or classification and to lay off employees for lack of work or lack of appropriate funds;

- (c) To determine the objectives of the City and the method and means necessary to efficiently fulfill those objectives, including the transfer, alteration, curtailment, or discontinuance of any services; the establishment of acceptable standards of job performance; the purchase and utilization of equipment; and the utilization of seasonal and part-time employees;
- (d) Develop, alter, or abolish policies, practices, procedures, and rules to govern the operations of the Police Department and bring about discipline. When enacted will become a part hereof by reference;
- (e) To determine the method of fulfillment of the objectives of the City, whether by its employees or by contracting or subcontracting with respect to all of the City's services.

ARTICLE 3 DISCRIMINATION

- 3.1 Neither the City nor the Labor Council shall in any manner whatsoever discriminate against any employee because of race, color, age, sex, political affiliations, religious beliefs, national origin, disability or membership or non-membership in the Labor Council or for exercising duties as a representative. Likewise, neither the City nor the Labor Council shall, directly or indirectly, intimidate or coerce any employee to join or refrain from joining the Labor Council or any other labor or employee organization of their choice.

ARTICLE 4 ASSIGNMENT FOR DUES

- 4.1 The City shall deduct regular bi-weekly dues from the pay of each employee covered by this Agreement, provided that at the time of such deduction the City has in its possession a current, unrevoked written assignment executed by the employee in the form and according to the terms of the authorization form. Such authorization may be revoked by the employee at any time by giving written notice two (2) weeks prior to the next due date, to the City and the Labor Council by letter.
- 4.2 Previously signed and unrevoked written authorizations shall continue to be effective as to employees reinstated following layoff, leave of absence or suspension not exceeding sixty (60) days. Previous authorization of other employees rehired or reinstated shall not be considered to be effective.
- 4.3 Such authorized deductions shall be made on a bi-weekly basis and will be remitted to the duly designated Labor Council official on the bi-weekly payday. The Labor Council shall advise the City in writing of the name of such official.
- 4.4 If an employee has no pay coming in their first payroll period, or if the amount due in such pay period is insufficient to cover the amount of dues, or if the employee has not signed an authorization form at least two weeks prior to such pay period, no dues shall be deducted until the second pay period, which deductions shall be limited to the

ordinary bi-weekly amount of the regular bi-weekly Labor Council dues and shall not include any other amount.

- 4.5 If the City receives an employee revocation of authorization no later than two weeks before any payroll period of the calendar month, no deduction will be made from that payroll period or subsequent payroll periods. If such revocation is received later than two weeks before a payroll period, a deduction will be made from such payroll period but shall not be made from subsequent payroll periods.
- 4.6 At the time of the execution of this Agreement, the Labor Council shall advise the City in writing of the exact amount of regular bi-weekly dues. If the Labor Council subsequently requests the City to deduct additional bi-weekly dues, such request shall be effective only upon written assurance of the Labor Council to the City that such additional amounts are regular bi-weekly Labor Council dues approved in accordance with the Labor Council's constitution and by laws.
- 4.7 The City shall not be liable for the remittance of any sums other than those constituting actual deductions made; and if for any reason it fails to make a deduction for any employee as above provided, it shall make that deduction from the employee's next pay period in which the Labor Council dues are normally deducted after written notification to the City of the error. If the City makes an overpayment to the Labor Council, the City will deduct that amount from the next remittance to the Labor Council. The Labor Council agrees to indemnify and hold the City harmless against any and all claims, suits, orders or judgments brought or issued against the City as a result of any action taken or not taken by the City under the provisions of this article.
- 4.8 The City agrees that the Labor Council may conduct business during regular working hours for the purposes of attending scheduled bargaining negotiations or in the presentation of any grievances so long as there is no significant effect on the City's responsibility toward the general public or operations of the Department.
- 4.9 The City recognizes the right of the Labor Council to designate representatives for the members of the Labor Council. Union Stewards and Representatives attending bargaining negotiations or presenting grievances conducting themselves in accordance with the Union contract and Police Department policies and procedures can conduct their union business without fear of retaliation. These representatives shall be limited to, and shall not exceed the following duties and activities:
 - (a) The presentation of grievances with the Employer or the designated Employer representative in accordance with the provisions of this Agreement.
 - (b) Upon notice of intention of disciplinary action, the Labor Council member may request a Labor Council representative who is available within a reasonable amount of time [thirty (30) minutes] of the administrative investigation may be present to advise on matters of right under this contract. If the Labor Council representative attempts to give advice on any other matters or interferes in any manner, then the Labor Council representative may be asked to leave the meeting.
 - (c) Upon request to the Captain, which is not to be unreasonably denied, representatives shall be permitted reasonable time to present and process

grievances during working hours without loss of pay so long as there is no significant effect on the City's responsibility toward the general public or operations of the Department.

ARTICLE 5 GRIEVANCE PROCEDURE

5.1 PURPOSE, DEFINITION & PROVISIONS

Purpose: The purpose of the grievance procedure is to provide a just and equitable method for resolution of grievances without discrimination, coercion, restraint or reprisal against any employee covered by this procedure.

5.2 Definitions:

- (a) Grievance: A complaint by an employee or group of employees that have completed their probation period based upon interpretation or application of any existing policies, rules or regulations of the City as they apply to conditions of employment. Negotiations for, or a disagreement over a non-existing agreement, ordinance, policy, rule or a regulation is not a "grievance" and is not subject to this article.
- (b) Days: Calendar days including weekends, holidays, etc.
- (c) Aggrieved employee: The complaining employee or employees.
- (d) Supervisor: For the purpose of this policy, the Supervisor is the Chief of Police.

5.3 Conditions of a grievance:

- (a) The grievance will include the following information in written form:
 - (1) Date of grievance.
 - (2) Nature of the grievance.
 - (3) Date(s) of the incident(s) and/or action(s) on which the grievance is based.
 - (4) The relief sought to satisfy the grievance.
 - (5) The specific laws, rules, regulations, policies or ordinances alleged to have been violated.
- (b) A formal grievance must be filed within ten (10) calendar days of the alleged violation, interpretation or application, or within thirty (30) calendar days of the incident or action, whichever is less, giving rise to the grievance.
- (c) An employee that voluntarily terminates employment will automatically have their grievance withdrawn and will not benefit by any later settlement of an individual or group grievance.

- (d) This grievance procedure is intended to apply only to employees that have completed their initial probationary period. It is acknowledged that a probationary employee may exercise their appeal right on the grounds of discrimination (i.e. age, sex, race, religion, national origin or disability).

5.4 Time limitations:

- (a) Time limitations may be extended upon written mutual agreement of both parties involved at any stage of the grievance procedure.
- (b) Failure of an employee to comply with the time limits shall bar further consideration of the grievance.
- (c) The employee may use the next step of the grievance procedure if their supervisor, the Captain, fails to resolve the grievance to the satisfaction of the employee within the time limits established by the grievance procedures (step 1).
- (d) Failure of the City (Captain and Chief) to comply with time limitations expressed in this article shall result in the grievance being accepted and the employee shall be granted the relief requested.

5.5 GRIEVANCE PROCEDURE

- Step 1: Filing of grievance with the Police Captain or designee:
In order to be recognized, a grievance must be submitted to the Police Captain or designee within ten (10) calendar days after the employee had knowledge of the incident or action or within thirty (30) calendar days of the incident or action, whichever is less, giving rise to the grievance. The Captain will then have seven (7) calendar days to render a decision in writing to the employee.
- Step 2: Appeal to the Police Chief:
If the grievance has not been resolved in step 1, the aggrieved employee will have seven (7) calendar days from the decision in step 1 to submit in writing their grievance to the Police Chief. The Police Chief will respond in writing within seven (7) calendar days from this meeting to the grievance.
- Step 3: Appeal to the Department of Labor:
If not resolved, the aggrieved employee will have thirty (30) calendar days from receipt of decision of the Police Chief to appeal their grievance to the Department of Labor. The decision of the Director of the Division of Labor and Management shall be binding provided that the same is not in violation of then existing South Dakota law.

**ARTICLE 6
NO STRIKE OR LOCKOUT**

- 6.1 Inasmuch as this agreement provides machinery for the orderly resolution of disputes through grievance procedures, the City and the Labor Council recognize their mutual responsibility to provide for uninterrupted services, therefore:
- (a) The Labor Council recognizes the validity of Sections 3-18-9 through 3-18-14 SDCL 1967.
 - (b) The Labor Council agrees that neither it, its officers, agents, representatives or members, individually or collectively, will authorize, instigate, cause, aid, condone, or take part in any strike, work stoppage, sit-down, stay-in, slow-down, picketing, or other concerted interruptions of operations by employees (including purported mass resignations or sick calls) or any similar and associated disruption or abstinence in whole or in part from the full, faithful and proper performance of the duties or employment by concerted actions with others.
- 6.2 The City may discipline or discharge any employee who engages in such activity and such actions shall not be subject to the grievance procedure.
- 6.3 There shall be no lockouts during the term of this agreement. The City shall be under no obligation to bargain with the Labor Council concerning employees who are on strike or concerning the subject of any strike so long as the strike continues.

**ARTICLE 7
LEAVES OF ABSENCE**

- 7.1 Leaves of absence are of two kinds, paid leaves of absence and unpaid leaves of absence.
- 7.2 PAID LEAVES OF ABSENCE

Paid leaves of absence provided are:

Section 1	Vacation Leave
Section 2	Holidays
Section 3	Sick Leave
Section 4	Bereavement Leave
Section 5	Jury Leave
Section 6	Military Leave for Annual Duty
Section 7	Personal Leave (with pay)
Section 8	Maternity Leave

The rules governing such leaves are contained in the sections relating thereto.

Section 1 – Vacation Leave:

Paid vacation leave will be granted to all full-time employees that qualify as follows:

- (1) After six months (6) of continuous service the employee is eligible for 40 hours of vacation leave with maximum accrual of 120 hours. After six months of service, vacation leave accrual will be on a bi-weekly basis of 3.08 hours.
- (2) Upon completion of six (6) years of continuous service, the employee will have a bi-weekly accrual rate of 4.62 hours with a maximum accrual of 160 hours.
- (3) Upon completion of thirteen (13) years of continuous service, the employee will have a bi-weekly accrual of 6.16 hours with a maximum accrual of 200 hours.

All vacation leave shall be computed at the employee's straight time rate for the classification to which they are assigned at the commencement of their vacation leave.

To the extent that they do not conflict with the needs and requirements of the Police Department, the individual wishes of the employees will be considered. The supervisor or their designee shall coordinate when employees will take vacation leave and shall make the final determination as to when vacation leave may be taken consistent with the needs and requirements of the Police department. Vacation leave must be taken in whole hour blocks (1, 2, etc.). No employee may waive their vacation leave and draw double pay by working during the time allowed. An employee may elect to accumulate up to but not exceed the maximum accrual.

On or about December 1 of each year, the Police Department will circulate appropriate forms to the employees so that they may list their choice of vacation leave periods. These forms shall be returned to the Police Department by January 1, and the Police Department shall post the leave schedule by January 15. Those not selecting their vacation leave when the forms are circulated shall relinquish this right of selecting vacation leave. If in the event officers request the same days for leave, the employee with seniority and rank shall be given preference.

Vacation requests made after January 1 will be approved at the time of the request with regards to the police department needs and requirements. The employee with seniority will again receive preference.

An employee shall not be eligible for vacation leave with pay during their first six months of employment. The date the employee commenced working for the City shall be their anniversary date, and all service periods provided for in this policy shall be determined from that date.

In the event an employee leaves the employ of the City, they shall receive their accrued vacation leave based on their last full pay period.

Regular part-time employees established by ordinance shall be entitled to paid vacation leave on a pro rata basis.

Section 2 – Holidays:

The following days will be recognized and observed as holidays as they occur during an employee's regular work period:

1. New Year's Day
2. Martin Luther King Day (3rd Monday in January)

3. President's Day
4. Memorial Day (1st Monday in May)
5. Independence Day
6. Labor Day
7. Native American Day (2nd Monday in October)
8. Veteran's Day
9. Thanksgiving Day
10. Christmas Day (four (4) hours will be given at regular rate on Christmas Eve if that day falls on a Monday-Thursday)

For those employees not assigned to work on the above-recognized holidays the following pertains: Whenever any of the foregoing holidays fall on Sunday, the Monday following shall be observed as the holiday. Whenever any of the foregoing holidays fall on a Saturday, the previous Friday shall be observed as the holiday.

If an employee is assigned to work on the day the holiday is observed, they shall receive ten (10) hours of holiday compensation time and pay at time and one-half for hours worked. Holiday compensation time may be accrued for holidays actually worked by an employee at a maximum accrual of twenty (20) hours. Holiday compensation time must be used in whole hour blocks and have prior approval from the supervisor.

If a shift starts on a holiday, the whole shift will be considered as being on the holiday. If a shift does not start on the holiday then none of the shift hours will be considered to be on the holiday even though the shift may actually end on the holiday.

ELIGIBILITY FOR PAY FOR A HOLIDAY

1. The employee must be active and in full-time employment when the holiday occurs.
2. The employee must have performed the required work on their last scheduled shift prior to the holiday and the first scheduled shift after the holiday, or be on approved paid leave.
3. If the employee is scheduled to work on the holiday and refuses to do so, no payment will be made for the holiday. This will be considered insubordination, subject to disciplinary action.

Section 3 – Sick Leave:

An employee may be eligible for sick leave if they report their illness or injury to the Chief or other appropriate supervisor prior to the start of their normal work shift, unless in the judgment of the Police Department the circumstances surrounding the absence make such reporting impossible, in which event, such report must be made as soon as possible.

Routine doctor appointments should be scheduled outside the employee's working hours whenever possible. The City reserves the rights to deny leave when no attempt is made to schedule appointments outside work hours or information obtained indicates that the service could have been performed outside the employee's work hours.

An employee may accumulate sick leave at the rate of 3.5 hours biweekly (per pay period) while actively working. When an employee is on extended sick leave (14 or more calendar days), sick leave accrual will be suspended until the employee is released for work by a physician and returns to active duty. When vacation leave or personal leave is used in lieu of

sick leave, it must be used until exhausted or the individual is released to full time active duty. Unused sick leave may be accumulated to a total of 1080 hours.

Sick leave shall be charged on the basis of the time actually taken with a minimum charge of 30 minutes. The employee shall be paid for all hours charged at their applicable wage rate at the start of the absence for which compensation is requested. If an employee quits or is discharged from employment, any unused accumulation of sick leave shall be cancelled.

For job related injuries and upon filing "First Report of Injury" the employee must choose to:

1. Sign all workers' compensation checks over to the City and have sick leave deducted at ½ rate (example: four (4) hours sick leave for each eight (8) hour work day). No adjustment will be made to the employee's anniversary date as long as the employee is on a paid leave of absence from the City (sick leave, vacation leave, etc.).
2. Accept worker's compensation payment with no time loss charged to any leaves (sick leave, vacation leave, etc.). If this option (leave without pay from the City) is taken the employee would be responsible for paying any benefit cost except those required by law. Sick leave, vacation leaves and holiday leave will not be accumulated during this period of leave time. The employee's anniversary date will be adjusted for time loss, effecting longevity and vacation leave accumulation.

If submitted in writing five (5) days prior to the exhaustion of all leaves, the employee may request discretionary leave.

Upon returning from sick leave each employee shall present a signed statement indicating the reason for such absence, such statement to be filed in the place designated by the Chief. The Chief or other appropriate official may request a physician's statement concerning such absences at any time.

Emergency Leave: Each employee may be granted the privilege of using up to ten (10) hours of accumulated sick leave per calendar year to care for an immediate family member due to illness or injury. Leave must be used in whole hour blocks (i.e. 1, 2, 3 etc.). Immediate family will be defined as: spouse, children, step-children, foster children, parent, brother or sister of the employee. Emergency leave must be approved by the Captain/Sergeant prior to the time it is to be taken and not create an overtime situation. The approval or non-approval of this leave is not subject to the grievance procedure.

Any employee that willfully violates or misuses this sick leave or injury leave policy or misrepresents any statement or condition under this policy shall be subject to reprimand, or disciplinary action.

Section 4 – Bereavement Leave:

Each employee may be granted the privilege of using up to thirty (30) hours of accumulated sick leave per occurrence for the death of an immediate family member. Immediate family will be defined as: Spouse, children, stepchildren, foster children, parent, step-parent, brother and sister. Up to ten (10) hours of the thirty (30) hours may be used per

extended family member as defined as: mother-in-law, father-in-law, grandparents, step grandparents and grandchildren. Bereavement leave can be taken up through the day of the funeral and must be approved by the Chief prior to the time it is to be taken. The approval or non-approval of this leave is not subject to the grievance procedure; other leaves may be used upon approval.

Section 5 – Court Leave/Jury Leave:

1. When a Police Department employee is subpoenaed to testify in court in their official capacity on behalf of the City they will not be required to use any leaves of absence. When an employee is a party to private litigation, they must use vacation leave, personal leave or leave without pay. Any Police Department employee summoned as a witness shall notify their supervisor at once so that all work arrangements can be made.
2. Employees that serve on a jury shall receive full pay from the City, provided, however, that all pay received from such jury duty during a regular workday shall be given to the City. The employee must furnish the City with a certified statement from the court setting forth the dates of jury service and remuneration received. When not engaged in actual jury service, the employee is expected to report to work to their assigned duties. Any Police Department employee summoned as a juror shall notify their immediate supervisor at once, so that work assignments can be made.

Section 6 – Military leave for Annual Duty (SDCL 3-6-22):

An employee who is a duly qualified member of the “Reserve Component of the Armed Forces,” who is a member of the Ready Reserve, who is a member of an organized unit, and who, in order to receive military training with the Armed Forces of the United States not to exceed fifteen (15) days in any one calendar year, or who in order to perform active service in the South Dakota National Guard in the service of this or any other state pursuant to SDCL 33-9 or 33-15, leaves a regular position in the employ of the City, and who shall give evidence of defining the date of departure and, to the extent reasonably possible, the date of return for purposes of military training or active service as provided above, prior to the date of departure and who shall further give evidence of satisfactory completion of such training or duty immediately thereafter, and who is still qualified to perform the duties of such position, shall be entitled to be restored to their previous or similar position with the City with the same status and pay. After one (1) year of service, the employee shall be entitled to compensation at their regular rate of pay or salary for forty (40) hours of annual training. For the remainder of such absence, the employee, at their option, may use accrued vacation leave, personal leave or take the leave without pay.

Section 7 – Personal Leave (with pay):

Each employee may be granted the privilege of twenty-four (24) hours of personal leave per calendar year. Personal leave must be taken only in whole hour blocks (1hr., 2 hrs., 5 hrs., 12 hrs., etc.). Personal leave must be approved by the immediate supervisor prior to the time it is taken. The employee requesting the leave under this section need not state the reason or purpose of this leave in the request. At the end of any calendar year or upon the notice of termination, any unused personal leave shall be cancelled. The approval or non-approval of this leave is not subject to the grievance procedure.

Probationary employees may use eight (8) hours of personal leave upon completion of each three (3) months of employment, not to exceed twenty-four (24) hours in any calendar year.

Section 8 – Maternity Leave:

Pregnancy will be treated as any disability or illness. The type of leave taken is up to the employee with the approval of the immediate supervisor (sick leave, vacation leave, personal leave, and discretionary leave). Upon completion of the absence report prior to the delivery, the supervisor and employee will meet to decide the approximate amount of leave that will be approved.

Sick leave may be used for maternity leave as for any surgery and recovery period. This must be supported by a doctor's statement and given to the immediate supervisor immediately following the release from the hospital.

If the employee no longer qualifies for sick leave, the employee may use vacation leave or personal leave. Within five (5) days prior to the end of paid leave the employee may apply for discretionary leave. The approval or non-approval of this leave is not subject to the grievance procedure.

7.3 UNPAID LEAVES OF ABSENCE

Unpaid leaves of absence covered are:

1. Military Leave
2. Discretionary Leave
3. Family Medical Leave

No employee on the foregoing leaves of absence shall be entitled to pay during such leaves. All such leaves of absence shall be governed by the following provisions:

(a) **Military Leave:**

- (1) Subject to and consistent with SDCL 3-6-19, any employee covered by this agreement that are at any time required by proper authority to report for duty or perform duty in any branch of the Armed Forces of the United States shall, if they make written application for reinstatement to the position held before required to report for duty or perform duty in the Armed Services within ninety days after their release from the jurisdiction of the Armed Forces, or within ninety days after a hospitalization continuing after such release for a period of not more than one year, be reinstated in such position, provided that the position still exists, and that the person is capable of discharging the duties of the position and provided further that their separation from the Armed Forces must have been other than dishonorable before such employee may avail themselves of the reinstatement privileges herein contained.
- (2) It is understood and agreed that no person employed to fill any vacancy created as a result of an employee covered by this policy previously holding the employment being ordered to report for duty or perform duty in the Armed Forces of the United States shall acquire any rights thereby,

contractual or otherwise, which cannot be divested by a reinstatement in the manner above described.

(b) Discretionary Leave:

- (1) Discretionary leave option is not available until all applicable paid leaves are exhausted (ex. Sick leave, vacation leave, personal leave, etc.).
- (2) The Chief may have authority to approve an unpaid leave up to ten (10) working days per calendar year. Except in emergency situations, this must be submitted in writing at least five (5) working days in advance of time requested. No adjustment will be made to anniversary date at this step only.
- (3) Unpaid leaves of absences in excess of ten (10) working days not to exceed one (1) calendar year must be submitted in writing at least ten (10) working days in advance of time requested to the City Manager. Conditions and stipulations of the number of days approved must be in writing and signed by the employee. Failure to comply with the City Manager's decision shall be considered as a resignation and a voluntary quit. The employee's anniversary date will be adjusted for leave taken without pay.
- (5) The denial of this leave under this section shall not be subject to the grievance procedures.

(c) Family and Medical Leave Act (FMLA):

- (1) Except where Federal Law explicitly states otherwise, the City of Aberdeen requires at least a thirty (30) day notice in writing requesting such leave. This request will need to state reason for leave; relationship of individual, type(s) of leave requested and must be supported by a medical certification issued by a health care provider. The City of Aberdeen designates all leaves that fit the definition under the FMLA, to be counted towards the employee's FMLA entitlement.
- (2) The employee requesting such leave will be required to use all applicable paid leaves (personal, vacation, sick leave, etc.) prior to the granting of non-paid leave.
- (3) Benefits and leave accruals will continue while on a paid leave status. Leave accruals will be suspended while on a non-paid Family or Medical Leave.
- (4) All other provisions of the Federal Family and Medical leave Act of 1993 shall apply. This section does not provide employees with any greater rights or benefits than required by the act. This section shall be interpreted consistently with the definitions contained in the act. Furthermore, the City of Aberdeen reserves all rights granted by the act even if not specifically set forth above.

**ARTICLE 8
PROBATIONARY EMPLOYEES/TRIAL PERIOD**

- 8.1 A newly hired employee or a former employee that is rehired, shall be on a probationary period for the first twelve (12) calendar months of their employment or reemployment. A status employee who has been transferred or promoted to a higher classification shall be on a trial period not to exceed ten (10) calendar months of their employment in the higher classification. The City shall have the right to discharge a twelve (12) month probationary employee during the probationary, and such employee shall not have recourse to the grievance procedure, except for violation of civil rights.

**ARTICLE 9
LAYOFF**

- 9.1 An appointing authority may lay off an employee whenever necessary for the following reasons, not limited to: shortage of funds or work, abolishment of a position, inefficient or nonproductive position, or material change in duties or organization. The appointing authority shall designate classifications, department divisions where reductions in force will occur. The appointing authority may designate specific positions as exempt from layoff consideration because of a special need. Criteria used to identify employees to be laid off include, but are not limited to, performance, longevity with the City, employment status, and special knowledge, skills, abilities, and potential of employees. With all considerations being equal between employees, preference will be given to the employee with seniority. The employee shall be notified at least 14 calendar days prior to the effective date and shall be given written notice of the reasons for the layoff. In the event an employee is not given such notice, they shall be entitled to fourteen (14) calendar days of pay even though they do not work for the two-week period following such notice. An employee who is discharged or laid off shall receive their earned vacation leave pay.

**ARTICLE 10
DRIVER'S LICENSE**

- 10.1 All employees that at any time operate vehicles as part of their work shall be required to have a valid South Dakota driver's license as a condition of their employment. If an employee's driving privileges are revoked and they are not given a driving work permit, the employee may, at the discretion of the Chief, be allowed to take their accumulated vacation leave during the revocation period. If the unsuspended portion of the revocation exceeds the vacation leave, then the employee will have to apply for discretionary leave.

**ARTICLE 11
HOURS OF WORK**

- 11.1 This article is intended to define working hours and shall not be construed as a guarantee of hours of work per day or days per week. Hours worked shall be actual working time. Hours of work will be determined by the respective departments to utilize

personnel, schedules and methods to ensure the most appropriate and efficient manner possible.

- 11.2 The City of Aberdeen reserves the right to implement an “on call” policy in accordance with the Fair Labor Standards Act (FLSA). The City of Aberdeen may implement a “stand-in” policy.
- 11.3 Any change to the current plan for shifts and schedules will require a sixty (60) day notice to the Labor Council and any such change would remain in effect for at least six (6) months.
- (a) The current plan of shifts and schedules are subject to emergency circumstances that require additional people to cover for such circumstances. Such emergency circumstances may include, but not be exclusive of, natural disasters, manpower shortages due to training or sick leaves, or other situations.
 - (b) Uniform patrol division shall consist of four (4) consecutive ten (10) hour days followed by three (3) consecutive days off. Patrol officers will have the opportunity to bid for shift and schedules within the shift on the basis of seniority. Bidding will be done on a four (4) month basis. Patrol officers will work **another** shift at least once (4 months) in a three (3) year time period. Shift swaps for justifiable reasons permitted providing both parties agree to the swap and approved by Captain.
 - (c) Patrol Sergeants shall consist of four (4) consecutive ten (10) hour days followed by three (3) consecutive days off. Patrol Sergeants will be assigned shifts on not less than a 4 month or more than 1-year basis.
 - (d) Detectives shall consist of four (4) consecutive ten (10) hour days, followed by three (3) consecutive days off. Assignments to the Detective Division will be based on competitive testing.
 - (e) Detective and Administrative Sergeants shall consist of four consecutive ten (10) hour days; followed by three (3) consecutive days off. Assignments for Detective Sergeant and Administrative Sergeant positions are for three years or based on department needs.
- 11.4 Trading of Time: Employees shall be allowed twelve (12) trade times per calendar year. These hours will not count toward the employee’s scheduled hours of work or overtime hours. Such trades will be limited to two (2) times per fourteen (14) day cycle.

ARTICLE 12 OVERTIME

- 12.1 Employees eligible for overtime shall be paid one and one-half times the employee’s regular hourly rate for all work physically performed in excess of 40 hours in the 7 day (1 calendar week) period.
- 12.2 In the event an employee is called in to work outside of their regular shift, they shall be given at least 2 hours of work or 2 hours of pay. Duties performed less than two (2)

hours prior to the beginning of their shift or employee held over at the end of their shift, will be paid for actual hours worked.

- 12.3 Occasional periods when no work is performed due to vacation leave, personal leave, holiday, illness or failure of the employer to provide sufficient work or other similar cause will not be used in the computation of overtime. Overtime will not be allowed without the approval of the Chief or other appropriate supervisor.

ARTICLE 13 MEAL PERIODS

- 13.1 All employees shall be granted a lunch period. Whenever possible, the lunch period will be scheduled at the middle of the shift and shall not be less than thirty minutes nor more than one hour in length. The Police Department retains the right to schedule employee's lunch periods to fulfill the operational needs of the department. If the operational needs of the department are such that a lunch period cannot be taken at its scheduled time, it may be taken later in the shift. Lunch periods may not be accumulated.
- 13.2 Personnel shall be granted a thirty (30) minute paid lunch period. All other employees shall have a one (1) hour unpaid lunch period.

ARTICLE 14 REST PERIODS

- 14.1 All employees may receive one fifteen (15) minute rest period approximately midway in the shift during each half shift. The police department retains the right to schedule employee's rest periods to fulfill the operational needs of the various work units. Rest periods may not be postponed or accumulated; that is, if an employee does not receive a rest period because of operational requirements, such rest period may not be taken during a subsequent work period.

ARTICLE 15 PAY PERIOD AND REPORTING PAY

- 15.1 Pay period – Sunday morning at 12:00 a.m. shall be considered the beginning of the pay period for the work week, and Saturday midnight shall be considered the end of the pay period for the work week. Employee shall be paid every two weeks on the same day of the week.

ARTICLE 16 INSURANCE

- 16.1 Subject to US Government Statutes and Regulations, the City shall provide a group hospitalization and surgical insurance plan, including major medical coverage, for all employees established by ordinance. For the current year the City shall pay the full employee portion of the health insurance premium. The employee will pay the additional premium to add dependents with the employee paying no more than 50% of the family

premium. In addition, the City shall pay 100 percent of the premium for a minimum of \$5,000 death benefit of the term group life insurance, for each employee. The City shall not be required to provide medical insurance or coverage in excess of the minimum required by Federal Statutes or/regulations or participate in premium payments.

- 16.2 Upon exhaustion of sick leave and during the period that the employee is receiving worker's compensation benefits for temporary total disability the City shall continue to make its pro rata insurance contribution for said employee that it was making for them at the time of the injury, providing that the employee in advance deposits with the City their pro rata share of the health insurance premium.

ARTICLE 17 PENSIONS

- 17.1 The City shall maintain the pension plan covering the employees in the department, which is in effect on the same basis unless the changes are beyond the control of the City.

ARTICLE 18 ASSIGNMENT, TRANSFER AND PROMOTIONS

- 18.1 Voluntary transfer and assignment:
In the determination of requests for transfer or reassignment, the convenience and wishes of the individual employee will be honored to the extent that they do not conflict with the best interests of the Police Department. The Department's decision is final, and the employee shall not have recourse to the grievance procedure.
- 18.2 Shift Assignments: In relation to shift assignments, the senior employee will be given preference when all other factors are relatively equal.
- 18.3 Involuntary transfer and assignment:
Each employee of the Police Department shall be assigned to a specific position at the direction of the Chief or designated supervisor and may be transferred to any other position as they may direct. Transfers may be made at the initiative of the Chief or other administrative officer for any purpose that, in the judgment of the Chief, is for the welfare of the employee, department or the City.
- 18.4 Promotions: From the date of this signed contract, any promotions to the rank of sergeant will be on a competitive testing basis.

ARTICLE 19 RESIGNATIONS

- 19.1 Resignations shall be in writing and directed to the Chief or department head. Resignations shall be filed with the Chief or department head at least fifteen (15) days prior to the effective date of the resignation and forwarded to the Human Resources department immediately. Such notice may be waived under extenuating circumstances in the discretion of the Chief or department head.

ARTICLE 20
WAGES AND RATES OF PAY

- 20.1 Salary Schedule: The salary schedule shall be as set forth in the salary ordinance.
- 20.2 Starting salary: Starting salary for a new employee of the Police Department shall be on the basis of the schedules of salary ranges prescribed for the respective classes of positions. The City shall assign salary levels to each classification based on the level of responsibilities and skills and working conditions of the position due to economic conditions, City's ability to pay, and comparable salary levels for similar positions in other governmental jurisdictions and private business, and other appropriate data.
- 20.3. Shift Differential:
Sworn officers, including patrol officers, detectives, and sergeants, shall receive a shift differential of \$1.00 per hour worked between 17:00 – 21:00 and a shift differential of \$1.50 per hour worked between 21:00 – 07:00. When a sworn officer's shift carries over after 07:00, the shift differential may be extended for that officer with the approval of the Chief or Officer in Charge.
- 20.4 FTO Pay: Any officer performing field training officer duties with a recruit will receive an additional \$.50 per hour when performing such duties.
- 20.5 Effective January 1, 2003, there shall be an established step system for the positions of police officer and detective. Step increases would occur according to the follow schedule:

Completion of one (1) year	-	1 step
Completion of two (2) years	-	1 additional step
Completion of four (4) years	-	2 additional steps
Completion of six (6) years	-	1 additional step
Completion of eight (8) years	-	1 additional step
Completion of twelve (12) years	-	1 additional step
Completion of sixteen (16) years	-	1 additional step

Step increases require the completion of years of service and also successful completion of required training. When step increases are earned they will be effective the pay period in which the employee's anniversary date falls.

Sergeants:

Completion of one (1) year as sergeant	-	1 step
Completion of three (3) years as sergeant	-	1 step
Completion of five (5) years as sergeant	-	1 step
Completion of seven (7) years as sergeant	-	1 step
Completion of nine (9) years as sergeant	-	1 step
Completion of eleven (11) years as sergeant	-	1 step
Completion of thirteen (13) years as sergeant	-	1 step
Completion of fifteen (15) years as sergeant	-	1 step

Promotions:

Promotion to Sergeant would be at grade 20, to the next step higher than their current salary or a minimum increase of 5.0%, whichever is greater.

Detectives:

Assignment to detective would be at grade 17, to the next step higher than their current salary. A reassignment of a detective to patrol officer will be to grade 16 at the step they had before their assignment to detective but with any steps they would have received if they had not been assigned to detective. A notice of intention to reassign the employee will be provided to the employee and the Labor Council. Upon request of the Labor Council, the City will meet with the employee and a Labor Council representative to discuss such reassignment before it becomes effective. A reassignment of a detective to patrol officer is not subject to the grievance procedure.

20.6 Grid Adjustments:

The City of Aberdeen will increase the salary grid by 5.0% for 2021 and 2.5% for 2022.

20.7 Recruitment:

To assist with the recruitment of certified police officers, the City of Aberdeen reserves the right to implement an "in hire range" policy.

20.8 Members of the Special Response Team (SRT) will be paid at their overtime (OT) rate of pay from the time the SRT Incident Commander assigns the SRT member to the SRT incident team until the time the SRT member is released from SRT incident duties by the SRT Incident Commander. The Incident Commander shall be the final arbiter of each SRT member's OT hours per incident, and his/her decision is not grievable.

ARTICLE 21 CORRECTIVE ACTION

21.1 It is understood that the City of Aberdeen and the Aberdeen Police Department reserves the right to establish and enforce work rules or guidelines. These rules cannot be in direct conflict with this agreement, but are binding and enforceable within this agreement and, when enacted, will become a part hereof by reference. The City recognizes that when employing progressive discipline whenever possible forms of discipline prior to discharge shall be exhausted to include oral and written warnings. These rules are designated to protect the best interests of the employer activities and the employees. Their purpose is to correct erring employees before they engage in unacceptable actions. These rules must be enforced if they are to have any meaning or purpose. The City of Aberdeen's method of corrective action will include and be limited to non-disciplinary action such as work improvements or oral/written reprimands, coaching statements or performance reviews.

21.2 Any written corrective action will become part of the employee's personnel file. Refusal to sign any document with the clarifier "signing does not imply agreement with, but merely that the contents have been made known to me and discussed" will be considered insubordination, and subject to disciplinary action.

21.3 Failure to follow and complete satisfactorily the work improvement program may lead to further corrective action or disciplinary action.

21.4 Written corrective action(s) which may result in an adverse employment decision shall be a grievable issue.

**ARTICLE 22
DISCIPLINARY ACTION**

22.1 Disciplinary matters may not be used for further disciplinary action after six (6) years of date of occurrence by either party.

22.2 An employee removed, discharged, suspended, or reduced from their position will be furnished in writing the reasons for the action taken.

22.3 It is understood that there are offenses for which disciplinary action may be warranted, including termination. No employee shall be disciplined or discharged without just cause.

22.4 **DISCIPLINARY ACTION GRIEVANCE PROCEDURE**

Step 1: Filing of grievance with a neutral party:
After notice of disciplinary action, the individual will have ten (10) calendar days to file a grievance with the Human Resources department. A neutral party will be jointly selected by the City and Union and mutually agreed upon within thirty (30) calendar days of the filing of the grievance. The cost and expenses required by the neutral party, and attorney fees will be borne by the losing party. If a neutral party cannot be agreed upon, or is not available a neutral party shall be appointed by the presiding Circuit Judge in the Fifth Judicial Circuit. The decision of the neutral party shall be presumptively correct upon review.

Step 2: Appeal to the Department of Labor:
If not resolved, the aggrieved employee will have thirty (30) calendar days from receipt of decision of neutral party to appeal their grievance to the Department of Labor. The decision of the Director of the Division of Labor and Management shall be binding provided that same is not in violation of then existing South Dakota law. The cost and expenses of appeal and attorney fees for both parties will be borne by the losing party.

**ARTICLE 23
UNIFORMS**

23.1 When the City requires an employee to wear a uniform, it shall be furnished to the employee as needed, complete with all necessary insignia and other identification. The cost of cleaning or laundering or attaching any insignia or other identification furnished by the department shall be borne by the employee. When required, a clean uniform shall be worn each day. When replacements are needed, the uniform to be replaced must be returned to the department. In the event an employee leaving the service of the City fails to return their uniform, a deduction will be made for such clothing on their final paycheck.

**ARTICLE 24
EXAMINATIONS/REQUIRED IMMUNIZATIONS**

- 24.1 When, in the judgment of the Chief of Police, employees of the department should have an examination to verify that they are fit to perform their duties, the employee will be required to undergo an examination at the expense of the City. The Chief shall designate the licensed professional that will conduct the examination.
- 24.2 In the event that a member of the department is exposed to a communicable disease in the line of duty and a physician recommends that a certain shot or shots be given to the employee, the City will pay for the cost of such shot or shots. Where the physician also recommends that members of the employee's family living at the same address be given the shot or shots, the City will pay for the cost of such shot or shots.

**ARTICLE 25
RESERVED.**

**ARTICLE 26
ADOPTION OF ORDINANCES**

- 26.1 All articles of this agreement are subject to the provision that as to any article that must be adopted in whole or in part by ordinance or resolution to become effective, the City shall make every reasonable effort to secure the enactment of such ordinance or resolution.
- 26.2 **SAVINGS CLAUSE**
Should any part or provision herein contained be rendered or declared invalid by reason of existing or subsequently enacted legislation or by any decree of a court of competent jurisdiction, such invalidation of such part or provision of this agreement will not invalidate the remaining portions thereof.

**ARTICLE 27
RESERVED.**

**ARTICLE 28
EFFECTIVE DATE AND DURATION OF AGREEMENT**

- 28.1 All the provisions of this Agreement shall become effective on January 1, 2021. There will be a reopening of the contract on August 1, 2022, for the purpose of discussing wages; Section 12.1; Section 20.3; and limited to three (3) other items. Upon the expiration of this agreement, the terms of the agreement in effect on December 31, 2022, shall remain binding upon all parties until a new contract is ratified.
- 28.2 Provided that the Union continues to be certified as bargaining agent, a meeting will be held in the Human Resource Department on or about August 1, 2022, for simultaneous submission of Union/City proposals. Negotiations to be conducted thereafter at mutually agreeable times, with negotiation rules being established at the first meeting.

- 28.3 This Agreement shall remain in effect during negotiations and shall continue to remain in full force and effect until such time as a new agreement is reached.

**ARTICLE 29
INTERPRETATION OF THIS AGREEMENT-RESOLUTION OF DISPUTES**

- 29.1 In interpreting this agreement and resolving disputes hereunder, the parties, any mediator, arbitrator, court of law, "neutral party" and the South Dakota Department of Labor, shall, in rendering a decision, rely upon the collective bargaining agreement itself, arbitral precedent, the past practices of the parties, and, only if preemptive of the forgoing directive, external law such as state and federal court and statutory provisions.

CITY OF ABERDEEN

F.O.P. LODGE #4 LABOR COUNCIL

The City of Aberdeen and F.O.P. Lodge #4 Labor Council, by and through their undersigned officials and representatives, on the date subscribed below, hereby accept and approve this **Collective Bargaining Agreement for 2021 & 2022**.

/s/ Joe Gaa
Joe Gaa, City Manager

8-13-2020
Date

/s/ Tom Barstad
F.O.P. Lodge #4 Labor Council
Bargaining Representative

8/11/20
Date

/s/ Mike Bunke
F.O.P. Lodge #4 Labor Council
Bargaining Representative

8-11-2020
Date

/s/ Brad Jung
F.O.P. Lodge #4 Labor Council
Bargaining Representative

8/11/20
Date

/s/ Mark Miller
F.O.P. Lodge #4 Labor Council
Bargaining Representative

8/12/20
Date