

**Agreement**

**Between**

**Metro Communications Agency**

**and**

**AFSCME Local 3516**

**January 1, 2010, through December 31, 2012**



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**ARTICLE 1  
RECOGNITION**

The Employer hereby recognizes the Union as the sole collective bargaining representative pursuant to SDCL 3-18 for purposes of establishing wages, hours, and conditions of employment for all the employees employed by the Employer in the following described positions: Communications Operator-Training, Communications Operator, Lead Electronics Technician, Electronics Technician, and Shift Supervisor.

If any provision or portion of the Agreement be rendered or be declared illegal by reason of any existing or subsequent statute, or by decision of a court, such invalidation shall not affect the remaining provision or portions of the Agreement.

**ARTICLE 2  
PAYROLL DEDUCTION OF AFSCME**

The Employer shall deduct regular monthly Union dues from the pay of each employee covered by this agreement provided that at the time of such deduction there is in the possession of Agency Business Manager an unrevoked written assignment, executed by the employee, in the form and according to the terms of the authorization form (Exhibit C). The authorization may be revoked by the employee by giving written notice to Business Manager during the period from November 1 to November 30 of each year.

Previously signed and unrevoked written authorizations shall continue to be in effect for any employee reinstated following layoff, leave of absence, or suspension not exceeding sixty (60) days; previous authorizations of other employees rehired or reinstated shall not be considered in effect.

The authorization for deductions shall be made by the last day of the pay period to be effective in that pay period.

If the Agency Business Manager receives an employee revocation during the period of November 1 through November 30, no deductions will be made for any month in the subsequent year.

At the time of the execution of this agreement, the Union shall advise the Agency Business Manager, in writing, the exact amount of regular union dues in the exact dollar amount for each Union member. If, subsequently the Union requests the Employer to deduct additional union dues, the request shall be effective only upon written assurance by the Union to the Agency Business Manager that additional amounts are regular union dues duly approved in accordance with the Union constitution and bylaws.

The Employer shall not be liable for the remittance or payment 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 union dues are normally deducted after written notification to the Agency Business Manager of the error or omission. If the Employer makes an overpayment to the Union, the Employer will deduct that amount from the next remittance to the Union. The Union agrees to

indemnify and hold the Employer harmless against any and all claims, suits, orders, or judgments brought or issued against the Employer as a result of any action taken or not taken by the Employer under the provisions of this Article.

### **ARTICLE 3 DEFINITIONS**

*Regular full-time employee:* A person hired by the Employer in a position authorized and budgeted by the Metro Communications Agency as a 40-hour per week position within the bargaining unit.

*Employee:* A regular full-time employee.

*Employer:* Metro Communications Agency.

*Gender:* The use of the masculine gender in this agreement shall be construed as including both genders and not as a sex limitation.

*Pay Grade:* A portion of the pay plan into which positions are assigned. Pay grades will include steps within identified pay ranges.

*Steps:* The pay rate allocated to a pay grade and listed as Steps 1 through 2 for Communications Operator-Training, and Steps 1 through 13 for all other classifications.

*Days:* All references to days in this agreement shall be interpreted as calendar days unless specifically stated otherwise.

*Differential Rate:* As used in this agreement is a pay bonus based upon the nature of the hours worked, such as differentials for hours worked during a specified period. This type of pay premium would be considered a differential added to each applicable hour of pay, not guaranteed overtime. Hours to be paid with this "bonus" premium are counted as hours actually worked for the purposes of calculating overtime hours in the week. This does not create duplication or pyramiding of overtime since this is not overtime pay, but rather a differential.

*Exigent:* As used in this agreement is a situation that demands unusual or immediate action.

*Guaranteed Overtime:* As used in this agreement is premium pay based both upon the specific type of hours worked, such as hours worked on recognized holidays and emergency call-in duty. The overtime rate of 1 ½ times the regular base hourly rate is paid, guaranteed, for all of the specific hours worked whether the total hours worked for the week exceed 40 hours or not. Since the specified hours are already guaranteed overtime pay, they are not counted again as hours actually worked for the purposes of calculating additional overtime for the week. If counted again as hours actually worked towards overtime, the result would be a duplication, or pyramiding, of overtime which is not permitted by the terms of this agreement.

*Management Employee:* Means an employee and classification in the salary system not represented by a collective bargaining unit. Management employees are classified as exempt under FLSA.

*Regular Base Hourly Rate:* As used in this agreement is the rate at which an employee would be paid for one hour of regular nonovertime work in his/her current pay grade and step. This rate does not include any other payments except as specifically provided in the Fair Labor Standards Act or this agreement for the purposes of determining overtime rates.

*Regular Overtime Rate:* As used in this agreement is the premium rate paid for all hours actually worked in a 40-hour work week which are in excess of 40 hours, and that have not already been specifically guaranteed as overtime. The overtime rate is 1½ times the employee's regular rate of pay, in accordance with the Fair Labor Standards Act. Regular overtime is computed on a weekly, not daily, basis. Any reference to overtime or pay at 1½ times the regular base rate in this agreement will be defined as regular overtime for interpretive purposes unless specifically identified as "guaranteed" overtime.

*Required Time:* As used in this agreement is a vacancy that is required to be filled to maintain minimum staffing levels.

*Separation:* Resignation in good standing, discharge, retirement, or death. When an employee's employment with the Agency is separated voluntarily or involuntarily, that employee's official date of separation shall be the last day actually worked by the employee, unless the employment separation is due to a personal illness or injury, or death of the employee. In the case of separation due to personal illness, injury, or death, the employee's official separation date will be the date the employee is determined to be unable to return to work or when the employment is otherwise separated by the Agency, whichever is sooner.

*Shift Employees:* An employee whose scheduled hours and days of work are rotated to provide coverage for 24-hour, 7-day-a-week operation.

*Step Anniversary Date:* This date, for purposes of step advancement eligibility, is the day and month established when an employee is placed into a new pay grade as the result of hire, promotion, demotion, or transfer to another classification with a different pay grade. An employee's step anniversary date may be adjusted if the employee's service is interrupted by unpaid leave of 30 or more calendar days, if an employee's step advancement is delayed without retroactivity on the basis of performance, or if the date is adjusted as the result of the terms of this agreement. If cause is shown on the basis of performance and a step increase is delayed, the month and day when the step is eventually granted will become the employee's new step anniversary date. The year of the step anniversary date changes as the employee moves step to step.

**ARTICLE 4  
WAGES**

**Section 1. Classification and Pay Grades.** The classifications and pay grades for classifications included in this bargaining unit for 2010, 2011, and 2012 are set forth in Exhibit A attached and shall be as follows:

- 2010 1.5% percent higher than the pay grades established in 2009.
- 2011 2.25% percent higher than the pay grades established in 2010
- 2012 3 % percent higher than the pay grades established in 2011

Pay grades for 2010 and each year thereafter shall be effective as of the first day of the first complete pay period beginning in the new calendar year, except as otherwise specified in this agreement.

**Section 2. Step Increases.** An employee's step anniversary date for purposes of step advancement is the day and month established when an employee is placed into a new pay grade as the result of hire, promotion, or demotion to another classification with a different pay grade. The year of the anniversary date changes as the employee moves step to step. Employee progression through step advancement will be allowed pursuant to the following table:

**Communications Operator-Training**

From Step	To Step	Waiting Period in Months
1	2	6 months
2	Comm. Operator step 1	6 months

**All other classifications:**

From Step	To Step	Waiting Period in Months
1	2	12 months
2	3	12 Months
3	4	12 Months
4	5	12 Months
5	6	12 Months
6	7	12 Months
7	8	12 Months
8	9	12 Months
9	10	12 Months
10	11	12 Months
11	12	12 Months
12	13	12 Months

**Section 3. Step Denial.** If cause is shown by the Director or designee, advancement to the next higher step will be denied with a written explanation in the form of a performance evaluation. Any employee denied step advancement at the time of his/her eligibility may be granted the step advancement any time thereafter at the sole discretion of the Agency Director.

**Section 4. Step Anniversary Date and Effective Date of Wage Change.** The effective date of any wage change will be computed from the beginning of a payroll period if the personnel action is up to seven days past the beginning of the payroll period. If the personnel action is on or after the eighth day following the beginning of the payroll period, the wage change will be computed from the beginning of the next payroll period. Time in grade does not accrue during the period of an approved leave of absence without pay in excess of three (3) months.

**Section 5. Shift Differential.** Employees who work between 6 p.m. and 6 a.m. shall be paid a shift differential of \$.50 per hour, in addition to their regular base hourly rate of pay, for all hours actually worked during that time. Shift differential will not apply to any hours paid as sick leave, vacation, or hours paid for time not actually worked.

**Section 6. Travel Time.** An employee who travels on official business for the Employer, including normal job responsibilities, travel to and from meetings, conferences, or training will be paid according to the minimum requirements of the Fair Labor Standards Act. The Director or his designee shall have the authority to flex employee schedules within the workweek to limit the amount of overtime.

**Section 7. Pay Period.** The employee shall be paid once every two weeks. The beginning and ending of the pay period shall be determined by the Employer. There shall be mandatory direct deposit of all payroll checks.

**Section 8. Dispatch Training and Tactical Dispatch Duty Assignments.** In addition to the base hourly rate of pay, Communications Operators shall receive additional pay for dispatch training or tactical dispatch duty assignments as follows:

<u>Duty Assignment</u>	<u>Additional Pay</u>
Training	\$0.65 per hour
Tactical	\$0.45 per hour

The agency shall maintain a list of Communications Operators eligible for tactical and training duty assignments. Only those Communications Operators on the eligible tactical or training duty list may receive additional pay under this section. Training or tactical duty assignments shall include all hours engaged in continuing education training when such training is associated with the requirements of either duty assignment and when approved by management in advance. Under the training duty assignment, employees that are assigned by management to perform training related duties are also eligible for additional pay under this section.

Dispatch training and tactical dispatch duties are considered duty assignments at the sole discretion of management.

## **ARTICLE 5 HOURS OF WORK**

**Section 1. Employer Schedules.** The Employer shall establish the scheduled hours of work for employees. Daily and weekly schedules, having regular starting and ending times, may be permanently or temporarily changed by the Employer to suit varying business conditions and will be posted at least fourteen (14) working days in advance of the start of the employee's workweek, unless doing so is not feasible due to exigent circumstances. Any schedule change affecting an entire shift will be posted 30 days in advance of the change begin date.

**Section 2. Workweek.** The present workweek of forty (40) hours in each seven (7) day period is the standard used for purposes of overtime computation. The workweek shall begin at 0000 on Monday and end at 2359 Sunday. However, all hours worked in any continuous period of time beginning prior to 2359 on Sunday and extending past 0000 on Monday will be considered hours worked on Sunday.

**Section 3. Workday.** The regular workday shall not exceed 12 hours of work.

**Section 4. Breaks.** Two 15-minute breaks are allowed in a regular workday consisting of eight hours. A third 15-minute break is allowed for employees working a 10- or 12-hour day. Breaks shall be taken at the discretion of the Shift Supervisor with consideration to staffing and workload. The Shift Supervisor shall have the authority to require operators to take their breaks within the PSB when necessary due to workload, weather, special assignments, or other Agency needs. Unused breaks may not be banked for future use or otherwise be compensated. Breaks, as identified within this section, shall be considered paid breaks.

**Section 5.** Nothing in this article or anywhere else in this agreement shall be construed as a guarantee of a specific number of hours of work per week for any employee covered by this agreement.

**Section 6. Required Time.** Required Time will be defined as a vacancy that is required to be filled to maintain minimum staffing levels. Minimum staffing levels are set by the Director of Metro Communications Agency and will be maintained at all times. Job Classification Seniority shall be used to determine priorities for obtaining qualified volunteers, and requiring staff to work in order to maintain minimum staffing levels, so long as it does not impede the normal operation of the Agency.

**Section 7. Hour Adjusting.** It is the policy of Metro Communications Agency to allow employees the option to exceed the standard work week due to holiday pay and/or when covering vacancies created by exigent circumstances. Employees may hour adjust in any increment that is acceptable to management. Job Classification Seniority shall be used to determine priorities for hour adjusting, so long as it does not impede the normal operation of the Agency.

**ARTICLE 6  
TARDINESS**

**Section 1. Employee Responsibility.** It is the employee's responsibility to report to work promptly as scheduled, including but not limited to overtime, trade shifts, departmental meetings, and training sessions. It is the employee's responsibility to contact the shift supervisor as soon as they know that they will be late for duty. Employees are considered late one minute after the scheduled beginning of a shift.

**Section 2. Supervisor Responsibility.** The shift supervisor has the discretion to relieve the tardy employee of the shift or advise the employee not to report for duty if a replacement has been scheduled. The tardy person may be allowed to work the second half of the shift. Time lost due to tardiness will be taken without pay.

**ARTICLE 7  
WORKING IN A HIGHER CLASSIFICATION**

When an employee is temporarily assigned to perform duties by the Employer which are not contemplated within the scope or function of the employee's own classification, and are the duties of an established classification with a higher maximum rate of pay than the employee's regular assigned pay grade, and the temporary assignment is for a period of one workweek or more, the employee shall receive a 5 percent adjustment in addition to their regular base hourly rate of pay while holding this temporary assignment.

**ARTICLE 8  
EMERGENCY CALL TIME**

**Section 1. Minimum Pay and Duty.**

- a) An employee who has been called for duty to work outside his/her regular shift schedule shall be guaranteed overtime pay at the rate of 1 1/2 times his/her regular base hourly rate for all hours worked outside of their scheduled shift. The minimum pay for this call-in duty shall not be less than two (2) hours paid at 1 1/2 times the employee's regular base hourly rate of pay.
- b) The call-in time begins when the employee reports to the assigned worksite ready for work and ends when the employee is released from duty or his/her scheduled duty hours begin, whichever is earlier.
- c) Temporary modifications to the regular workday to meet urgent business needs does not constitute an emergency call-in, provided that the employee whose regular workday is modified has already arrived at the workplace, or has not left the workplace to return home, when the modification occurs.
- d) The employee must report to work within one hour of receiving a call-in request in order to receive the two-hour minimum pay as provided in Section 1. Where an employee does not

report to work within one hour, the employee will be paid his regular hourly rate for all hours worked on call-in.

**Section 2. Definition.** A call-in is a requirement to report to work on a nonscheduled day or during nonscheduled hours to work an unspecified period of time provided the employee is requested to report to work as soon as possible after receiving the request.

## **ARTICLE 9 OVERTIME**

### **Section 1. Overtime Rate.**

- a) Employees covered by this agreement shall be paid overtime at the rate of 1 1/2 times the employee's regular base hourly rate of pay for all authorized hours actually worked in excess of forty (40) hours per seven (7) day workweek.
- b) To earn overtime, an employee must actually be on duty for the overtime hours.

**Section 2. Overtime Requirements.** The Employer retains the right to require an employee to work overtime after making a reasonable effort to obtain a qualified volunteer(s). No employee shall be required to work more than 12 hours of work per day and shall have a minimum of 8 hours off between shifts.

**Section 3. Probationary Employee.** A probationary employee shall be scheduled for overtime duty at the sole discretion of the Director or designee.

**Section 4. Nonduplication of Overtime Pay.** Under no circumstances will duplication or pyramiding of overtime hours be permitted in the determination of hours actually worked for purposes of computing overtime pay.

## **ARTICLE 10 TIME TRADE**

**Section 1. Approval and Reporting.** Trade time is between employees and is not tracked by Metro Communications Agency. However, the Shift Supervisor must be notified of all time trades.

- a) Shift employees shall have the right to trade shifts with the approval of the Shift Supervisor as long as the change does not interfere with the normal operation of the Employer. A time trade between shift employees of different classifications shall be allowed at the sole discretion of the Director or designee. The Employer retains authority to grant or deny a time trade.
- b) A time trade must be scheduled at least 48 hours in advance of the first trade and must be repaid within three (3) months of the original trade.

- c) One operator per shift may be allowed off on time trade when another operator is off on scheduled leave. Two operators per shift shall be allowed off on a time trade in the same workday provided there is no other scheduled leave on that day. The number of employees on time trade per shift in the same workday may be adjusted at the discretion of the Director.
- d) Failure to report to work or a desire to cancel a time trade after being approved by the Employer will require the time trader to find their own replacement or notify the originally scheduled employee. The obligation to fulfill the work on a regularly scheduled shift remains with the employee who agreed to work the shift as a time trade.
- e) Metro Communications Agency will not reimburse employees for trade time not paid back.
- f) Communications Operators who are eligible for Training Special Duty and who are assigned a recruit will be allowed to trade time only with Communications Operators also eligible for Training Special Duty.
- g) A time trade exceeding a period of one consecutive workweek will require the application of Article 7, Working in a Higher Classification.

**Section 2. Probationary Employee.** Newly hired probationary shift employees shall be eligible for time trade at the sole discretion of the Director or designee.

**Section 3. Pay.**

- a) The Employer shall incur no additional wage responsibility or additional accrued benefits liability because of a time trade.
- b) The hours worked shall be excluded by the Employer in the calculation of the hours for which the substituting employee would otherwise be entitled to overtime compensation. Where one shift employee substitutes for another, each shift employee will be credited as if he/she had worked his normal work schedule for that shift.

**ARTICLE 11  
UNIFORMS**

**Section 1. Uniforms and Allowance Upon Hire.** The employer shall provide the following work uniform provisions for newly hired employees:

3 uniform tops

**Section 2. Annual Allowance.** Effective January 1 of each year, each member of the bargaining unit shall be eligible to receive 2 additional uniforms tops, with the following exception: bargaining unit members who are newly hired shall be eligible to receive this annual allowance on the later of the following dates: 1) after successful completion of the Agency's training program, or 2) after 6 months of service.

**Section 3. Return on Separation of Employment.** The employee shall return the following items purchased by and/or through the Employer upon termination, resignation, or retirement: all clothing displaying the Metro Communications insignia or patch, county building entry badge and key(s), and headset.

**Section 4. Uniform Specifications.**

- a) Standard uniform specifications and approved clothing vendors shall be established by Management.
- b) The standard uniform is expected to be worn while on duty, except as provided elsewhere in this article or at the discretion of the Director or his designee.

**Section 5. Tactical Dispatcher Uniforms.** The employer shall provide the following work uniform provisions when assigned the tactical dispatcher special duty:

- 1 shirt
- 1 pant/trouser
- 1 jacket

**ARTICLE 12  
SENIORITY**

**Section 1. Definitions.**

- a) Agency Seniority: Seniority within the agency shall be deemed to be the employee's total length of continuous service with the Employer as a regular full-time employee since the employee's last date of hire.
- b) Job Classification Seniority: Seniority within the job classification shall be deemed to be that portion of the employee's total length of continuous service accrued in a classification above or equal to a specific job classification.

**Section 2. Seniority List.** A list of employee seniority shall be posted on the Employer department bulletin board on or about January 15 and July 15 of each year this contract is in existence. The seniority listing shall include employee name, hire date, and job classification. Any employee who deems that his seniority date has been incorrectly identified in the seniority listing may, within 20 work days from the date of posting, ask for a correction or resort to the grievance procedure.

**Section 3. Loss of Seniority Rights.** Employees' seniority may be broken only for the following reasons:

- a) The employee quits or retires.
- b) The employee is discharged, and the discharge is not reversed by the grievance procedure.

- c) The employee is laid off for a period of more than one year.
- d) An employee's seniority shall be interrupted by reason of his inability to obtain from a physician, or physicians, after expiration of disability benefits, or twelve (12) weeks FMLA, whichever shall first occur, a certificate stating that the employee is able to return to his former position. At this time, the employee will receive a written notice from Employer stating that he is terminated.
- e) The employee does not return to work within three (3) days of the specified end of the leave of absence.
- f) Failure to report to work within five (5) working days from the date the Employer sends notification of callback by certified mail to the employee's last known address.

**Section 4. General Provisions.**

- a) Job Classification Seniority shall be used to determine priorities for bidding shifts, regular days off (RDO), and vacations so long as it does not impede the normal operation of the Agency.
- b) If two or more Employees shall be determined to have the same Job Classification Seniority, then amongst or between those Employees only Agency Seniority shall be deemed controlling. In the event two or more Employees have the same Job Classification and Agency Seniority, then test scores shall be the tie breaker. In the event two or more of those Employees have the same test scores, the date of application will be the tie breaker.
- c) Agency Seniority shall be used when recalling laid off employees.
- d) Service under temporary employment is excluded from the calculation of any seniority.

**ARTICLE 13  
NEW HIRE PROBATIONARY PERIOD**

**Section 1.** All new employees shall be on probationary status for twelve (12) months. The new hire probationary employee may be discharged summarily at the discretion of the Director without the recourse afforded to nonprobationary employees herein.

**ARTICLE 14  
PROMOTION**

**Section 1. Definition.** Promotion as used in this agreement shall apply to an actual vacancy resulting in the movement of an employee from his present job classification to another job classification within the bargaining unit having a higher maximum regular base hourly rate of pay.

**Section 2. Eligibility for Promotion.** Candidates must have a satisfactory service rating on their most recent annual evaluation in order to be considered eligible for promotion.

**Section 3. Probation.**

- a) A promotion shall not be deemed complete until a period of probation not to exceed six (6) months has elapsed. Should a probationary employee be absent from the job for more than thirty (30) days, the probationary period will be extended for a period of time equal to the absence in order to enable the employee to complete his/her full probationary period.
- b) If, at any time during the probation period, a promotional employee is appraised less than satisfactory in performance, the employee shall be returned to the position from which he was promoted. The action of returning a promoted employee to their former position shall not be considered a grievance as defined in Article 18, Section 1.

**Section 4. Step Placement.** When an employee is promoted, the employee shall be placed into the pay step of the new position which is at least, and closest to, 5 percent higher than the pay step received prior to the promotion. If the maximum pay step of the new position is less than 5 percent higher than the pay step received prior to the promotion, the employee will be placed at the maximum step with the lower percentage increase. The employee will not be eligible for a step increase upon completion of probation, but will be eligible for step progression in the normal prescribed intervals and procedures as defined in Article 4, Wages.

**Section 5. Anniversary Date.** The step anniversary date for future step increase eligibility shall be the effective date of the promotion.

**ARTICLE 15  
TRANSFER**

**Section 1. Definition.** A transfer is an employee-initiated request, as the result of a posted vacancy, to move from one job classification to another job classification having an equal or lower maximum regular base hourly rate of pay.

**Section 2. Probation.**

- a) A transfer shall not be deemed complete until a period of probation not to exceed six (6) months has elapsed. The length of service necessary to qualify an employee for additional promotions/transfers shall not be less than six (6) months in the transferred position except that the Director shall have the authority to waive this length of service based on individual circumstances. Should a probationary employee be absent from the job for more than 30 days, the probationary period will be extended for a period of time equal to the absence in order to enable the employee to complete the full probationary period.
- b) Should a probationary employee decide within thirty (30) calendar days of transfer to return to his/her former position, the employee shall make the request to his/her current manager, and may be returned to his/her former position within ten (10) calendar days, if that former position has not yet been filled or eliminated. Should a probationary employee request to return to their former position after the thirty (30) calendar day requirement, the request shall be decided based on the vacancy status of the position.

- c) If at any time during the probation period a transferred employee is appraised less than satisfactory in performance, the employee may be discharged or reduced upon the recommendation of the Coordinator. The coordinator shall notify the Director at the end of the probation period as to acceptance or rejection of the probationer.

**Section 3. Step Placement.**

- a) When an employee transfers from one job classification to another job classification with the same or lower maximum regular base hourly rate of pay, the employee must have completed a minimum of one year of experience in the same field at the same level of difficulty for each step granted above Step 1 in the new pay scale. The salary step placement will be made at the discretion of the Director.

After successful completion of a six (6) month probation period, the transferred employee may be eligible to advance to the next step. An employee shall only be eligible for such step increase in the event that their regular base hourly rate of pay was reduced at the time of transfer.

**Section 4. Anniversary Date.** The employee's step anniversary date for future step increase eligibility will not be adjusted unless there is a change in the employee's regular base hourly rate of pay.

In the event that such employee's regular base hourly rate of pay is changed, the step anniversary date for future step increases shall become the effective date of the transfer.

**Section 5. Transfer Posting.** A circular of information concerning the qualifications or limitations, definition of duties, deadline for applying, and such other data as may be desirable shall be prepared and posted in advance of transfer examinations, if any.

## **ARTICLE 16 RECLASSIFICATION**

**Section 1. Definition.** Reclassification shall apply to personnel action where no actual vacancy exists, but an employee's job classification and/or pay grade is changed. This personnel action will result from a management-initiated job audit or reorganization.

**Section 2. Probation.** A reclassification shall not require the completion of a probationary period. The employee will progress in the normal prescribed intervals based on the effective date of their last increase.

**Section 3. Step Placement.**

- a) When an employee is reclassified to a position having a higher maximum regular base hourly rate, the employee's pay shall be increased to the pay step amount which is next over the pay they received prior to the reclassification.
- b) When an employee is reclassified to a position having the same maximum regular base hourly rate, the employee's pay step amount shall remain the same.

- c) When an employee is reclassified to a position having a lower maximum regular base hourly rate, the employee's pay shall be decreased to the pay step amount closest to their present regular base hourly rate. However, when the employee's regular base hourly rate of pay, prior to the reclassification, is greater than the maximum rate of the newly assigned pay grade, the employee's regular base hourly rate of pay shall be frozen as of the date of the reclassification. The employee's regular base hourly rate shall remain frozen until such time as the maximum step of the pay grade assigned to the employee's classification is equal to or greater than the employee's frozen rate of pay. When that occurs, the employee shall be placed into the maximum step of the new pay grade assigned to the employee's classification. In order to remain at the frozen status, the employee's performance must be rated as satisfactory. If the employee's performance is less than satisfactory, the employee may face disciplinary action. Additionally, the employee will lose their frozen pay status and the employee's regular base hourly rate shall be adjusted to reflect the maximum step of the new pay grade assigned to the employee's classification.

**Section 4. Anniversary Date.** The employee's anniversary date for future step increases will not be adjusted unless there is at least a 3 percent increase in the employee's regular base hourly rate of pay. In the event such employee's regular base hourly rate of pay is increased by at least 3 percent or more, the anniversary date for future step increases shall become the effective date of reclassification. When an employee is reclassified to a position having a lower regular base hourly rate, the employee's anniversary date will not be adjusted.

## **ARTICLE 17 LAYOFF, REHIRING AFTER LAYOFF**

**Section 1. Layoff.** Employees may be laid off or demoted whenever in the opinion of the Metro Director there is need to reduce the workforce. The term demoted in reference to layoff means the reassignment, not requested by the employee, from one position to any lower paying position. When this is done for nondisciplinary reasons, then it shall be done to avoid laying off the employee. In any case involving a demotion under the terms of this article, the employee involved shall have the right to elect which alternative he will take, the demotion or layoff. The employee with the least Agency Seniority shall be laid off first.

**Section 2. Recall.** Employees laid off shall be returned to work according to their seniority, provided they are qualified to perform the work of the open recall position. Employees being returned to work shall be notified of their return by certified mail to their last reported address and must report within five working days of such notification. Failure to report within the specified time shall be considered as a voluntary resignation. The union president will receive a copy of the employee's notice to return to work by first class mail.

**Section 3. Pay.** In cases of layoff or demotion under this article, no employee's rate of pay shall be altered or stopped until that employee has been given at least ten working days' notice of the layoff/demotion. At the discretion of the Metro Director, the employee's actual presence at the job site, after said notice is given, may be waived if the employee is designated to be laid off. Upon notice of layoff and the presence in the workplace waived, the employee shall receive all pay the employee would have received during the ten-workday period.

## ARTICLE 18 DISCIPLINE AND DISCHARGE

**Section 1. Demotion, Suspension, Discharge.** No employee shall be suspended, discharged, or demoted from his/her position except for just cause.

**Section 2. Causes for Demotion, Suspension, Discharge.** The following will be considered just cause for discharge, suspension, or demotion of an employee. However, just cause for discharge, suspension, or demotion is not limited to those conditions and occurrences listed herein.

- a) Conviction of a criminal offense or of a misdemeanor involving moral turpitude.
- b) Offensive conduct or language toward the public or toward Agency, City, or County employees or other conduct unbecoming an employee of the Agency.
- c) Violation of any lawful or reasonable official regulation, order or policy, or failure to obey any lawful or reasonable direction made and given by a superior where such violation or failure to obey amounts to an act of insubordination or a serious breach of proper discipline, or resulted or may be reasonably expected to result in loss or injury to the Agency, or to the public.
- d) Dishonesty.
- e) Incompetence or inefficiency in the performance of the duties of his/her position.
- f) Failure to follow Agency policies and procedures.
- g) Carelessness or negligence with the property of the Agency.
- h) Release of confidential information outside the scope of official business of the Agency. Falsification of records or personal misrepresentation of a fact as it relates to his/her job duties or profession.
- i) Use of one's position for personal gain or use of Agency ID to gain special privileges from a person or business, not authorized by Management.
- j) Repeated tardiness.
- k) Abuse of sick leave privileges.
- l) Sleeping on duty.
- m) Inducement of or attempt to induce an employee of the Agency to commit an unlawful act or to act in violation of any lawful and reasonable regulation or order; or acceptance of any fee, gift, or other valuable thing in the course of work or in connection with it for personal use from any citizen, when such fee, gift, or other valuable thing is given in the hope or expectation of receiving a favor or better treatment.

- n) Abusive personal conduct or language toward the public or fellow employees, or abusive public criticism of a superior or elected official.
- o) Has unlawfully used, possessed, manufactured, distributed, or dispensed any controlled substance or drug paraphernalia at any time on or off the job or unlawfully has any detectable level of any controlled substance in the body at any time on or off the job; or has used or possessed alcohol, or has a detectable alcohol level of .02 or greater in the body, while working, performing job duties while on the Agency's premises, or while operating Agency equipment or vehicles on Agency work time.
- p) Absent from duty without authorization.
- q) Determination of any other act or omission deemed sufficient just cause by the Employer.

**Section 3. Notice.** An employee discharged, suspended, or demoted from his/her position will be furnished in writing the reasons for the action taken and the employer will immediately forward a copy of the reasons for the action in writing for inclusion in the employee's personnel file.

**Section 4.** Suspension, demotion, and discharge may be the subject of a grievance as set forth in Article 18, Grievance Procedure.

## **ARTICLE 19 GRIEVANCE PROCEDURE**

**Section 1. Definition.** A grievance is a complaint by an employee concerning the interpretation or application of the provisions of this agreement and the complaint has not been resolved satisfactorily in an informal manner between the employee and their immediate supervisor or member of Management.

**Section 2. Procedure.** The sole grievance procedure allowed under this Agreement is as follows:

- a) Step One. The employee shall submit in writing, using the grievance form as shown in Exhibit B, to the Business Manager a grievance within fifteen calendar days. This fifteen day time period shall begin the first day following the time the employee had knowledge or should have had knowledge of the alleged grievance. If a grievance is not presented within this time period, it shall be considered "waived."

The written grievance shall contain a statement of the facts, the provision or provisions of the Agreement which the Employer is alleged to have violated, the date of the alleged violation, and the relief requested. The grievance form shall be signed by the aggrieved employee(s) and/or a designated Union Representative. The aggrieved employee shall have the right to process his grievance individually, by the Union, and/or by an attorney. The Business Manager shall sign the form when it is presented.

Within seven business days of the receipt of the grievance, the Director or his designee will meet with the employee, who may be accompanied by their representative, to discuss the grievance. This seven-day time period shall begin the first day following the receipt of the grievance. Within seven business days of this meeting, a written decision will be submitted to the employee by the Director.

- b) Step Two. If the employee disagrees with this decision, the employee and their representative may, within 30 days, initiate an appeal to the Department of Labor under the provisions of SDCL 3-18. Any decision of the Department of Labor may be appealed to Circuit Court.

**Section 3. Pay at Grievance Meeting.** Grievances under Step One may be processed during the employee's working hours without penalty of loss of pay. An employee who acts as a Union Representative in the grievance meeting under Step One shall be at the employee's basic hourly rate and only for actual time spent within his/her normal daily work schedule.

**Section 4. Extension of Time Limitations.** It is agreed that all time limitations in this article may be extended up to a maximum of sixty (60) days by mutual agreement of all parties involved. Extensions must be granted in writing.

## **ARTICLE 20 MANAGEMENT RIGHTS**

**Section 1.** Except to the extent expressly modified by a specific provision of this agreement, the Employer reserves and retains solely and exclusively all of its statutory and common law rights to manage the operation of MCA, as such rights existed prior to the execution of this Agreement and the Union, by executing this contract, recognizes the existence and correctness of such rights and prerogatives including but not limited to the following:

- a) Operate and manage all manpower, facilities, and equipment.
- b) Determine work assignments and establish, alter, or eliminate work schedules or functions in accordance with Agency needs and to contract or subcontract all or any of the functions of the Employer that do not take work away from the bargaining unit.
- c) The right to establish standards of quality and quantity of work and to conduct employee evaluations.
- d) The right to adopt, modify, change, enforce, or discontinue any existing rules, regulations, procedures, and policies that are not in direct conflict with any provisions of this agreement.
- e) To transfer, promote, or demote employees, or to terminate or otherwise relieve employees from duty for just cause and to lay off or relieve employees due to lack of work or funds.
- f) The right to set up safety rules and enforce penalties for their violation.

- g) To recruit, select, and determine the number of all types of employees required.
- h) To establish Employer functions and programs, including the setting and amending of budgets.
- i) To determine the utilization of technology and manpower and to modify organizational structures; to select, direct, and determine the number of personnel engaged in total functions or any particular part thereof.
- j) To perform any inherent managerial functions not specifically limited by this agreement and to take such other measures as the Employer or Metro Council may deem necessary for the orderly and efficient operation of the Agency.
- k) To determine the mission, policies, and standards of service provided to the public, the City, and the County.

**Section 2.** To the extent that the above rights are specifically limited, in whole or in part, by the provisions of this agreement, alleged violations are subject to the grievance procedure.

## **ARTICLE 21 EMPLOYEE/UNION RIGHTS**

**Section 1. Non-Interference.** The Employer agrees not to interfere with the rights of employees to become members of the Union or not become members of the Union, and there shall be no discrimination, interference, restraint, or coercion by the Employer against the employee because of any union membership or lack of union membership.

The Union recognizes its responsibility as bargaining agent and agrees to represent all employees in the bargaining unit without discrimination, interference, restraint, or coercion.

**Section 2. Union Rights.** The Employer agrees that during working hours, on the Employer's premises, without loss of pay, Union Representatives shall be allowed to:

- a) Post Union Notices on Agency Bulletin Boards in a space reserved for Union Notices.
- b) Attend labor management meetings, as long as there is no interference with the operation of the dispatch center.
- c) To investigate any grievance or dispute so that it may be properly presented to Management. Prior to any proposed investigation of grievances, the union representative shall obtain permission from Management, which will be granted unless the representative or grievant is working on something that requires their immediate attention. If permission cannot be immediately granted, the Employer will arrange to allow investigation of the grievance within three (3) days.
- d) Confer with Management concerning the enforcement of any provisions disagreement.

**Section 3. Agency Visits for Union Business.** The Employer agrees that an accredited representative of the American Federation of State, County, and Municipal Employees (AFSCME) shall have access to the premises of the Employer to conduct Union business with the permission of Management.

**Section 4. Union Representation at Disciplinary Action.** At any meeting between a representative of the Employer and an employee in which discipline (including warnings which are to be recorded in the personnel file, suspensions, demotions, or discharge) is to be announced, the employee may have a Union Representative present if the employee so requests. Pay for union representation under this section shall be at the employee's basic hourly rate and only for actual time spent within his/her normal daily work schedule.

## **ARTICLE 22 HOLIDAYS**

**Section 1. Definition.** Holidays shall mean days in which employees, whose services are not essential on holidays, are permitted to absent themselves from work with pay.

**Section 2. Eligibility.** Employees are eligible for holiday pay from their first day of employment. An employee shall not be paid holiday pay for holidays which occur during an approved unpaid leave of absence.

If a holiday immediately precedes or follows the approved unpaid leave of absence, the employee must work or be on authorized paid leave on the regularly scheduled workday preceding or following the holiday, whether scheduled to work on the holiday or not, to be paid for the holiday.

An employee on unauthorized leave or suspension without pay the workday before the holiday falls, if not scheduled to work on the holiday, or if on unauthorized leave or suspension on the holiday if scheduled to work on that day, shall not be paid for the holiday.

### **Section 3. Official/Designated Holidays.**

a) The following holidays are established as official holidays of the Employer:

New Year's Day	First Day in January
Martin Luther King, Jr. Day	Third Monday in January
Presidents' Day	Third Monday in February
Memorial Day	Fourth Monday in May
Independence Day	Fourth Day in July
Labor Day	First Monday in September
Native American Day	Second Monday in October
Veterans' Day	Eleventh Day in November
Thanksgiving Day	Fourth Thursday in November
Christmas Day	Twenty-fifth Day in December

#### **Section 4. Holiday Pay for Nonshift Employees.**

- a) When an official holiday falls on Sunday, the following Monday shall be designated as a substitute holiday and observed as an official holiday for all nonshift employees.

When an official holiday falls on Saturday, the preceding Friday shall be designated as a substitute holiday and observed as an official holiday for all nonshift employees.

- b) All nonshift employees shall receive for the day on which a designated holiday is observed eight hours pay at the employee's regular base hourly rate of pay.
- c) The nonshift employee must have worked or have been on authorized paid leave on the last shift prior to the holiday and the first shift after the holiday to receive holiday pay.
- d) If work is performed on such recognized holidays, the nonshift employee shall receive their regular holiday pay and in addition shall be guaranteed overtime pay for all hours worked at one and one half (1 1/2) times their regular rate of pay, except as follows:
  - 1) The guaranteed overtime pay for all hours worked on Christmas or Thanksgiving holidays shall be two (2) times an employee's regular rate of pay.

#### **Section 5. Holiday Pay for Shift Workers.**

- a) Shift workers shall receive eight (8) hours of holiday pay at their regular base hourly rate of pay.
- b) In addition to the holiday pay, shift workers who are scheduled to work on an official holiday as provided in Section 3 a) of this article shall be guaranteed overtime pay at the rate of 1 1/2 times the employee's regular base hourly rate for the number of hours actually worked on the official holiday, except as follows:
  - 1) The guaranteed overtime pay for all hours worked on Christmas or Thanksgiving holidays shall be two (2) times an employee's regular rate of pay.
- c) To be eligible for holiday pay, the employee must have worked or have been on authorized paid leave on the last shift prior to the holiday and the first shift following the holiday.

**ARTICLE 23  
VACATION**

**Section 1. Eligibility.**

- a) Regular full-time employees shall be granted vacation with pay based on the employee's completed years of service with the Employer. Such vacation shall accrue on a biweekly basis.
- b) Vacation leave accrual shall begin with employee's first day of employment with the Employer, but may not be used until the employee has completed six (6) months of service. The Director may grant the use of vacation during the initial probationary period for emergency purposes at his sole discretion.

**Section 2. Maximum Balance and Payment.**

- a) Regular full-time employees may accumulate vacation as set forth in Section 3 of this article without limitation, provided that as of December 31 of each calendar year the employee's maximum balance of unused vacation shall not exceed 260 hours. Any unused vacation hours remaining in an employee's accumulated balance in excess of 260 hours as of 12 midnight on December 31 of each year shall be forfeited, except as specifically set forth in this article.
- b) In the event of discharge or resignation any vacation time the employee has accumulated and not used before the date of separation from employment, up to the maximum allowable accumulation as specified in Section 2a, shall be paid at the employee's regular base hourly rate as of the date of separation to the employee.
- c) In the event of death while employed, any vacation balance accrued shall be paid to the employee, or to the surviving spouse, or if no spouse survives, to their estate at the employee's regular base hourly rate as of the date of death.

**Section 3. Accrual Schedule.**

- a) An employee shall receive a full or prorated vacation benefit with full pay based on the following schedule, and each new level in the schedule shall become effective in the pay period in which the employee's employment date occurs and available for use on the first day of the following pay period:

<u>Years Completed</u>	<u>Hours per Pay Period</u>
0 – 3	3.15
4 – 7	4.00
8 – 11	4.65
12 – 15	5.30
16 +	6.15

#### **Section 4. When Taken.**

- a) Vacation shall be taken at the time the Director or designee shall designate. In designating vacation time, the seniority and preferences of employees shall be followed unless absence of the employee will impede the operation of the department.
- b) Vacation leave must be taken in increments of no less than quarter (1/4) hour, unless less than one quarter hour of vacation is available in which case the employee must take the remaining vacation in a single increment.
- c) Employees may schedule vacation prior to its anticipated accrual, but may not use vacation until after it has been accrued as specified in this article.
- d) Vacation leave request of two shifts or less (eight-hour workday increment for nonshift employees) shall be completed and submitted to the Director or designee at least 48 hours in advance of the requested leave date.
- e) Vacation leave request of three shifts or more (eight-hour workday increment for nonshift employees) shall be completed and submitted to the Director or designee at least ten (10) days in advance of the beginning of the requested leave period.
- f) Vacation time shall not be scheduled or used in any manner for purposes of extending an employee's official date of separation from the Agency.

#### **Section 5. 40/40/40 Vacation Option Request.**

Once per calendar year an employee may request to be paid for 40 (forty) hours of accumulated vacation, using the request for accumulated vacation option 40/40/40 form as shown in Exhibit D, in conjunction with taking 40 (forty) hours of vacation provided that after the reduction of the 80 (eighty) hours the employee retains a minimum vacation balance of 40 (forty) hours. The cash out of the vacation will be paid with the last payroll prior to the vacation. If the employee does not use the 40 (forty) hours of requested vacation, the employee's pay will be reduced by 40 (forty) hours on the next payroll. All 40 (forty) hours in this policy are blocks of time and may not be segmented.

### **ARTICLE 24 SICK LEAVE**

**Section 1. Definition.** Sick leave is defined to mean the absence of an employee because of illness, injury, or attendance upon a member of immediate family due to illness or injury.

**Section 2. Definition of Immediate Family.** For purposes of sick leave usage, immediate family shall mean child, spouse, parent, spouse's parent, or legal dependent residing in the employee's home, or an employee's grandparent, grandchild, or sibling afflicted with a serious medical condition.

**Section 3. Investigation.** Sick leave shall be granted as a privilege and not a right, and the claim of such leave shall be subject to such investigation as the Director deems necessary. If sick leave appears to be abused or when an employee consistently uses sick leave in conjunction with days off or as it is earned, the employee requesting sick leave may be required to furnish proof of illness. Abuse of sick leave privileges constitutes grounds for disciplinary action.

**Section 4. Eligibility and Accrual.** Eligibility for use of sick leave shall begin on the date of employment and the employee shall accrue sick leave at the rate of 3.7 hours for each full two weeks of completed service. Sick leave must be taken in increments of no less than quarter (1/4) hour, unless less than one quarter hour of sick leave is available in which case the employee must take the remaining sick leave in a single increment.

**Section 5. Employee Notification.** An employee taking sick leave shall notify the Shift Supervisor at least two (2) hours before the start of the assigned work shift.

**Section 6. Outside Employment.** An employee is prohibited from using sick leave benefits while simultaneously engaging in non-Agency employment duties.

**Section 7. Health Care Provider Certificate.** The Director may require that sick leave be granted only by a certificate evidencing the sickness, signed by the employee's attending medical doctor, or the Employer may require the employee to report to the Employer-designated medical doctor for a physical examination.

In any event, no sick leave with pay, for personal illness, or for attendance upon a member of the immediate family requiring the employee's care or attendance shall be granted for a period longer than three (3) consecutive work days unless a certificate from a duly licensed health care provider is presented to the Director.

This certificate must be from the attending health care provider and must include a written statement indicating medical necessity for the employee's absence on the specific date(s) due to personal illness or attendance upon a member of the employee's immediate family.

If the employee is absent due to an FMLA qualified circumstance, the paid or unpaid sick leave absence will be designated as FMLA leave and treated in accordance with Article 24 of this agreement.

**Section 8. Physician/Dental Appointments.** Sick leave may be used while actually attending either physician or dental appointments provided the appointment has been scheduled during the employee's regularly scheduled work hours.

**Section 9. Sick Leave Payout.** Upon retirement in good standing, an employee will be paid for one-third of accumulated sick leave up to a maximum of three hundred twenty (320) hours at the employee's current rate of pay at retirement. To qualify for this benefit, the employee must have worked at least 16 consecutive years for Metro Communications Agency and must qualify for immediate receipt of state retirement benefits.

**ARTICLE 25  
LEAVE OF ABSENCE**

**Section 1. Approval and Length of Unpaid Leaves of Absence.**

Requests for unpaid leave of absence shall require the approval of the Director. No leave of absence, whether granted, extended, or continued, shall exceed one (1) year, except as otherwise provided in this article. Requests for unpaid leave will only be considered in the event that the employee has used all available paid leave time; i.e., vacation.

Time off without pay, without requiring the employee to first use all available paid leave time, will be permitted only where specifically noted in this agreement.

An employee on an authorized unpaid leave of absence is not guaranteed reemployment at the termination of the leave except as specifically otherwise provided in this agreement or by state or federal law.

**Section 2. Family/Medical Leave.**

**Eligibility.** The FMLA requires the Agency to provide up to 12 weeks of unpaid, job protected leave to eligible employees for certain family and medical reasons during a 12-month period. Employees are eligible for FMLA leave if they have worked for the Agency for at least one year and worked 1,250 hours over the previous 12 months.

**Use of Paid Leave Benefits—Concurrent with FMLA.** The Agency requires employees to use paid leave benefits before unpaid leave may be granted. FMLA regulations require that an eligible employee be granted FMLA leave at the time a qualifying family or medical event occurs, whether the employee has paid leave available to him/her or not. If an employee has available paid leave benefits at the time family medical leave is required, the family medical leave will run concurrently with the use of those paid leave benefits until they are exhausted or until the available 12-week FMLA leave period ends, whichever comes first. If an employee's available paid leave benefits are exhausted prior to the end of the 12-week FMLA period, the remainder of the period shall be granted as unpaid leave.

**Reasons for Taking FMLA Leave—Family, Medical, and Military.** The following conditions represent qualified FMLA leave:

**Family Leave:**

- A. For birth of a son or daughter, and to care for the newborn child;
- B. For placement of a son or daughter for adoption or foster care;

**Medical Leave:**

- A. To care for the employee's spouse, son or daughter, or parent who has a serious health condition;
- B. Because of a serious health condition that makes the employee unable to perform the employee's job;

### **Military Leave:**

- A. Because of any “qualifying exigency” arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation; or
- B. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member who is recovering from a serious injury sustained in the line of duty on active duty is entitled up to 26 weeks of leave in a single 12-month period to care for a service member.

### **Requesting Leave and Notice Requirements.**

- A. In the case of family/medical leave taken for the care of a healthy newborn child, newly adopted child, or newly placed foster child, the leave must be taken in a single period, or intermittently at the discretion of the Director, not to exceed twelve (12) weeks which must commence within twelve (12) months after the date of the child’s birth or placement for adoption or foster care. The employee is required to submit to the Agency, prior to the commencement of the family/medical leave, a signed statement that he intends to return to his position upon expiration of the leave. In addition, the employee must provide at least two weeks’ advance notice of the date he intends to return to work. Circumstances may require that family/medical leave for the birth of a child, or for placement for adoption or foster care, begin prior to the actual birth or placement.
- B. An employee requesting family/medical leave for the serious illness of a child, spouse, or parent or a family/medical leave for his own personal serious health condition will be permitted to take the 12 weeks of family/medical leave either consecutively or intermittently. Each time family/medical leave is requested on this basis, the employee must request the family/medical leave, except where leave is not foreseeable, at least two weeks prior to the date the leave is to begin. The employee must also provide to the Agency written certification from a medical physician describing the nature of the health condition and its probable duration. The employee must also provide the employer with two weeks’ notice prior to return to work date, whenever practicable.

**Medical Certification and Recertification.** The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met. The Agency may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the Agency’s expense) and a fitness for duty report prior to returning to work.

The Agency may require recertification no more frequently than every 30 days unless (a) employee requests extension; (b) circumstances change significantly; and (c) employer doubts validity of the certification or the employee’s stated reason for the absence. Certification and recertification when required will be at the employee’s expense. No second or third opinion on recertification can be required.

**Health Plan Benefits—Returning from Leave.** Health/dental insurance benefits will be maintained for the employee during the family/medical leave period provided that the employee continues to pay the employee portion of the premium for that insurance at least one month in advance of the coverage. If the employee chooses not to return to work for reasons other than a continued serious health condition, or other circumstances beyond the employee's control, the employee will be required to reimburse to the Agency the amount paid by the Agency for the employee's health insurance premium during the leave period.

Employees returning from family/medical leave shall be returned to their previous position, or a similar position, with the same rate of pay as they received prior to the commencement of the unpaid family/medical leave.

**Administration.** In all cases, it is the employer's responsibility for determining whether leave qualifies as FMLA. The Agency may inquire as to the nature of the need for leave in order to assess the application of FMLA. Except as otherwise provided in this section, all family/medical leave will be administered according to the requirements of the Family & Medical Leave Act of 1993 and the National Defense Authorization Act (NDAA) of 2008.

### **Section 3. Benefit Accruals.**

An employee on an approved unpaid leave of absence shall retain his/her seniority as of that day. Seniority shall not be accumulated except as specifically provided by state or federal law.

Sick leave or vacation leave time shall not be accumulated during an authorized unpaid leave of absence of one (1) or more hours.

When an employee is suspended without pay, or absent without authorization, all accruals of vacation and sick leave will be suspended as well for the entire period of unpaid absence.

### **Section 4. Extension of Probation.**

Should any probationary employee be absent from the job for an approved leave without pay, the probationary period will be extended to enable the employee to complete their full probationary period.

### **Section 5. Unapproved Absence.**

Absence from duty without leave or failure to report after leave has expired or has been disapproved, revoked, or canceled shall be grounds for suspension, reduction, or discharge.

### **Section 6. Medical Benefits.**

Except as otherwise provided in this agreement or by state or federal law, health/dental insurance coverage may be continued during an authorized leave of absence without pay, so long as the employee continues to pay 100 percent of the premium for that coverage one month in advance of coverage.

## **ARTICLE 26**

### **JURY DUTY AND WITNESS FEES**

**Section 1. Jury Duty.** Any employee who is called upon for jury duty shall not suffer any loss of regular base pay; however, upon the termination of jury duty, the employee shall remit to the Employer any fees, mileage, or other remuneration received for their participation in jury duty.

A shift employee will be eligible for regular base pay for each hour of jury duty during the scheduled shift. A shift employee will also be eligible for jury duty pay for each hour served when required to serve jury duty entirely outside of normal work hours but within the same 24-hour period as a scheduled shift.

Any employee who wishes to keep jury duty remuneration must use their vacation accruals. If jury duty is scheduled on the employee's regular scheduled day off, the employee will not be compensated by the Employer and the employee may accept any jury duty remuneration.

**Section 2. Witness Fees.** In the event an employee is required to act as a witness in his or her capacity as an employee of the Employer, all time spent in legal proceedings as a witness will be compensable at the employee's regular base hourly rate of pay provided that all witness fees, allowances, or other remuneration received by the employee for his/her participation as a witness shall be promptly delivered to the Employer. The employee must appear in uniform. All such time shall be counted as hours worked for purposes of computing overtime. The employee will immediately notify the immediate supervisor upon being served the subpoena. If the subpoena requires attendance on a regularly scheduled day off, the employee will report the time as time worked for purposes of pay reconciliation.

**Section 3. Failure to Deliver Jury Duty or Witness Fees.** Any employee who fails to deliver either jury per diem or witness fees and expenses to the Employer while retaining his/her base pay for the same period of time may be subject to disciplinary action up to and including discharge.

## **ARTICLE 27**

### **FUNERAL LEAVE**

**Section 1. Leave.** An employee who has to make arrangements for or attend a funeral, or has to attend to estate business following the funeral, during his/her regularly schedule work hours shall be permitted to use up to three (3) days of sick leave for that funeral.

This three-day limit for a single funeral may be extended at the discretion of the Director. An employee will be allowed to use up to a maximum of eighty (80) hours of sick leave as funeral leave in one calendar year.

Any additional time required to make arrangement for or to attend a funeral, or to attend to estate business following a funeral, may be taken as vacation or time off without pay.

**Section 2. Notification.** The employee shall provide notification to the Shift Supervisor prior to taking time off for funeral leave.

## **ARTICLE 28 MILITARY SERVICE LEAVE**

### **Section 1. Request for Military Leave of Absence.**

An employee who wishes to be granted military leave of absence must submit the request and a copy of his/her official orders or other records from the military service to the Director prior to the dates of attendance. If the Reservist or National Guard member submits a copy of his/her official annual training schedule prior to the beginning of the year's military activities, the employee need only submit separate requests and orders for those training duties not included on the annual schedule, or when the annual schedule is modified.

### **Section 2. Active Duty.**

An employee who enlists or is called into active duty for the military service of the United States or who, in time of national emergency, 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 reemployment rights, a person leaving active duty in the military service of the United States must apply to the Employer for reemployment within the allowable time periods established under the Uniformed Services Rights and Reemployment Rights Act (USERRA) of 1994.

### **Section 3. Reserve or National Guard: Initial Active Duty for Training, Annual Encampment, Weekend Drill, and Other Training Duty.**

An employee who enlists as a reservist or a member of the National Guard shall be granted time off without pay for initial active duty for training, annual training encampment, weekend training drills, and other active and inactive training duty.

The Reservist or National Guard member must report back to his/her civilian job at the beginning of his/her first regularly scheduled shift on the first day after the completion of initial active duty for training or other training duty plus the necessary travel time to return from the training site to the place of employment. He/She is also entitled to a reasonable rest time, and a reasonable time thereafter if return is delayed by factors beyond his/her control. If an employee fails to report to his/her job within this specified time period, he/she may be subject to the penalties which would be imposed on any employee who is tardy or absent without permission.

If an employee separates his/her employment with the Employer in order to enlist in the Reserves or National Guard, he/she must reapply to the Employer within 31 days after his/her separation from initial active duty for training in the Reserves or National Guard in order to retain reemployment rights.

### **Section 4. Seniority Rights.**

During an unpaid military leave of absence, the seniority of an employee, for purposes of accrual and vesting rights, shall continue and accumulate in the same manner and to the same extent as if said leave of absence had not been granted, and the employee had been

continuously in the employ of the Employer. An employee on military leave of absence shall be entitled to all rights and benefits as are defined by applicable federal statutes.

### **Section 5. Probationary Employee.**

An employee who is serving on probation may likewise be granted a military leave of absence under the provisions of the above sections of this article.

### **Section 6. Applicable Statutes.**

Any employee who participates in any branch of the Military Service of the United States is covered by and subject to Federal Statute, U.S. Code Title 38, Chapter 43, and all other applicable statutes.

### **Section 7. Compensation.**

MCA will compensate employees on annual military training assignments and serving under federal or state active duty assignments the difference between their military base pay and their regular base hourly rate of pay.

## **ARTICLE 29 DUTY-INCURRED INJURY**

All employees shall be covered by the South Dakota Codified Law, Title 62. Employees that are injured on the job must report their injuries to a supervisor or a management employee immediately upon the occurrence of an injury or as soon thereafter as practicable within three business days. A First Report of Injury or incident report will be completed by the employee and submitted to the Business Manager who will forward it to the insurance company.

### **Section 1. Eligibility**

An employee who sustains a disabling injury or illness by accident arising out of and in the course of employment for the Agency, and the disabling injury was not caused by willful neglect on the part of the employee, shall in lieu of sick leave receive workers' compensation payments at the rate of 80 percent of his or her regular base weekly earnings, not including overtime, as of the date of the injury or illness for a period not to exceed one hundred and eighty (180) days from the date of injury or illness.

Thereafter, workers' compensation payments shall be made at the times and at the rate from time to time specified by South Dakota Workers' Compensation Law.

While receiving workers' compensation payments at the state rate, the employee may use accrued sick leave, vacation, or other available paid time off benefits to maintain regular base weekly earnings, not including overtime, as of the employee's last day worked immediately preceding the most recent absence from work due to a duty-incurred injury or illness.

## **Section 2. Light-Duty Assignments**

If, upon determination of an employee's physical restrictions by the employee's medical doctor, and/or by an Agency-designated medical doctor at the Agency's request, the employee is determined to be physically able to perform duties of another nature, the employee may be assigned to those duties for the duration of the disability at the sole discretion of the Agency.

Any employee reassigned to duties of another nature shall be compensated at a rate of pay determined by the Agency commensurate with the temporary assigned duties, not to exceed the employee's rate of pay as of the date of injury. If the rate of pay for the light duty assignment is less than the employee's rate of pay as of the date of injury, the pay may be supplemented with workers' compensation payments as specified by South Dakota Workers' Compensation Law. This reassignment may continue for a period determined by the Agency not to exceed six months after reassignment to other duties. Upon the employee's return to his full unrestricted duties held at the time of injury, the employee shall be paid at his current rate of pay including step advancements or pay rate adjustments he would have otherwise received during the absence from his regular duties.

If light duty within those restrictions is not available with the Agency, the employee may be permitted to engage in outside employment within the work restrictions set by the physician due to the duty-incurred injury or illness.

## **Section 3. Personal Activities**

Activities of a personal nature carried out while on duty, on or off Agency property, which are not directly related to and do not arise out of an employee's employment as an employee of the Agency do not constitute employment-related activities. Therefore, injuries incurred or arising out of these activities shall not be considered "duty-incurred" for purposes of the application of this article, and will not be considered duty-incurred injuries for purposes of determining compensability under the workers' compensation statutes of the state of South Dakota.

Any injury or illness incurred through personal activities while off duty on or off Agency property shall not be considered "duty-incurred" for purposes of the application of this article or the application of state Workers' Compensation statutes.

## **Section 4. Agency Designated Holidays**

If a Agency-designated holiday occurs while an employee is absent from work due to a duty-incurred injury or illness, the employee shall be paid regular holiday pay for that day at the employee's regular base hourly rate of pay as of the employee's last day worked immediately preceding the absence from work. This regular holiday pay shall be taxable and shall be paid in lieu of the workers' compensation payment at the rates specified in this section for that day. This substitution of holiday pay is only administrative and will not otherwise affect the employee's worker's compensation status.

## **Section 5. Administration and Application**

Administration: Compensation and coverage for duty-incurred injuries or disease incurred by employees covered by this agreement shall be administered in all respects according to the provisions and intent of South Dakota Workers' Compensation Law, except as specifically otherwise provided in this agreement.

## **Section 6. Work Safety**

No employee shall be subject to disciplinary action by reason of the employee's failure or refusal to operate or handle any piece of equipment or work in any work situation that the employee believes will place him/her or a third party in eminent danger of injury. If it is later proven that the employee's objection was not legitimate, then this paragraph would not prevent the Agency from taking disciplinary action for the employee's failure or refusal to perform his/her duties.

It is the obligation of any employee to immediately contact his/her immediate supervisor, coordinator, or management employee to report any equipment or working condition that appears to be unsafe for authorization to proceed with operations. If it is found that an employee has knowingly failed to meet this obligation, that employee may be subject to disciplinary action.

## **ARTICLE 30 RETIREMENT**

All full-time Metro employees participate in the South Dakota Retirement System retirement benefits are funded by employee contributions and matched by equal contributions from the Employer. All retirement and employee and survivor disability benefits are established by the South Dakota Retirement System and may be subject to change during the term of this Agreement. Employer agrees to continue participation in the South Dakota Retirement System and to make all employer contributions as may be required during the term of this Agreement.

## **ARTICLE 31 INSURANCE**

### **Section 1. Group Health and Dental Insurance.**

- a) Regular full-time employees are eligible to participate in the Metro Communications Agency Employee Group Health Benefit Plan. The condition of eligibility for coverage of employees and their dependents for health/dental insurance programs are outlined in the respective summary plan description.
- b) The Employer and employees will pay the following percentage of the total premium cost of health and dental insurance:

**Agency  
Contribution**  
70%

**Employee  
Contribution**  
30%

**Section 2. Life Insurance.** During the term of this agreement, the Employer shall provide full-time employees covered by this agreement with life insurance coverage equal to \$15,000. The Employer reserves the right to provide this life insurance under a group insurance policy or policies issued by an insurance company selected by the Employer.

**Section 3. Plan Modifications.** The Employer reserves the right to make program modifications to the Health and Dental Insurance Plans.

## **ARTICLE 32 NON-DISCRIMINATION**

**Section 1.** The Employer and the Union each agree that they will not discriminate against any employee for any reason where discrimination is prohibited by federal or state law or because of the employee's membership or nonmembership in the Union.

Any dispute concerning the interpretation and/or application of this section shall be processed through the appropriate federal or state agency or court rather than through the grievance procedure set forth in this Agreement.

**Section 2.** The parties agree that the Employer may take reasonable action that is in accord with what is legally permissible under the Americans with Disabilities Act (ADA) in order to be in compliance with the ADA, notwithstanding any other provisions of this Agreement.

## **ARTICLE 33 DRUG- AND ALCOHOL-FREE WORKPLACE**

It is the responsibility of all Metro Communications employees to abide by the terms of the Employer's Drug- and Alcohol-Free Workplace policies as a condition of employment. Any violations or noncompliance with these policies will subject an employee to disciplinary action up to and including termination. The extent and type of action taken with an employee who violates the Employer's drug- and alcohol-free workplace policies will be based upon:

- a) The seriousness of the violation or offense;
- b) The employee's past employment and performance record;
- c) The impact of the violation upon the employee's future job performance; and
- d) The employee's willingness to participate in controlled substance or alcohol abuse assistance and rehabilitation.

The Employer and the Union will encourage employees to seek assistance whenever necessary to overcome a drug or alcohol abuse problem. The Employer provides access to controlled substance and alcohol abuse counseling and rehabilitation through the Employer's Employee Assistance Program (EAP) for all of its regular employees. Employees needing help in dealing with such problems are encouraged to use the Employee Assistance Program to aid them in overcoming their illness. Conscientious efforts to seek such help will not jeopardize any employee's job.

An employee shall be permitted to take a family/medical leave of absence, as provided in the Leaves of Absence article of this agreement, for the purpose of undergoing medically supervised substance abuse treatment and rehabilitation through a treatment program approved by the Employer. Such a leave of absence must be requested by the employee and approved by the Employer prior to any violation of the Agency's Drug- and Alcohol-Free Workplace Policies, or the commission of any other act subject to disciplinary action by the Employer. Such leave may not be approved if requested after the employee has violated the provisions of the Drug- and Alcohol-Free Workplace policies.

All employees covered by this agreement, who are not mandatorily subject to Federal FHWA drug and alcohol testing regulations, shall be subject to random and post-accident drug and alcohol testing. For purposes of the application of the post-accident testing provisions of the Employer's Drug and Alcohol Free Workplace policy, all Employer-owned or -leased vehicles or vehicles operated by the City or the County shall be considered in the application of this policy.

The Employer's Drug- and Alcohol-Free Workplace Policy, insofar as it impacts the terms and conditions of employment for employees covered by this agreement, shall not be modified unless negotiated with the Union. The Employer reserves the right to make modifications as may be required by law.

#### ARTICLE 34 TERM

This Agreement shall be effective as of the 1st day of January, 2010, and shall remain in full force and in effect for three (3) years from the date thereafter.

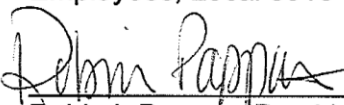
This contract shall be automatically renewed from year to year thereafter unless either party shall notify the other in writing by February 1, 2012 that it desires to modify, or renegotiate, this agreement for the 2013 contract. In the event that such notice is given, negotiations shall begin not later than March 1, 2012. This Agreement shall remain in full force and effect during the period of negotiations or until otherwise mutually terminated thereafter in writing by the parties.

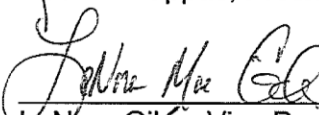
For the Employer:  
Metro Communications Agency

  
\_\_\_\_\_  
Metro Management Council  
Mayor Dave Munson, Chair

  
\_\_\_\_\_  
Daren J. Ketcham, Director

American Federation of State,  
County, and Municipal  
Employees, Local 3516

  
\_\_\_\_\_  
Robin L. Pappas, President

  
\_\_\_\_\_  
LeNora Giles, Vice President

  
\_\_\_\_\_  
Michael Mettler, Negotiator

**Exhibit A  
(Article 4, Wages)**

<b>2010 Payroll Matrix</b>														
<b>POSITION</b>	<b>Grade</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>
Electronic Technician	110	16.72	17.39	18.09	18.81	19.19	19.57	19.96	20.36	20.77	21.19	21.61	22.04	22.48
Lead Electronic Technician	130	20.16	20.96	21.80	22.67	23.13	23.59	24.06	24.54	25.03	25.53	26.04	26.57	27.10
Communications Operator - Training*	105	16.32	16.81											
Communications Operator	120	17.31	18.00	18.72	19.47	19.86	20.26	20.66	21.08	21.50	21.93	22.37	22.81	23.27
Shift Supervisor	140	21.25	22.10	22.99	23.91	24.38	24.87	25.37	25.88	26.39	26.92	27.46	28.01	28.57

<b>2011 Payroll Matrix</b>														
<b>POSITION</b>	<b>Grade</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>
Electronic Technician	110	17.10	17.79	18.50	19.24	19.62	20.01	20.41	20.82	21.24	21.66	22.10	22.54	22.99
Lead Electronic Technician	130	20.61	21.43	22.29	23.18	23.65	24.12	24.60	25.09	25.60	26.11	26.63	27.16	27.71
Communications Operator - Training*	105	16.68	17.18											
Communications Operator	120	17.70	18.41	19.14	19.91	20.31	20.71	21.13	21.55	21.98	22.42	22.87	23.33	23.79
Shift Supervisor	140	21.73	22.60	23.50	24.44	24.93	25.43	25.94	26.46	26.99	27.53	28.08	28.64	29.21

<b>2012 Payroll Matrix</b>														
<b>POSITION</b>	<b>Grade</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>
Electronic Technician	110	17.61	18.32	19.05	19.81	20.21	20.61	21.03	21.45	21.88	22.31	22.76	23.21	23.68
Lead Electronic Technician	130	21.23	22.08	22.96	23.88	24.36	24.84	25.34	25.85	26.36	26.89	27.43	27.98	28.54
Communications Operator - Training*	105	17.18	17.70											
Communications Operator	120	18.23	18.96	19.72	20.51	20.92	21.34	21.76	22.20	22.64	23.09	23.56	24.03	24.51
Shift Supervisor	140	22.38	23.28	24.21	25.18	25.68	26.19	26.72	27.25	27.80	28.35	28.92	29.50	30.09

\*note - step interval for this position is 6 months; after 6 months at step 2 step placement is Step 1 for Communications Operator; all other steps are 1 year

EXHIBIT B

AFSCME LOCAL \_\_\_\_\_  
STEP \_\_\_\_\_



OFFICIAL GRIEVANCE FORM

NAME OF EMPLOYEE \_\_\_\_\_ DEPARTMENT \_\_\_\_\_  
CLASSIFICATION \_\_\_\_\_  
WORK LOCATION \_\_\_\_\_ IMMEDIATE SUPERVISOR \_\_\_\_\_  
TITLE \_\_\_\_\_

STATEMENT OF GRIEVANCE:

List applicable violation: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Adjustment required: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I authorize the A.F.S.C.M.E. Local \_\_\_\_\_ as my representative to act for me in the disposition of this grievance

Date \_\_\_\_\_ Signature of Employee \_\_\_\_\_

Signature of Union Representative \_\_\_\_\_ Title \_\_\_\_\_

Date Presented to Management Representative \_\_\_\_\_

Signature \_\_\_\_\_ Title \_\_\_\_\_

Disposition of Grievance: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**THIS STATEMENT OF GRIEVANCE IS TO BE MADE OUT IN TRIPPLICATE. ALL THREE ARE TO BE SIGNED BY THE EMPLOYEE AND/OR THE AFSCME REPRESENTATIVE HANDLING THE CASE.**

ORIGINAL TO \_\_\_\_\_

COPY \_\_\_\_\_

COPY: LOCAL UNION GRIEVANCE FILE

**NOTE: ONE COPY OF THIS GRIEVANCE AND ITS DISPOSITION TO BE KEPT IN GRIEVANCE FILE OF LOCAL UNION.**

**EXHIBIT C**

**Authorization for Payroll Deduction  
AFSCME Local 3516**

To the Metro Communications Agency, I, \_\_\_\_\_ (Name) \_\_\_\_\_, hereby authorize and direct the Metro Communications Agency to deduct from my wages regular biweekly membership dues to be paid to the elected Treasurer of the Union. This authorization is revocable upon my giving the Agency Business Manager a notice of revocation during the period of November 1 through November 30 of the calendar year.

I understand the following:

Previously signed and unrevoked written authorizations shall continue to be in effect for any employee reinstated following layoff, leave of absence, or suspension not exceeding sixty (60) days; previous authorizations of other employees rehired or reinstated shall not be considered in effect.

The authorization for deductions shall be made by the last day of the pay period to be effective in that pay period.

If the Agency Business Manager receives an employee revocation during the period of November 1 through November 30, no deductions will be made for any month in the subsequent year.

The Union shall advise the Agency Business Manager, in writing, the exact amount of regular union dues in the exact dollar amount for each Union member. If, subsequently the Union requests the Employer to deduct additional union dues, the request shall be effective only upon written assurance by the Union to the Agency Business Manager that additional amounts are regular union dues duly approved in accordance with the Union constitution and bylaws.

The Employer shall not be liable for the remittance or payment 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 union dues are normally deducted after written notification to the Agency Business Manager of the error or omission. If the Employer makes an overpayment to the Union, the Employer will deduct that amount from the next remittance to the Union. The Union agrees to indemnify and hold the Employer harmless against any and all claims, suits, orders, or judgments brought or issued against the Employer as a result of any action taken or not taken by the Employer under the provisions of this Article.

Signature \_\_\_\_\_

Date \_\_\_\_\_

**Exhibit D**  
**REQUEST FOR ACCUMULATED VACATION OPTION**

40/40/40 Policy: An employee may request to be paid for (40) hours of accumulated vacation in conjunction with taking (40) hours of vacation provided that after the reduction of the (80) hours the employee retains a minimum vacation balance of (40) hours. The cash out of the vacation will be paid with the last payroll prior to the vacation. If the employee does not use the (40) hours of requested vacation, the employee's pay will be reduced by (40) hours on the next payroll. All (40) hours in this policy are blocks of time any may not be segmented.

**40/40/40**

To request pay for accumulated vacation under the above policy, please complete the following. In order to ensure payment before vacation, this information **must be received by the Agency Business Manager at least TWO WEEKS PRIOR** to the first day of your vacation. Remember, you must first have authorization for your vacation.

Leave Totaling: \_\_\_\_\_

#Hours	Day of Week	Starting Time	Month/Day/Year
			_____
	Day of Week	Ending Time	Month/Day/Year

*I am requesting to be paid for 40 (forty) hours of accumulated vacation in conjunction with taking 40 (forty) hours of vacation. I understand that after the reduction of the 80 (eighty) hours of vacation, I must have a minimum vacation balance of 40 (forty) hours.*

Employee Name (Please Print)	Date Requested
------------------------------	----------------

\_\_\_\_\_  
Employee Signature

APPROVED BY:

\_\_\_\_\_  
Manager

**Business Manager Use Only**

Date form received	Date 40 hours paid	<input type="checkbox"/> Vacation taken/Pay date taken
--------------------	--------------------	--