

INSTRUCTOR AND FACILITY USE AGREEMENT

Agreement made this ___ day of _____, 20__ by and between the City of Mitchell SD, by and through its' **Park, Recreation and Forestry Board**, (hereafter called "City") and Dakota Wesleyan University (hereafter called "DWU") as follows:

1. Purpose and Term:
 - A. The purpose of this Agreement is to have City staff and facilities be used for the purpose of holding a DWU, for-credit class. Such class will be SPX 320 Exercise in Selected Populations for the 2021 spring semester. This course opens on January 18, 2020. The final day of the course is May 7, 2020.
 - B. The term of this agreement shall run concurrent with the DWU 2021 spring academic semester, beginning and ending on the dates listed above.
2. The City shall provide and/or perform the following functions within the Facility:
 - A. The City shall retain the final management and control authority in respect to the Facility. DWU shall have no management or control authority in respect to the Facility except as permitted by the City and as may be consistent with Section III of this agreement.
 - B. Oversee and coordinate the scheduling of the Facility and maintain a master schedule regarding the use of the Facility which allows reasonable use of the Facility for class activities. The class is expected to be held in the Facility Monday, Wednesday, and Friday from 8:00 AM to 9:00 AM with other course hours possibly being held outside of the Facility.
 - C. Designate a staff member to serve as Instructor for the class. Instructor will submit final grades for the class within three (3) days following the final day of the class.
3. DWU Right and Duties:

DWU shall:

 - A. Require all its personnel and/or students to follow Facility rules while at the Facility.
 - B. Provide the Instructor with sufficient guidance as to be able to instruct the class on the intended subject matter in a manner consistent with collegiate studies.
 - C. Pay the City a total fee of \$1,800.00 as compensation for the use of the Facility and provision of the Instructor. Such fee is due and payable on the first day of the term listed above. However, if such class has fewer than six (6) students, the fee

shall be reduced by \$300.00 per student under 6. Further, DWU or City may choose to void this Agreement if enrollment for the course is less than four (4) students.

- 4. Misc.
 - A. This advanced course will explore and identify the characteristics and values of demographic data and discuss the rationale for providing fitness activity services.
 - B. This Agreement constitutes the entire agreement between the parties and shall not be modified unless mutually agreed by the City and DWU in writing.
 - C. Neither party shall have no right to assign any of the rights or benefits under this Agreement without prior written consent of the other party.
 - D. If any section, or portion thereof, of this Agreement is found to be void, unenforceable, or unconstitutional, the improper portion shall be severed and the remaining provisions will remain in full force and effect to the maximum extent permitted by law.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

Approved and adopted by the **Park & Recreation Board** of the City of Mitchell, South Dakota, this ____ day of _____, 2020.

CITY OF MITCHELL, SOUTH DAKOTA
PARK AND RECREATION BOARD

By: _____

Title: Mitchell Park & Recreation Board President

Approved and adopted by the Dakota Wesleyan University, this ____ day of **January**, 2020.

DAKOTA WESLEYAN UNIVERSITY

By: _____

Janet Hayen
Director of Human Resources

