



DATE: May 16, 2023

**CONSENT**

**TO:** Mayor and City Council

**FROM:** Kristina Handt, City Administrator

**AGENDA ITEM:** Approve 2023 Labor Agreement with Local 49ers

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**BACKGROUND:**

The existing Labor Agreement with the Local 49ers expired on December 31, 2022. Staff and Local 49 entered into negotiations starting in Fall 2022. No tentative agreement was reached, so the City and Local 49 entered into mediation on April 21. A tentative agreement was reached after one day of mediation and the members of the labor union voted to accept the 2023 agreement.

**ISSUE FOR DISCUSSION:**

Should Council approve the 2023 Labor Agreement with Local 49?

**PROPOSAL DETAILS/ANALYSIS:**

The 2023 contract documents the parties' agreements related to wages and other working conditions and lays out the process for addressing disputes.

The new contract remains consistent with the contract expired December 31, 2022 except for four alterations; This one year contract provides for an increase in PTO accrual consistent with the Baker Tilly class and compensation study findings with the exception of one long term employee, provides for wage increases consistent with what non-represented employees received in implementing the new pay plan, increases the probationary period from 6 months to 1 year and removes all references to AFL-CIO.

**FISCAL IMPACT:**

These proposed wages increases have been provided for in the 2023 budget.

**OPTIONS:**

- 1) Approve the 2023 Labor Agreement between the City of Lake Elmo and the International Union of Operating Engineers Local 49
- 2) Amend and then Approve the 2023 Labor Agreement between the City of Lake Elmo and the International Union of Operating Engineers Local 49
- 3) Do not approve the 2023 Labor Agreement and direct someone else to negotiate with the union.

**RECOMMENDATION:**

If removed from the consent agenda:

***Motion to approve the 2023 Labor Agreement between the City of Lake Elmo and the International Union of Operating Engineers Local 49***

**ATTACHMENTS:**

- 2023 Labor Agreement

# LABOR AGREEMENT

BETWEEN THE

CITY OF LAKE ELMO

-AND-

INTERNATIONAL UNION OF OPERATING ENGINEERS

LOCAL No. 49

**AFL-CIO**



January 1, ~~2022~~2023 through December 31, ~~2022~~2023

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## **ARTICLE 1-PURPOSE OF AGREEMENT**

This AGREEMENT is entered into between the City of Lake Elmo, hereinafter called the EMPLOYER, and Local No. 49, International Union of Operating Engineers, hereinafter called the UNION. The intent and purpose of this AGREEMENT is to:

- 1.1 Establish and memorialize the parties' agreement concerning wages and other terms and conditions of employment for the duration of such agreements;
- 1.2 Establish procedures for the resolution of disputes concerning the interpretation and/or application of this written Agreement.

## **ARTICLE 2-DEFINITIONS**

- 2.1 **DAYS:** Calendar Days excluding Saturdays, Sundays and Recognized holidays.
- 2.2 **UNION:** The International Union of Operating Engineers, Local No. 49, ~~AFL-CIO~~.
- 2.3 **EMPLOYER:** The individual municipality designated by this AGREEMENT is the CITY OF LAKE ELMO.
- 2.4 **UNION MEMBER:** A member of the International Union of Operating Engineers, Local No. 49.
- 2.5 **EMPLOYEE:** A member of the exclusively recognized bargaining unit.
- 2.6 **BASE PAY RATE:** The Employee's hourly pay rate exclusive of any other special allowances.
- 2.7 **SENIORITY:** Length of continuous service with the EMPLOYER.
- 2.8 **SEVERANCE PAY:** Payment made to an Employee upon honorable termination of employment.
- 2.9 **CALL BACK:** Return of an Employee to a specified work site to perform assigned duties at the express authorization of the EMPLOYER at a time other than the normal work day. An extension of or early report to an assigned shift is not a call back.

2.10 **On-Call:** Periods of time when an employee is not scheduled to work but must remain available to work.

2.11 **STRIKE:** Concerted action in failing to report for duty, the willful absence from one's position, the stoppage of work, slowdown, or abstinence in whole or in part from the full, faithful and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in the conditions or compensation or the rights, privileges or obligations of employment.

2.12 **GRIEVANCE:** A dispute between the parties as to the application or interpretation of this agreement. Such procedures for filing a grievance are outlined in Article 6.

2.13 **IMMEDIATE FAMILY:** The employee's spouse, and the children, grandchildren, parents, grandparents, brothers and sisters, of the employee and the employee's spouse, including all step relations.

2.14 **WORK WEEK:** For the purposes of this agreement the normal work week shall be forty (40) hours Monday through Friday.

### **ARTICLE 3-RECOGNITION**

3.1 The EMPLOYER recognizes the UNION as the exclusive representative for all employees of the Lake Elmo Street, Water & Sewer, and Park & Recreation employees, who work more than 14 hours per week, or, thirty five (35) percent of the normal work week, and more than 67 working days per year, excluding the Director of the Public Works, Clerical, Supervisory, and Administrative Personnel.

3.2 In the event the EMPLOYER and the UNION are unable to agree as to the inclusion or exclusion of a new or modified job class, the issue shall be submitted to the bureau of mediation services for determination.

### **ARTICLE 4 – UNION SECURITY**

All employees who have completed thirty-one (31) calendar days of employment shall become members of the Union and shall maintain their membership in good standing. "In good standing," for the purpose of this Agreement, is defined as to mean the payment of a standard initiation fee and standard regular monthly dues uniformly required as a condition of acquiring or retaining membership in the Union.

In recognition of the UNION as the exclusive representative the EMPLOYER shall:

4.1 Deduct each payroll period an amount sufficient to provide the payment of dues established by the UNION from the wages of all employees authorizing in writing such deduction, or as allowed for fair share dues and representation as provided for under PELRA, and

4.2 Remit such deduction to the appropriate designated officer of the UNION.

4.3 The UNION may designate certain employees from the bargaining unit to act as stewards and shall inform the EMPLOYER in writing of such choice.

4.4 The UNION agrees to indemnify and hold the EMPLOYER harmless against any and all claims, suits, orders or judgments brought or issued against the City as a result of any action taken or not taken by the City under the provisions of this Article.

#### **ARTICLE 5-EMPLOYER SECURITY**

5.1 The UNION agrees that during the life of this AGREEMENT it will not cause, encourage, participate in or support any strike, slow down, other interruption of or interference with the normal functions of the EMPLOYER.

5.2 Any employee who engages in a strike may have their appointment terminated by the EMPLOYER effective the date the violation first occurs. Such termination shall be effective upon written notice served upon the employee.

5.3 An employee who is absent from any portion of the employee's work assignment without permission, or who abstains wholly or in part from the full performance of the employee's duties without permission from the employee's EMPLOYER on the date or dates when a strike occurs is prima facie presumed to have engaged in a strike on such date or dates.

5.4 An employee who knowingly strikes and whose employment has been terminated for such action may, subsequent to such violation, be appointed or re-appointed or employed or re-employed, but the employee shall be on probation for two years with respect to such civil service status, tenure of employment, or contract of employment, as the employee may have theretofore been entitled.

5.5 No employee shall be entitled to any daily pay, wages or per diem for the days on which the employee engaged in a strike

#### **ARTICLE 6-EMPLOYER AUTHORITY**

6.1 The EMPLOYER retains the full and unrestricted right to operate and manage all manpower, facilities, and equipment; to establish functions and programs; to set and amend budgets; to determine the utilization of technology; to establish and modify the organizational structure; to select, direct and determine the number of personnel; to establish work schedules; and to perform any inherent managerial function not specifically limited by this AGREEMENT.

6.2 Any term and condition of employment not specifically established or modified by the AGREEMENT shall remain solely within the discretion of the EMPLOYER to modify, establish, or eliminate.

## **ARTICLE 7-GRIEVANCE PROCEDURE**

**Section A.** A grievance is defined as any dispute or disagreement between an employee and the City as to the interpretation or application of this agreement and shall not include any dispute or disagreement regarding proposed changes in the terms and conditions of this agreement, nor shall a grievance extend to matters of inherent managerial policy, the overall budget of the City, utilization of technology, the organizational structure or selection, direction and number of personnel.

**Section B.** A grievance shall not be valid for consideration unless the grievance is submitted in writing within twenty (20) days after the grievance arose. Failure to file any grievance within such period shall be deemed a waiver thereof.

**Section C.** The employee and the City shall attempt to adjust all grievances which may arise during the course of employment in the following manner:

**Subd. 1.** An effort shall first be made to resolve the grievance informally between the employee and supervisor. If the grievance cannot be resolved through informal discussion, then the grievance shall be submitted in writing to the supervisor setting forth the facts and the specific provisions of the Agreement allegedly violated. The supervisor or his/her designee will give his/her written decision on the grievance within ten (10) days after receipt of the written grievance.

**Subd. 2.** In the event that the grievance is not resolved in Subd. 1, the decision rendered in Subd. 1 may be appealed to the City Administrator provided such appeal is made in writing and appealed to the City Administrator within five (5) days after receipt of the decision in Subd. 1. The City Administrator or his/her designee shall set a time to meet with the employee within fifteen (15) days after receipt of the appeal. Within ten (10) days after the meeting, the City Administrator or his/her designee shall issue a decision in writing.

**Subd. 3.** In the event that the grievance is not resolved in Subd. 2, the decision rendered in Subd. 2 may be appealed to the City Council within five (5) days after receipt of the decision in Subd. 2. Said City Council shall consider such grievance at a meeting called within fifteen (15) days after said appeal is filed with the City Clerk.

**Subd. 4.** A grievance unresolved in Subd. 3 and appealed in Subd. 4, shall be submitted to the Minnesota Bureau of Mediation Services. A grievance not resolved in Subd. 4 may be appealed to Section F within fifteen (15) days following the EMPLOYER'S final answer in Subd. 4. Any grievance not appealed in writing to Section F by the UNION within fifteen (15) days, shall be considered waived.

**Subd. 5.** The employee in each of the above subdivisions may be accompanied by and represented by a person designated by him/her.

**Section D.** Failure by the employee to appeal a grievance from one (1) subdivision to another within the time periods provided; therein, shall be deemed a waiver of the grievance. In computing time in the foregoing procedure, the word "day" shall constitute calendar days.

**Section E.** Failure by the City Council or the City employees to issue a decision within the time period provided herein shall constitute a denial of the grievance.

**Section F. Arbitration Procedure:** In the event that the employee and the City are unable to resolve any grievance as defined in Section A herein, the grievance may be submitted to binding arbitration.

**Subd. 1.** A request to submit a grievance to arbitration must be in writing, signed by the aggrieved party, and such request must be filed in the office of the City Clerk within ten (10) days following the decision in Subd. 4 of the grievance procedure.

**Subd. 2.** No grievance shall be considered by the arbitrator which has not first been duly processed in accordance with the grievance procedure and appeal provisions outlined in this procedure.

**Subd. 3.** The grievance shall be heard by a single arbitrator and both parties may be represented by such person or persons as they may choose and designate, and the parties shall have the right to a hearing at which time both parties will have the opportunity to submit evidence, offer testimony, and make oral or written arguments relating to the issues before the arbitrator.

**Subd. 4.** Decisions by the arbitrator in cases properly before him/her shall be final and binding upon the parties.

**Subd. 5.** Each party shall bear its own expenses in connection with the arbitration, including expenses relating to the party's representatives, witnesses, and any other expenses which the party incurs in connection with presenting its case in arbitration. A transcript shall be made of the hearing. The parties shall share equally fees and expenses of the arbitrator, the cost of the transcript, and any other expenses which the parties mutually agree are necessary for the conduction of the arbitration.

**Subd. 6.** The arbitrator shall have jurisdiction over disputes or disagreements relating to matters properly before the arbitrator pursuant to the terms of this procedure. The jurisdiction of the arbitrator shall not extend to the proposed changes in terms and conditions of employment as defined herein and contained in a written agreement or memorandum of agreement as agreed to by the parties; nor shall an arbitrator have jurisdiction over any matter which has not been submitted to arbitration in compliance with the terms of the grievance and arbitration procedure as



outlined herein; nor shall the jurisdiction of the arbitrator extend to matters of inherent managerial policy, which shall include but are not limited to such areas of discretion or policy as the functions and programs of the Employer, its overall budget, utilization of technology, the organizational structure and selection and direction and number of personnel.

**Subd. 7.** Upon the proper submission of a grievance under the terms of this procedure, the parties shall, within fifteen (15) days after the submission, attempt to agree upon the selection of an arbitrator. If no agreement is reached within fifteen (15) days, the parties may individually or jointly request the Bureau of Mediation Services to appoint an arbitrator, requesting that said appointment be made within thirty (30) days after the receipt of said request.

### **7.1 Waiver**

If a grievance is not presented within the time limits set forth above, it shall be considered "waived". If a grievance is not appealed to the next step within the specified time limit or any agreed extension thereof, it shall be considered settled on the basis of the EMPLOYER'S last answer. If the EMPLOYER does not answer a grievance or an appeal thereof within the specified time limits, the UNION may elect to treat the grievance as denied at that step and immediately appeal the grievance to the next step. The time limit in each step may be extended by mutual agreement of the EMPLOYER and the UNION.

### **7.2 Choice of Remedy**

If a grievance involves the suspension, demotion or discharge of an Employee who has completed the required probationary period, and the Employee has rights under the Minnesota Veterans Preference Act (VPA), the grievance may be appealed either pursuing arbitration under this Agreement or by requesting a hearing under the VPA. If the Employee appeals under the VPA or pursuant to some other applicable employment law, the grievance is not subject to the arbitration procedure and the Employee shall have waived the right to arbitrate pursuant to this Agreement.

## **ARTICLE 8 SAVINGS CLAUSE**

8.1 This Agreement is subject to the laws of the State of Minnesota, the United States of America, and the signed municipality. In the event any provision of this Agreement shall be held contrary to law by a court of competent jurisdiction from whose final judgment or decree no appeal has been taken within the time provided, such provision shall be voided. All other provisions shall continue in full force and effect.

## **ARTICLE 9-LEAVES OF ABSENCE**

9.1 Funeral leave shall be granted to full-time Employees as follows:

An employee will be granted a maximum of three (3) working days funeral leave with pay in the event of a death in the employee's immediate family, One (1) paid day for funeral leave will be granted for family not defined as immediate family. Additional days for funeral leave may be granted at the discretion of the Public Works Director for extenuating and unusual circumstances, which additional time may be charged against the employee's PTO time.

9.2 Funeral Leave will be at the Employee's regular rate of pay. Upon approval of the supervisor, the Employee may choose to use PTO to extend the funeral leave. The authorized supervisor may determine the length of leave for any case not meeting the above guidelines.

9.3 All other leaves will be in accordance with Minnesota State Statute Chapter 181.

### **ARTICLE 10-DISCIPLINE**

10.1 The EMPLOYER shall have the right to impose disciplinary actions on employees for just cause only.

- a. oral reprimand;
- b. written reprimand;
- c. suspension'
- d. demotion; or
- e. discharge

10.2 Written reprimands, notices of suspension, notices of demotion and notices of discharge which are to become part of an Employee's personnel file shall be presented in written form read and acknowledged by signature of the Employee. The Employee and Union will receive a copy of such reprimands and/or notices at the time of implementation. At the request of the Employee, oral and written reprimands shall be removed from the file after five (5) years provided the Employee has not been involved in disciplinary action.

10.3 Employees may examine their own individual personnel files at reasonable times under the direct supervision of the EMPLOYER.

10.4 Employees will not be questioned concerning an investigation that may lead to disciplinary action unless the employee has been given the opportunity to have a Union representative of their choice present at such questioning.

### **ARTICLE 11-PROFESSIONAL DEVELOPMENT**

11.1 When an employee's attendance at training or educational sessions is directed by the City, such attendance will be without loss of pay. Such attendance will include reasonable

reimbursement for travel, lodging, and/or program expenses, provided such expenses are approved in advance by the City Administrator or Public Works Director.

### **ARTICLE 12- EXTENDED ILLNESS BANK**

12.1 All accrued, but unused, Sick Leave banks of City employees as of January 1, 2004 were converted to Extended Illness Banks. An employee's Extended Illness Bank balance may be utilized only for illness or injury, as certified by a physician's statement; and, only after an employee has used ten (10) days of Paid Time Off.

12.2 Under no circumstances can an employee receive both Extended Illness Bank balances and Worker's Compensation benefits for the same period of disability, except if the employee elects to receive Worker's Compensation benefits, he/she may also use Extended Illness Bank balances, subject to other related Policy, to the extent necessary to increase their income to their net wage prior to the injury or onset of the disease.

### **ARTICLE 13-PTO**

13.1 Accrual rates: All full time and all part time employees shall receive PTO benefits which shall be paid at their regular rate of compensation and may be used in a minimum of thirty (30) minute increments. PTO may be used as it is earned, pursuant to the following schedule:

Upon completion Of:	Monthly Accrual Rate
0- <del>5</del> <u>2</u> years	<del>5</del> <u>4.75</u> hours bi-weekly
<u>3-5 years</u>	<u>6 hours bi-weekly</u>
6-10 years	<del>6</del> <u>57.5</u> hours bi-weekly
11-15 years	<u>8.5</u> hours bi-weekly
16-24 years	9.5 hours bi-weekly
25 +	10 hours bi-weekly

\*Rick Gustafson – 11 hours bi-weekly

Employees with 20 or more years of completed service as of January 1, 2004, shall accrue Personal Time Off at a rate of eleven (11) hours bi-weekly.

13.2 No more than two hundred forty (240) hours of PTO may be carried over into the following year. Any amount above the maximum two hundred forty (240) hours shall be converted to a contribution to MSRS. Such conversion shall be capped at forty (40) hours accumulation per

year. The conversion shall take place in conjunction with issuing the calendar year's final paychecks.

#### **ARTICLE 14-HEALTH BENEFITS**

Effective 1/1/2018 The Employer agrees to make monthly contributions to the Health and Welfare Fund and will execute a separate participation agreement regarding those contributions. The Employer will provide to all full time employees, Local 49's Bargaining Premium Health Insurance at the rate set forth by the fund trustees, with the employee responsible for paying fifteen percent (15%) towards the cost of the premium.

#### **ARTICLE 15-LIFE INSURANCE**

The Employer will purchase and maintain at its expense, a Term Life insurance policy in the amount of \$25,000 for each employee.

#### **ARTICLE 16-DISABILITY INSURANCE**

The Employer will provide at its expense, long and short term disability insurance for each employee. Except as otherwise prohibited by law, this policy will in no way affect or be affected by the employee's Worker's Compensation benefits.

#### **ARTICLE 17- HOLIDAYS**

17.1 Holidays are defined as:

- |     |                        |                             |
|-----|------------------------|-----------------------------|
| 1.  | New Year's             | January 1                   |
| 2.  | Martin Luther King Day | Third Monday in January     |
| 3.  | President's Day        | Third Monday in February    |
| 4.  | Memorial Day           | Last Monday in May          |
| 5.  | Independence Day       | July 4                      |
| 6.  | Labor Day              | First Monday in September   |
| 7.  | Columbus Day           | Second Monday in October    |
| 8.  | Veteran's Day          | November 11                 |
| 9.  | Thanksgiving Day       | Fourth Thursday in November |
| 10. | Day after Thanksgiving | Fourth Friday in November   |
| 11. | Christmas Eve          | December 24                 |
| 12. | Christmas Day          | December 25                 |

17.2 Holidays occurring on Saturday will be observed the preceding Friday and holidays occurring on Sunday will be observed on the following Monday, Employees shall receive eight (8) hours of pay at their regular hourly rate for all recognized holidays.

17.3 When business emergencies arise, Non-exempt hourly employees required to work on a recognized holiday will be paid at one and one-half (1 ½) times their regular base rate of pay, in addition to their regular holiday pay. Compensatory time-off may be taken in lieu of payment. Employees will be paid two times their regular base rate of pay to work on Christmas Eve, Christmas Day and New Year's Day.

### **ARTICLE 18-HOURS OF WORK**

18.1 The normal work week shall be forty (40) hours, Monday through Friday.

18.2 In the event that work is required because of unusual circumstances such as fire, flood, snow, sleet, Sewer/water and street emergencies, the employer reserves the right to adjust employee's work hours to best serve the public; no advance notice need be given as required in 18.4.

18.3 Employees are entitled to two (2) paid fifteen-minute rest breaks and an unpaid thirty (30) minute meal break for each normal work day.

18.4 Service to the public may require the establishment of regular shifts for some employees on a daily, weekly, seasonal, or annual basis other than the normal work day. Service to the public requires the establishment of regular workweeks that schedule work on Saturdays and/or Sundays. The Employer shall give seven (7) calendar days advance notice to the Employees affected by the establishment of the work days different from the Employee's normal work day. The employer need not give seven (7) day notice for annual clean up days.

### **ARTICLE 19-OVERTIME PAY**

19.1 Hours worked in excess of the normal work shift, shall be compensated for at one and one-half (1-½) times the Employee's regular base pay rate, or at discretion of employee, compensatory time off at the rate of one and one-half (1-½) hours off for each hour of overtime worked.

19.2 For the purpose of calculating overtime compensation, overtime hours worked shall not be pyramided, compounded, or paid twice for the same hours worked.

19.3 Employees may earn compensatory time at the rate of one and one half (1 ½) times in lieu of overtime pay, upon mutual agreement between the employee and the Employer, not to exceed fifty (50) hours with a maximum annual carry over of forty (40) hours. As of the last

pay period in November of each year, all accumulated compensatory time above the maximum carry over amount of forty (40) hours shall be paid to the employee.

19.4 For purposes of calculating overtime, hours worked shall be defined as those hours actually worked or accounted for by holidays in one workweek. Workers Compensation will not apply as hours worked for purposes of calculating overtime.

#### **ARTICLE 20- ON CALL**

- a. Local 49 members scheduled to be on-call; on weekends shall be compensated five (5) hours at one and a half (1 ½) times their regular rate for the period beginning the end of the work day on Friday and ending the start of the work day on Monday.
- b. Local 49 members scheduled to be on-call weekdays (Monday through Thursday) shall be compensated one (1) hour for each work day served at one and one half (1 ½) times the regular rate.
- c. Local 49 members scheduled to be on-call during a holiday will receive two and one half (2 ½) hours at one and a half (1 ½) time their regular pay.
- d. The member scheduled for on call shall be provided with the dedicated on-call cell phone. All on-call employees will be required to be work ready when on call, and must be within close proximity to the City so that they can answer emergency calls.
- e. Local 49 members shall have the right to switch on-call schedules with one another provided they communicate said change with their immediate supervisor.
- f. The Director of Public Works and the bargaining unit will make up the schedule to be on-call on weekends, week days, and Holidays with the final approval by the Director of Public Works. All employees are required to participate in the on-call schedule once approved by the Director of Public Works.
- g. Such on-call pay shall be in addition to other compensation which the Employee is entitled to under this Agreement. Any time spent on-call will not count towards hours worked for purposes of calculating overtime, unless such Employee was actually called to answer and/or respond to a call.

#### **ARTICLE 21-CALL BACK**

Employees called to work at a time other than their normal scheduled shift, shall be paid a minimum of two (2) hours at one and one-half (1 ½) times their regular rate of pay.

Employees who are called during off shift hours to resolve a problem and are able to do so without physically reporting to work will be entitled to a minimum of one (1) hour pay at the applicable rate.

#### **ARTICLE 22-RIGHT TO SUBCONTRACT**

Nothing in this AGREEMENT shall prohibit or restrict the right of the EMPLOYER from subcontracting work performed by employees covered by this AGREEMENT.

### **ARTICLE 23- UNIFORMS/BOOTS/SAFETY/CELL PHONE ALLOWANCE**

23.1 The Employer will provide initial uniforms, winter clothing, rain gear and the necessary safety equipment for full-time employees according to the reasonableness and necessity in the performance of their job. The Employer agrees to supply and maintain work uniforms for bargaining unit members.

23.2 The Employer agrees to provide to all full time employees a city issued cell phone. Employees shall take steps not to lose or damage the cell phone. The Employer will provide reimbursement in the amount of two hundred and twenty five dollars (\$225.00) per year towards the purchase of safety boots.

### **ARTICLE 24- LAYOFF AND RECALL**

24.1 In case of the need to eliminate positions, employees will be laid off based on inverse seniority within their job classification when all job relevant qualification factors are equal. Employees will be given a minimum of fourteen (14) days advance notice prior to layoff.

24.2 Employees will be recalled from layoff based on seniority within their job classification when all job relevant qualification factors are equal. Notice of recall shall be sent to the laid off employee's last known address by registered/certified mail. Employees will be given seven (7) days after receipt of recall notice to inform the employer of their intent to return to work. Failure to respond within the seven (7) day period will terminate recall rights.

### **ARTICLE 25- PROBATIONARY PERIOD**

25.1 All newly hired or rehired employees will serve a ~~six-one (61)~~ month-year probationary period.

25.2 At any time during the probationary period a newly hired or rehired employee may be terminated at the sole discretion of the Employer.

25.3 All employees will serve a ~~six-one (61)~~ month-year probationary period in any job classification in which the employee has not served a probationary period.

25.4 At any time during the probationary period a promoted or reassigned employee may be demoted or reassigned to the employee's previous position at the sole discretion of the Employer.

## **ARTICLE 26- JOB POSTING**

26.1 The Employer and the Union agree that permanent job vacancies within the designated bargaining unit shall be filled based on the concept of promotion from within provided that applicants:

Have the necessary qualifications to meet the standards of the job vacancy; and

Have the ability to perform the duties and responsibilities of the job vacancy.

26.2

Employees filling a higher job class based on the provisions of this ARTICLE shall be subject to the conditions of ARTICLE 25 (PROBATIONARY PERIODS).

26.3 The EMPLOYER has the right of final decision in the selection of employees to fill posted jobs based on qualifications, abilities and experience.

Job vacancies within the designated bargaining unit will be posted for five (5) working days so that members of the bargaining unit can be considered for such vacancies.

## **ARTICLE 27- SAFETY**

The Employer and the Union agree to jointly promote safe and healthful working conditions, to cooperate in safety matters and to encourage employees to work in a safe manner.

## **ARTICLE 28- SEVERANCE**

28.1 Full-time employees will be paid severance pay as follows:

28.2 Employees who leave the employment of the City by Retirement, Death, Disability or Resignation will receive pay for unused and or accrued PTO and any compensatory time accumulated as provided by this agreement. Employees shall have the option of directing those dollars into a 457 deferred compensation plan (subject to IRS regulations and Minnesota law) or (MSRS resolution).

## **ARTICLE 29- WAGES**

Employees will be evaluated by their supervisor annually consistent with the Public Works Operator Level III-I or Lead Worker job description. A personal review of the evaluation will be required between the employee and the employee's supervisor. The employee will complete a self-evaluation prior to the review with the supervisor. All employees will be eligible for an increase noted below provided the employee meets the job performance criteria as outlined in the job description and with a satisfactory performance evaluation. The employer shall give the employees a one hundred and twenty (120) day notice of any changes to the job requirements.



	<del>1/1/22</del> <u>January 1, 2023</u>
PW Operator III (Probationary)	<del>\$26.19</del> <u>\$26.23</u>
PW Operator III (Full Standing.)	<del>\$27.83</del> <u>\$28.66</u>
PW Operator II	<del>\$29.56</del> <u>\$30.61</u>
PW Operator I	<del>\$31.36</del> <u>\$32.69</u>
Lead Worker (Probationary)	<del>\$34.20</del> <u>\$35.14</u>
Lead Worker (Full Standing)	<del>\$35.23</del> <u>\$36.20</u>

### **ARTICLE 30 – RETIREMENT INSURANCE**

Employees have the ability to participate in the Central Pension Fund.

**(By MEMORANDUM OF UNDERSTANDING)**

### **ARTICLE 31 - WAIVER**

31.1 Any and all prior agreements, resolutions, practices, policies, rules and regulations regarding terms and conditions of employment, to the extent inconsistent with the provisions of this AGREEMENT, are hereby superseded.

31.2 The parties mutually acknowledge that during the negotiations which resulted in this AGREEMENT, each had the unlimited right and opportunity to make demands and proposals with respect to any term or condition of employment not removed by law from bargaining. All agreements and understandings arrived at by the parties are set forth in this AGREEMENT for the stipulated duration of this AGREEMENT. The EMPLOYER and the UNION each voluntarily and unqualifiedly waives the right to meet and negotiate regarding any and all terms and conditions of employment referred to or covered in this AGREEMENT or with respect to any term or condition of employment not specifically referred to or covered by this AGREEMENT, even though such terms or conditions may not have been within the knowledge or contemplation of either or both parties at the time this contract was negotiated or executed.

**ARTICLE 32– DURATION**

This AGREEMENT shall be effective as of **January 1, ~~2022~~2023** and shall remain in full force and effect until **December 31, ~~2022~~2023**.

**FOR THE CITY OF LAKE ELMO:**

\_\_\_\_\_

\_\_\_\_\_

**FOR I.U.O.E. LOCAL NO. 49:**

\_\_\_\_\_

**Jason George, Business Manager**

\_\_\_\_\_

**Ron Boesel, Business Representative**

\_\_\_\_\_

**Steward**

**MEMORANDUM OF UNDERSTANDING**  
**Central Pension Fund**  
**City of Lake Elmo**

The City of Lake Elmo agrees to participate in the Central Pension Fund of the International Union of Operating Engineers and Participating Employers ("Central Pension Fund") in accordance with the terms of the Reinstated Agreement and Declaration Trust of the Central Pension Fund, the Plan of Benefits, and this Memorandum of Understanding.

- 1) Minnesota Statute § 356.24 Subd. 1(10) expressly authorizes the Employer to contribute public funds to the Central Pension Fund as a supplemental pension plan for the employees of a governmental subdivision who are covered by a collective bargaining agreement that provides for such coverage.
- 2) Sections 4.1 of the Restated Agreement and Declaration of Trust of the Central Pension Fund and 13.01 of the Plan of Benefits only permits Employer contributions to the Fund.
- 3) The parties agree that the agreed upon Employer contribution amount that would otherwise be paid in salary or wages will be contributed instead to the CPF as pre-tax employer contributions. Contributions from the City will not be funded from any other source unless agreed upon by the parties.
- 4) The hourly contribution rate will be applied to every hour compensated (i.e. hours worked, vacation, holiday and sick time) except for overtime hours worked. The Employer shall remit this contribution directly to the Central Pension Fund at 4115 Chesapeake Street NW, Washington, D.C. 20016.
- 5) For purposes of determining future wage rates, the Employer shall first restore the amount of the Employer contribution, which is currently the CPF contribution rate of (\$.75) per hour, then apply the applicable wage multiplier, then reduce the revised wage by the Central Pension Fund contribution rate.
- 6) For purposes of calculating overtime compensation, the Employer shall first restore the amount of the Employer contribution (\$.75) then apply the applicable 1.5 wage multiplier required under the Fair Labor Standards Act (FLSA) and the collective bargaining agreement, then pay the resulting amount for overtime worked.
- 7) A contribution of (\$.75) per straight time hour worked prevents annual Central Pension Fund contributions on behalf of eligible employees from exceeding \$5,000.00 in a year and therefore complies with limitations set forth under Minnesota Statute § 356.24, subd. 1(10) as amended.
- 8) The parties agree that the Public Employees Retirement Association interprets employer contributions to the Central Pension Fund as being included in determining "salary" for the

purposes of the public pension.

- 9) The parties agree to abide by the terms and conditions of the Restated Agreement and Declaration of Trust and the Plan of Benefits of the Central Pension Fund.
- 10) Effective November 1, 2017, the contribution rate equals \$0.75 per each hour compensated, including all hours worked, vacation, holiday, and sick time, but excluding overtime hours worked.
- 11) Members, by majority vote, may change the contribution rate at any time during the life of this agreement. The Union and the employer will work together to implement member approved changes as soon as is practicable.

\_\_\_\_\_  
Employer:

\_\_\_\_\_  
Ron Boesel, Business Representative

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Date: