AGREEMENT

Between

CITY OF CARLOS

And

INTERNATIONAL UNION OF OPERATING ENGINEERS
LOCAL NO. 70

January 1, 2017 through December 31, 2018
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This Agreement is made and entered into between the City of Carlos, hereinafter referred to as the Employer, and the International Union of Operating Engineers, Local Union No. 70, hereinafter referred to as the Union. The parties hereto agree as follows:

**ARTICLE 1 – PURPOSE**

Section 1. The Union and the Employer agree that the purpose for entering into this agreement is to:

A. Provide for a means to peacefully resolve disputes concerning the application or interpretation of this Agreement.

B. Specify the full and complete understanding of the parties; and

C. Place in written form, the complete agreement upon the terms and conditions of employment for the duration of this Agreement.

**ARTICLE 2 – RECOGNITION**

Section 1. The Employer recognizes the Union as the exclusive representative for all employees of the Public Works Department of the City of Carlos, Minnesota who are employed for more than fourteen (14) hours per week and more than one hundred (100) days per year, excluding elected officials, supervisory employees and confidential employees.

Section 2. Disputes which may occur over the inclusion or exclusion of new, modified or other job classifications within the described units shall not be referred to the Bureau of Mediation Services for determination.

**ARTICLE 3 – DEFINITIONS**

Section 1. Union: The International Union of Operating Engineers, Local No. 70.

Section 2. Union Member: A member of the I.U.O.E. Local No. 70.

Section 3. Employee: A person employed by the Employer and assigned to a
job classification within an appropriate bargaining unit covered by this Agreement.

Section 4. Probationary Employee: Employee who has not completed the probationary period.

Section 5. Regular Employee: Employee who has completed the probationary period.

Section 6. Employer: The City of Carlos or a designated representative.

Section 7. Union Officer: An elected or appointed representative of I.U.O.E. Local No. 70.

ARTICLE 4 – UNION RIGHTS

Section 1. Dues Deduction. The Employer agrees to deduct monthly from the wages of employees who authorize such a deduction in writing, an amount equal to monthly Union dues.

Section 2. Fair Share. The Employer, upon written notification from the Union, shall deduct monthly from the wages of non-probationary employees who are not members of the Union, a "fair share" fee in accordance with Minnesota statutes.

Section 3. Remittance of Dues and Fair Share. The Employer shall remit to the UNION monthly, the deductions made under Sections 1 and 2 of this Article, together with a statement of employees from whom such deductions have been made.

Section 4. Indemnification. 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 Sections 1 and 2 of this Article.

Section 5. Right to Join and Participate. Employees shall have the right freely and without fear of penalty or reprisal, to form, join and participate in the Union or to refrain from such activity.
Employees shall have the right to freely participate in internal Union affairs, as officers, stewards, committee persons or such other capacities to the extent that such participation does not interfere with an employee's job duties and responsibilities.

Section 6. Stewards. The Union may designate to a maximum of one (1) employee within each bargaining unit as Steward and shall notify the Employer in writing of the employee so designated and of any changes in such positions.

A. A Steward shall have those duties and responsibilities as established by Article 13 (Grievance Procedure).

B. During working hours and without loss of pay, a designated Steward shall be allowed reasonable time to post official Union notices or announcements to transmit official communications authorized by the Union to the Employer, so long as such activity does not interfere with the employee's assigned job and responsibilities.

C. Upon notification to the Employer, a Steward shall be allowed reasonable time off duty, with pay, to consult with the Employer or Union officers, concerning the administration of this Agreement, or to attend negotiation sessions mutually scheduled by the Union and the Employer for the renegotiation of this Agreement.

Section 7. Union Representative. Business Representative of the Union shall have the right to enter the Employer's facilities to meet with employees covered by this Agreement.

Section 8. Use of Employer's Facilities. Under no circumstances will the Employer's human resources, supplies, equipment, or facilities be used in support of Union affairs or business, except as hereinafter provided by this Section.

A. The Employer shall provide reasonable space designated for employee bulletin boards for the posting of official Union notices and announcements.
B. Official Union shop meetings, called by a Union Business Representative, may be held in the employee's lunchrooms or available maintenance areas, during lunch or break periods provided that such meetings do not interfere with the employee's work duties and responsibilities.

ARTICLE 5 – EMPLOYER RIGHTS

Section 1. The Employer retains the full and unrestricted right to operate and manage all human resources, 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.

Section 2. Any term and condition of employment not specifically established or maintained by this Agreement shall remain within the discretion of the Employer to modify, establish or eliminate.

Section 3. Nothing in this Agreement shall be construed as restricting or prohibiting the Employer's right to subcontract, however, the Employer agrees to notify the Union sixty (60) days prior to final action regarding subcontracting work which would reduce the work or number of hours worked by the employees employed at the date of this Agreement.

Section 4. Upon request of the Union, the Employer shall meet and confer regarding the subcontracting decision.

ARTICLE 6 – HOURS OF WORK

Section 1. The Employer shall be the sole authority in determining work schedules. It is understood, however, that employees and the Union shall be notified in writing seventy-two (72) hours before the effective date of such changes. The notification shall not be required in cases of temporary schedule changes to meet emergency needs.
Section 2. The normal work day for employees covered by this Agreement shall consist of a scheduled shift of eight (8) consecutive hours, 8:00 a.m. to 5:00 p.m., exclusive of one (1) hour duty-free lunch and a normal work week shall consist of five (5) consecutive eight (8) hour days, Monday through Friday except in the case of an emergency situation or unless previously approved.

Section 3. Any employee covered by this Agreement required to respond to a pager during his/her duty-free lunch shall have the option of leaving the job one (1) hour early for that shift or work the entire shift and receive one (1) hour overtime for that shift.

ARTICLE 7 – OVERTIME, CALL-BACK AND PREMIUMS

Section 1. Overtime. The Employer shall have the right to schedule overtime work. Employees scheduled overtime shall be compensated for such hours worked in accordance with this Article.

A. All hours scheduled and worked in excess of forty (40) hours per week, shall be compensated at the rate of one and one-half (1-1/2) times the employee's straight time hourly rate.

B. Comp time may be substituted in lieu of payment of overtime hours at the rate of one and one-half (1-1/2) times each hour worked in excess of 40 hours in a week, if mutually agreed to by the Employer and the employee.

Section 2. Call-Back. An employee who is called to duty by the Employer during scheduled off-duty time shall receive a minimum of one (1) hour's pay at one and one-half (1-1/2) times the employee's base rate or actual time worked, whichever is greater. An extension or early report to a regularly scheduled shift for duty does not qualify the employee for the one (1) hour minimum or for overtime payment, unless such time is in excess of forty (40) hours per work week.
ARTICLE 8 – VACATION

Section 1. Regular employees shall earn vacation on the following basis:

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<th>Years of Service</th>
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<td>After 1 year of Service</td>
<td>40 hours – 5 days</td>
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<td>After 2 years of Service</td>
<td>80 hours – 10 days</td>
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<td>After 7 years of Service</td>
<td>120 hours – 15 days</td>
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<td>After 12 years of Service</td>
<td>160 hours – 20 days</td>
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Section 2. Each employee covered by this Agreement shall be allowed to carry over into the next fiscal year up to five (5) days’ vacation. Vacation days carried over to the following year must be used by June 30th of the following year. Vacation requests that are denied by the employer and are not utilized by December 31st of that year will be carried over to the following year to be used by June 30th.

Any vacation days that the employee carries over must be used by June 30th, and any such carried over vacation days not used will be forfeited by the employee.

Additional hours may be carried into the next fiscal year if approved by employee’s supervisor.

ARTICLE 9 – SICK LEAVE, FUNERAL, AND LEAVES WITHOUT PAY

Section 1. Regular employees shall earn sick leave at the rate of 40 hours annually. Up to 240 hours of sick time may be accrued.

Section 2. Sick leave may be used for the following purposes:

A. Actual sickness or temporary physical disability.

B. Employees will be allowed to use sick leave for the care of a sick member of the employee’s immediate family. Immediate family members will be defined as the employee’s wife, children, mother and father, mother-in-law, father-in-law, brother or sister.
Section 3. The Employer may require proof of illness before sick leave is granted, providing there exists reasonable cause to show that the employee was not ill.

Section 4. Employees are eligible for three (3) days leave to attend funerals.

Section 5. Leaves Without Pay. The council may grant any permanent employee a leave of absence without pay for a period not exceeding 90 days except that it may extend such leaves to a maximum period of one (1) year in case the employee is disabled or where extraordinary circumstances, in its judgment, warrant such extension. No vacation or sick leave benefits shall accrue during a leave of absence without pay.

ARTICLE 10 – REST PERIODS

Section 1. All employees covered by this Agreement shall be allowed a 15-minute break period in each half of the employee's shift.

ARTICLE 11 – HOLIDAYS

Section 1. The following shall be observed as holidays for regular employees:

New Year's Day
Martin Luther King’s Birthday
President's Day
Memorial Day
Independence Day
Labor Day
Veterans Day
Thanksgiving Day
Day after Thanksgiving
Christmas Day
Floating Holiday

January 1st
3rd Monday of January
3rd Monday of February
Last Monday in May
July 4th
1st Monday in September
November 11th
4th Thursday in November
4th Friday in November
December 25th
4 Hours for 2015, 8 Hours for 2016

Section 2. Regular employees meeting the eligibility requirements of Article 11, Section 5 shall receive a normal day's pay for each of the observed holidays established by Article 11, Section 1.
Section 3. Holidays which occur on a Saturday will be observed on the previous Friday, and holidays which occur on Sunday will be observed on the following Monday.

Section 4. Regular employees who work on a holiday shall be paid at the rate of one and one-half (1-1/2) times their regular straight time hourly rate for all such hours worked, in addition to the pay for the holiday.

Section 5. To be eligible for holiday pay or for the observed holiday premium established by Article 11, Section 2 and Article 11, Section 4, employees must have worked their last scheduled normal work day prior to the observed holiday and their first scheduled normal work day following the observed holiday or have been on an approved basis as established by this Agreement.

Section 6. If a holiday falls during an employee’s vacation, the employee will only be charged for the holiday hours only.

ARTICLE 12 – DISCIPLINARY PROCEDURES

Section 1. The Employer shall have the right to impose disciplinary action on employees for just cause.

Section 2. Disciplinary action by the Employer shall include only the following:

A. Oral reprimand;
B. Written reprimand;
C. Suspension;
D. Demotion, or
E. Discharge.

Section 3. Employees who are suspended, demoted or discharged shall have the right to appeal such disciplinary actions through the grievance procedure as established by Article 13 (Grievance Procedure).

Section 4. Suspension, demotions and discharges shall be in writing, a copy of which shall be sent to the employee and a copy to the Union.
Section 5. Employees who are to be discharged will first be suspended for five (5) scheduled normal workdays prior to the discharge becoming effective. The appeal of a discharge may be initiated by the Union at Step 3 of the Grievance Procedure.

Section 6. Employees will not be questioned concerning an investigation of disciplinary action unless the employee has been given an opportunity to have a Union representative present at such questioning.

Section 7. Employees may examine their own personnel file at reasonable times under the direct supervision of a representative of the Employer.

ARTICLE 13 - GRIEVANCE PROCEDURE

Section 1. Definition of a Grievance. A grievance is defined as a dispute or disagreement as to the interpretation or application of the specific terms or conditions of this Agreement.

Section 2. Union Representative. The Employer will recognize Stewards designated by the Union in accordance with Article 4 (Union Rights), as the grievance representatives of the bargaining unit having the duties and responsibilities established by this Article.

Section 3. Processing a Grievance. It is recognized and accepted by the Union and the Employer that the processing of grievances, as hereinafter provided, is limited by the job duties and responsibilities of the employees and shall therefore be accomplished during normal working hours, only when consistent with employee duties and responsibilities. The aggrieved employee and a Union Steward shall be allowed a reasonable amount of time without loss of pay, when a grievance is investigated and presented to the Employer during normal working hours, provided that the employee and the Union Steward have notified and received the approval of their Supervisor, who has determined that such absence is reasonable and would not be detrimental to the work programs of the Employer.

Section 4. Procedure. Grievances, as defined by Section 1, shall be resolved in conformance with the following procedure:
**Step 1.** An employee claiming a violation concerning the interpretation or application of this Agreement shall, within twenty-one (21) calendar days after such alleged violation has occurred, present such grievance to the Supervisor. The Supervisor will discuss the alleged grievance with the employee and give an answer to such Step 1 grievance within ten (10) days following the discussion. A grievance not resolved in Step 1 and appealed by the Union to Step 2 shall be placed in writing setting forth the nature of the grievance, the facts on which it is based, the provision or provisions of the Agreement allegedly violated and the remedy requested. Any grievance not appealed in writing to Step 2 by the Union within ten (10) calendar days following Step 1 answer shall be considered waived.

**Step 2.** If appealed, the written grievance shall be presented by a Union Steward and discussed with the Supervisor. The Supervisor shall give the Union the Employer's Step 2 answer in writing within ten (10) calendar days following the Step 2 discussion. Any grievance not appealed in writing to Step 3 by the Union within ten (10) days following the Step 2 answer shall be considered waived.

**Step 3.** If appealed, the written grievance shall be presented by a Union Business Representative and discussed with the Employer. The Employer shall give the Union the Employer's Step 3 answer in writing within ten (10) calendar days following the Step 3 discussion. Any grievance not appealed in writing to Step 4 by the Union within ten (10) calendar days following the Step 3 answer shall be considered waived.

**Step 4.** Either party may petition the Bureau of Mediation Services for the purpose of mediating the grievance.

**Step 5.** A grievance unresolved in Step 3 or 4 and appealed to Step 5 by the Union shall be submitted to arbitration subject to the provisions of the Public Employment Labor Relations Act of 1971, as amended. The selection of an arbitrator shall be made in accordance with the "Rules Governing the Arbitration of Grievances", as established by the Public Employment Relations Board.
Section 5. Arbitrator’s Authority.

A. The Arbitrator shall have no right to amend, modify, nullify, ignore, add to or subtract from the terms and conditions of this Agreement. The Arbitrator shall consider and decide only the specific issue(s) submitted in writing by the Employer and the Union and shall have no authority to make a decision on any other issue not so submitted.

B. The Arbitrator shall be without power to make decisions contrary to, or inconsistent with, or modifying, or varying in any way the application of laws, rules or regulations having the force and effect of law. The Arbitrator’s decision shall be submitted in writing within thirty (30) calendar days following close of the hearing or the submission of briefs by the parties, whichever is later, unless the parties agree to an extension. The decision shall be binding on the Employer, the Union and the employees and shall be based solely on the Arbitrator’s interpretation or application of the express terms of this Agreement and the evidence and testimony presented.

C. The fees and expenses for the Arbitrator’s services and proceedings shall be borne equally by the Employer and the Union, provided that each party shall be responsible for compensating its own representatives and witnesses. If either party desires a verbatim record of the proceedings, it may cause such a record to be made, providing it pays for the record. If both parties desire a verbatim record of the proceedings, the cost shall be shared equally.

Section 6. 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 the step and immediately appeal the grievance to the next step. The time limit in each step may be extended by mutual written agreement of the Employer and the Union in each step.
Section 7. If, as a result of the Employer response in Step 4, the grievance remains unresolved, and if the grievance involves the suspension, demotion, or discharge of an employee who has completed the required probationary period, the grievance may be appealed either to Step 5 of Article 13 or a procedure such as: Civil Service, Veteran's Preference or Fair Employment. If appealed to any procedure other than Step 5 of Article 13, the grievance is not subject to the arbitration procedure as provided in Step 5 of Article 13. The aggrieved employee shall indicate in writing which procedure is to be utilized...Step 5 of Article 13 or another appeal procedure...and shall sign a statement to the effect that the choice of any other hearing precludes the aggrieved employee from making a subsequent appeal through Step 5 of Article 13.

**ARTICLE 14 – ABSENCES FROM WORK**

Section 1. Employees unable to report for their scheduled normal work day because of personal illness or injury (Article 9), because of illness or injury in the employee’s immediate family (Article 9), or because of death in the employee’s immediate family (Article 9), shall notify a designated supervisor as soon as practicable, prior to the start of their scheduled normal work day, given reason(s) for the absence and the expected duration of the absence.

**ARTICLE 15 – WAGES**

Section 1. Employees shall be paid in accordance with the wages set forth in Section 3.

Section 2. All Employees shall be paid bi-weekly on alternate Fridays. When a payday falls on a holiday, employees shall receive their pay the following work day.

Section 3. Hourly Rates.

**Effective January 1, 2017:** $22.26  
**Effective January 1, 2018:** To be determined with wage re-opener
ARTICLE 16 – WAIVER

Section 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.

Section 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 writing 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 or 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 Agreement was negotiated or executed, except as provided in Article 5, Section 2 and Article 6, Section 2 of this Agreement.

ARTICLE 17 – SAVINGS CLAUSE

Section 1. The Employer and the Union agree that it is their intention that this Agreement not be in conflict with Federal or State law, rules or regulations properly promulgated there under.

Section 2. Any provision(s) of this Agreement held to be contrary to law by a court of competent jurisdiction, from whose final judgment or decree no appeal has been taken within the time provided, shall be void. All other provisions of this Agreement shall continue in full force and effect. The parties, on written notice, shall meet and renegotiate the voided provision(s).
ARTICLE 18 – DURATION

Section 1. This Agreement shall become effective January 1, 2017 and shall continue in effect through December 31, 2018 and shall continue in effect from year to year thereafter unless changed or terminated in the manner herein provided.

The City and the Union agree to a wage re-opener for the term of January 1, 2018 through December 31, 2018 for the purpose of negotiating wages for that year of the Agreement.

Section 2. Either party to this Agreement who desires to meet and negotiate a subsequent Agreement, shall give written notice to the other party no less than sixty (60) days prior to the expiration of the existing contract.

ARTICLE 19 – TUITION

Section 1. The Employer shall be responsible for payment of tuition for required education. In addition, the City shall pay wages or comp time for all hours spent for required education beyond their regular shift at a rate of 1.5 times the rate listed in the Agreement.

ARTICLE 20 – MISCELLANEOUS

Section 1. The Employer shall provide each employee covered by this Agreement, an annual clothing allowance of two hundred dollars ($300.00).
IN WITNESS WHEREOF, the parties have executed this Agreement as follows:

For: City of Carlos

[Signature]

For: International Union Of Operating Engineers, Local 70

David Monsour
David Monsour, Business Manager

Michael Dowdle, President

Linda Powers
Linda Powers, Recording Secretary

David Eynick, Business Representative

Jeff Gunderson, Steward

3-31-2017
Dated:

3/13/2017
Dated:

DE/jcb/opeiu#12
Contract/City Carlos