PART-TIME HOURLY UNION CONTRACT

2016 – 2018
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Agreement between
Duluth Entertainment Convention Center Authority
And
International Union of Operating Engineers, Local 70 Hourly Labor
Covering the year 2016-2018

This agreement dated this ____________ is entered into by and between the Duluth Entertainment Convention Center Authority, hereinafter called “Employer” and International Union of Operating Engineers, Local 70, hereinafter referred to as “Union.”

Article 1 – Purpose of Agreement

1.1 The intent and purpose of this agreement is to:

A. Establish certain hours, wages and other terms and conditions of employment, as defined in Minnesota statutes.

B. Establish procedures for the resolution of disputes concerning the interpretation or application of this agreement.

Article 2 – Definitions

2.1 Hourly Utility Employee:
Means a part-time hourly employee, assigned work duties by the foreman, assistant foreman or lead employees. Casual Hourly Employees will be promoted to Regular Hourly Utility Employees after one calendar year of experience to take effect the following pay period. Current hourly employees who have been here one year or more will become regular hourly utility employees the first full pay period after ratification.

2.2 Regular Hourly Utility Employee:
Means an employee who is assigned a regular schedule, may be designated to operate equipment and machinery, also has a working comprehensive knowledge of the DECC facilities and events, and regularly works events. Assigned work duties by the foremen, assistant foreman or lead employees.

2.3 Hourly Lead:
Means an employee who is designated to direct others on regular scheduled work assignments as directed by the foreman or assistant foreman. Scheduling preference supersedes other employees with less seniority when their lead position is required.

2.4 Employer means the Duluth Entertainment Convention Center, a legal entity managed by its Board of Directors.

2.5 Grievance means a dispute or disagreement as to the interpretation or application of the terms of this agreement.
2.6 **Manager** means the manager of the Duluth Entertainment Convention Center who is hired by its Board of Directors to manage all activities of the Duluth Entertainment Convention Center.

**Article 3 – Recognition**

3.1 The employer recognizes the union as the exclusive collective bargaining agent for those employees of the employer who satisfy the requirement set forth in Article 2, Sections 2.1, 2.2 and 2.3 above, and who are working in the job titles listed in Appendix A of this agreement.

**Article 4 – Employee Rights and Obligations**

4.1 **Right to Views.** Nothing contained in this agreement shall be construed to limit, impair or affect the right of any employee or a representative of the employee to the expression or communication of a view, complaint or opinion on any matter related to the conditions or compensation of public employment or their betterment, so long as the same is not designed to and does not interfere with the full, faithful and proper performance of the duties of employment or circumvent the rights of the Union.

4.2 **Rights to Join.** Employees shall have the right to join the Union and shall have the right not to join the Union.

4.3 **Request for Dues Check-off.** Employees shall have the right to request and be allowed dues check-off for the Union. Upon receipt of a properly executed dues deduction card by the employee involved, the Employer will deduct from the employee’s paycheck the dues that the employee has agreed to pay to the Union during the period of their employment unless otherwise started in said authorization. Deductions shall be made monthly and sent to the Union along with a list of names of all employees from whom deductions were made.

4.4 **Fair Share.** In accordance with Minnesota Statute 179A.06, subdivision 3, any employee included in the appropriate unit who is not a member of the Union will be required by the Union to contribute a fair share fee for services rendered as Union representation. Upon thirty (30) days notice, in writing to the payroll office of the name of the employee and the amount of the fair share fee certified by the Union, the Employer will deduct such fees in installments from such employee’s paycheck each month and will forward such fees to the Union. The Union agrees to notify the Employer promptly whenever any employee subject to fair share fee deduction becomes a member of the Union and no further fair share fee deductions for such employee will thereafter be made.

4.5 **Union Notification.** The Employer will notify the Union of all new employees within thirty (30) days of all newly hired and terminated employees that are included in the appropriate unit. The following information will be included in the notification: Name, Address, Phone number, Date of Hire and Starting Wage.

4.6 **Indemnification.** The Union shall indemnify and hold the Employer harmless against any and all claims, orders or judgments made against the Employer in the administration of Section 3 and Section 4 of this article.
**Article 5 – Management Rights**

5.1 The employer and union recognize and agree that except as expressly modified in this agreement, the employer has and retains all rights and authority necessary for it to direct and administer its affairs and meet its obligations under Federal, State and local law. Such rights include, but are not limited to, the rights as specified in Minnesota Statutes, section 179a.07, Subdivision 1.

**Article 6 - Saving Clause**

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

**Article 7 – Breaks**

7.1 Each employee will be allowed a paid fifteen (15) minute break during each four (4) hour or longer shift, at a reasonable time determined by the employer. Employees will receive a thirty minute unpaid break for a meal after they have completed four (4) hours of their shift and are then required to return to work.

**Article 8 – Wages**

8.1 Wages shall be paid in accordance with Appendix A of this agreement.

**Article 9 – Overtime**

9.1 All hours worked in excess of forty (40) hours in any one week or eight (8) hours in any one day shall be compensated as one and one-half (1-1/2) times the regular hourly wage.

**Article 10 – Personal Time Off (PTO)**

10.1 A PTO day is eight hours of regular hourly pay. One PTO day will accrue for every 100 hours worked over 1000 hours worked in a calendar year, subject to a maximum accrual of ten per calendar year.

Accrued PTO may be used for any purpose whatsoever at the discretion of the employee, without having to explain the reason to the Employer, subject to these rules:

10.2 An employee wishing to use PTO shall give written notice to the DECC at least ten (10) days prior to the posting of the affected schedule; provided, however, that in cases of illness, injury or other unforeseen circumstances, notice shall be given as soon as practical and at least two (2) hours prior to the commencement of the shift. Such notice shall be given by the employee personally each scheduled day of an absence caused by illness, injury or other unforeseen circumstances, unless otherwise agreed with the DECC. The DECC retains the right to investigate
suspected abuses of this notice procedure, including requiring proof of a claimed illness, injury or unforeseen circumstances.

10.3 Subject to the abilities and qualifications of the employees to do the work and subject to the staffing needs of the facility the Employer shall recognize requests for PTO and shall recognize the seniority of the employees when resolving conflicts among multiple requests for the same days off.

10.4 PTO shall not be utilized prior to accrual.

10.5 Employees shall have the option of carrying over accrued but unused PTO from one (1) calendar year to the next; provided, however, that carried-over PTO must be used in that next year or it shall be paid in cash at the end of that year.

10.6 Accrued but unused PTO not carried over from one (1) calendar year to the next shall be paid in cash at the end of the year or upon termination of employment, whichever occurs first.

10.7 PTO shall be considered “personal sick leave benefits” for such purposes of the Minnesota Sick or Injured Child Care Leave statute.

10.8 At least quarterly, the DECC shall furnish each employee with a statement of his or her accrued but unused PTO.

10.9 If any other group of employees receives a greater benefit than is provided for in this agreement of PTO, the greater benefit shall apply to this agreement with the same effective date.

Article 11 – Seniority

11.1 There shall be a seniority list established for each separate classification of employees based upon the employee’s original date of hire and continuous employment with the employer. Regular Hourly Utility employees shall have seniority over Casual Hourly employees.

11.2 1. Definitions

“Layoff” means a reduction in the employee’s scheduled hours of work of twenty percent (20%) or more per week. “Layoff” also means a reduction in the employee’s scheduled hours of work that results in the loss of eligibility for one or more fringe benefits. “Layoff” does not include Approved Leaves of Absence.

“Reduction of Hours” means a reduction in the employee’s scheduled hours of work of less than twenty (20%) per week. “Reduction of Hours” does not include Approved Leaves of Absence.

“Approved Leave of Absence” means a leave for medical reasons, family leave, work-related illness or injury, or other leave permitted or required by this Agreement or by law.
2. Reduction of Hours:

(a) No temporary or casual employees shall continue to work in or be hired for the affected job classification while any part-time or full-time employees in the affected job classification are on a Reduction of Hours, unless the reduced employees are not qualified for the work that is available.

(b) Seniority for employees on a Reduction of Hours shall continue to accrue based on their authorized FTE status.

(c) If an employee is forced to reduce hours due to a work related illness or injury on a permanent basis, that employee shall maintain the FTE status previously held for the computation of seniority hours from that point forward, unless they take a new position with equal or greater FTE status.

3. Lay-Off: Layoffs will be made in the inverse order of bargaining unit seniority within the job classification where the layoff is made. No temporary or casual employees shall continue to work in or be hired for the affected job classification while any part-time or full-time employees in the affected job classification are on lay-off status, unless the laid off employees are unwilling to work reduced hours, or are not qualified for the work that is available. Volunteers for layoff may be sought with management concurrence. Seniority for laid off employees shall continue to accrue based on the employee’s authorized FTE status.

4. Notification: The employer shall give employee two (2) weeks’ notice prior to any lay-off. The Employer shall give the employee two (2) weeks’ notice of recall. The Employer will notify the Union of any pending layoffs two (2) weeks prior to employee notification. In the case of emergencies, notices to the affected employees and the Union will be given as soon as practicable. (Emergency, not known in advance or prior to notices being sent out.)

5. Bumping Rights: A laid off employee may bump the least senior employee in the same or lower labor grade, working the same number of hours or less, provided the bumping employee has more seniority than the employee he/she will bump, and is qualified to perform the functions of the job.

6. Rights to Recall: All laid off employees shall have the rights to recall for a period of twelve (12) months. During the initial twelve (12) months of lay-off an employee may extend this period by another twelve (12) months by submitting a written request to do so. The employee shall, during the first week after notice of recall, give the Employer a response of their intent to return to work.

7. Recall from Lay-Off: Recall from lay-off shall be in order of seniority (last laid off, first hired back). A letter of recall will be sent to the employee’s last known address on file with the Employer by certified or registered mail. It is the laid off employee’s responsibility to keep the Employer notified of any change of address while on lay-off (by certified or registered mail).
8. Termination of Seniority: An employee's seniority shall terminate for any of the following reasons:

(a) Voluntary quit or retirement.

(b) Discharge for cause.

(c) Failing after two (2) calendar weeks to report for work after lay-off upon receipt of notice by registered or certified mail, or by failing within one (1) calendar week after receipt of the notice to inform the Employer of his/her anticipated date of reporting to work.

(d) Employment by any other Employer during a leave of absence.

(e) Lay-off which continues for more than twelve (12) months, or for more than twenty-four (24) months in the case of a proper extension.

(f) Failure to apply for re-employment within statutory limitation after other than a dishonorable discharge from military service.

(g) Failure to report for work without calling in for three (3) consecutive scheduled shifts. However, if within one (1) week after the first missed shift the employee can furnish the Employer with reasonable proof of illness, unforeseen emergency, or other justifiable reason why the employee could not report for work as scheduled and could not give timely notice to the Employer, then the employee shall be reinstated without back pay and without any break in the employee's service records.

(h) Failure to return to work after an Approved Leave of Absence by the date originally agreed upon or agreed upon extension date if applicable.

(i) Accepting a position outside the bargaining unit when it effects their availability schedule.

(j) In any other case, after a break in service of twelve (12) months.

(k) Employees shall lose their seniority for any break in service exceeding ninety (90) calendar days.

Article 12 – Assignment, Probation

12.1 New employees and those hired after a break in continuous service shall be regarded as probationary employees for the first one year of their employment, and upon completion of one year, shall have their seniority date established from date of most recent hire.

12.2 During the period of probationary employment, probationary employees may be laid off or discharged as exclusively determined by management and shall have no recourse to the grievance procedure provided in this agreement regarding layoff or discharge only. Probationary
employees continuing in the service of the employer subsequent to the probationary period shall receive full continuous service credit from the beginning of the probationary period, for the purpose of determining seniority.

Article 13 – Drug and Alcohol Policy

13.1 No employee shall use, sell, solicit, possess, or transfer drugs or alcohol while working or while on any Employer premises (including parking lots) or Employer work sites, wherever located. No employee shall report to or be at work under the influence of drugs or alcohol, wherever such work is being performed, including off Employer property. No employee shall operate any Employer vehicle, machinery, equipment, or property at any time, or any private vehicle while used in furtherance of the Employer's business, while under the influence of drugs or alcohol.

13.2 The Employer may conduct drug and alcohol testing of employees according to the provisions of the Minnesota Drug and Alcohol Testing in the Workplace Act, with the following additional provisions:

- There shall be no random testing, except as provided by the Act during and following rehabilitation.

- A refusal by an employee to undergo testing may result in discipline or discharge.

- The second incident of a positive test result at any time shall result in discharge.

- An employee who has been suspended without pay shall be reinstated with back pay if the outcome of a confirmatory test or confirmatory retest is negative.

- An employee may utilize sick leave or vacation time to cover time off from work for purposes of rehabilitation following the first instance of a positive test.

Article 14 – Harassment Policy

14.1 “Sexual harassment” includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature. Other kinds of harassment include physical contact or other verbal or physical conduct or communication related to the victim’s protected class (for example, race harassment, religious harassment, etc.) In any case, the conduct or communication becomes wrong when:

(1) submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment;

(2) submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment;

(3) that conduct or communication has the purpose or effect of substantially interfering with an individual’s employment, or creating and intimidating, hostile or offensive employment environment; or
(4) Employee has to tell the other person they don’t appreciate the conduct that prompted the employee’s discomfort. (i.e.: verbal comments, physical touch, etc.)

14.2 Any employee who believes he or she is being harassed, or any employee, who becomes aware of harassment, should promptly notify his or her supervisor. If the employee believes that the supervisor is the harasser, the supervisor’s supervisor should be notified. If an employee is uncomfortable discussing harassment with his or her supervisor, the employee should contact the Human Resource Manager.

14.3 Upon notification of a harassment complaint, a confidential and impartial investigation will be promptly commenced and will include direct interviews with involved parties and where necessary with employees who may be witnesses or have knowledge of matters relating to the complaint. The parties of the complaint will be notified of the finding and their options.

14.4 This policy also expressly prohibits retaliation of any kind against any employee bringing a complaint or assisting in the investigation of a complaint. Such employees may not be adversely affected in any manner related to their employment.

14.5 The Employer views harassment and retaliation a serious breach of workplace behavior. Any employee found in violation of the Harassment Policy will be subject to disciplinary or corrective action, which could result in suspension or immediate termination.

Article 15 – Discipline, Removals

15.1 It is the policy of management to utilize progressive discipline. Except in cases of serious offense, suspension or dismissal will be preceded by a warning.

“Serious offense” includes but is not limited to:

- bringing illegal drugs or alcohol onto the Employer’s premises; consuming or selling illegal drugs or alcohol during work hours or while on the Employer’s premises; reporting for duty or working under their influence;
- dishonesty;
- falsification of time records or other documents;
- willful violation of any reasonable direction, rule, or order of which the employee is advised and which does not conflict with any previous ruling;
- disorderly conduct such as fighting;
- theft;
- intentional destruction of property;
- offensive, disrespectful, or inappropriate acts or words towards a customer or visitor;
- assault or battery; and,
- serious or repeated sexual harassment.
15.2 Disciplinary action may be imposed upon employees only for just cause.

15.3 The employer, or any supervisor authorized to act for the employer, may suspend any employee without pay, for disciplinary purposes. The employer shall notify any suspended employee of the reason and length of the suspension in writing. If a suspension or dismissal is duly determined to be in error, the employee shall be paid for the time lost. The employee and the union will be informed in writing of any disciplinary action recorded in a personnel file.

**Article 16 – Layoffs**

16.1 In the event of a layoff, employees with the least seniority on their seniority list shall be the first to be laid off whenever practicable. In the event of rehire, the last qualified employees laid off shall be the first to be rehired.

16.2 Laid off employees must notify the employer within ten (10) calendar days of any change of address or telephone number so that they may be notified in case of any rehire or recall. Failure to inform the employer will result in loss of the employee’s right to be rehired in order of seniority.

**Article 17 – Grievance Procedures**

17.1 **Step 1** Any employee who feels aggrieved shall make a reasonable effort to settle such difference with his/her supervisor with or without union representation present, as he/she may elect.

17.2 **Step 2** In the event no satisfactory settlement of a grievance, as defined in this agreement, is arrived at in Step 1 of this procedure, the union may then present the grievance to the DECC Operations Manager within fourteen (14) calendar days of the first occurrence of the event giving rise to the grievance. The manager shall then arrange to hold a meeting within ten (10) calendar days following the request for a meeting between the manager and the union. The manager shall present the employer’s position in writing to the union within ten (10) calendar days following the meeting with the union.

17.3 **Step 3** Within seven (7) calendar days of union’s receipt of management position either party may call for mediation. Either party may call for mediation of the grievance by the mediator mutually agreed upon or by striking names from a list submitted by the local office of the Federal Mediation and Conciliation Service. A recommendation for settlement of the grievance by the mediator shall not be final and binding upon either party. If the dispute is not resolved by mutual agreement in this step, either party, within ten (10) calendar days from the mediator’s recommendation, may move the grievance to arbitration.

17.4 **Step 4** If the grievance is not settled by mediation in accordance with the procedure in Step 3, either party may submit the grievance to arbitration by serving notice in writing of such submittal upon the other party within the time limit described in Step 3. Either party may request the Bureau of Mediation Service of the State of Minnesota to submit a panel of seven
(7) arbitrators for selection. The parties shall each have the right to alternatively strike three (3) names from the panel. The question of who shall strike the first name shall be decided by the flip of a coin. Following the striking of names from the list, the remaining person shall be the arbitrator. The arbitrator shall be notified of his/her selection by joint letter from the parties requesting that the arbitrator set a time and place for hearing on the grievance, subject to the availability of parties.

17.5 The arbitrator shall have no right to amend, modify, nullify, ignore, add to or subtract from the provisions of this agreement. She/he shall consider and decide only the specific issues submitted to the arbitrator in writing by the parties, and shall have no authority to make a decision on any other issue not so submitted to him/her. More than one grievance may be heard by the same arbitrator by mutual agreement of the parties. Either party may, if it desires, submit a brief to the arbitrator setting forth its position with respect to the issues involved in a grievance. 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 and rules and regulations having the force and effect of law. The arbitrator shall submit his/her decision in writing to the parties and shall file a copy of such decision with the Bureau of Mediation Service of the State of Minnesota. The decision shall be based solely upon his/her interpretation of the meaning or the application of the expressed terms of this agreement to the facts of the grievance presented.

17.6 The decision of the arbitrator shall be final and binding upon the parties.

17.7 The fees and expenses of the arbitrator shall be divided equally between the parties. However, each party shall be responsible for compensating its own representatives and witnesses. If either party desired a verbatim record of the arbitration proceedings, it may cause such a record to be made, providing it pays for it.

17.8 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 specific 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 appeal within the specified time limits, the employee or employees or union may elect to treat the grievance as denied at that step and immediately appeal the grievance to the next step. Time limits may be extended by mutual agreement of the parties involved in each step.

Article 18 – Complete Agreement and Waiver of Bargaining

18.1 The provisions of this agreement are not subject to renegotiation except with the mutual consent of the parties. During the term of this agreement, there shall be no strikes, slowdowns, walkouts or other interruptions of work by the employees or by the union. During the term of the agreement, there shall be no lockout of the employees by the employer.

Article 19 – Duration of Agreement

19.1 The terms and provision of this agreement shall become effective January 1, 2016 and shall continue in full effect until December 31, 2018.
19.2 In the event either party desires to terminate agreement, the party must notify the other party in writing, at least sixty (60) days prior to December 31, 2018. If such notice is given, then the agreement shall expire at the end of the contract term.
Appendix A

<table>
<thead>
<tr>
<th>Wages:</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Casual Hourly</td>
<td>$10.00</td>
<td>$10.20</td>
<td>$10.40</td>
</tr>
<tr>
<td>Regular Hourly</td>
<td>$11.50</td>
<td>$11.75</td>
<td>$12.00</td>
</tr>
<tr>
<td>Step 1 (After 4 years)</td>
<td>$11.75</td>
<td>$12.00</td>
<td>$12.25</td>
</tr>
<tr>
<td>Step 2 (After 6 years)</td>
<td>$12.00</td>
<td>$12.25</td>
<td>$12.50</td>
</tr>
<tr>
<td>Step 3 (After 8 years)</td>
<td>$12.25</td>
<td>$12.50</td>
<td>$12.75</td>
</tr>
<tr>
<td>Lead</td>
<td>$13.25</td>
<td>$13.50</td>
<td>$13.75</td>
</tr>
</tbody>
</table>

**Shift Differential**

|        | .40 | .40 | .40 |

Shift Differential for hours worked between 9:00 p.m. – 6:00 a.m.

**Wage Effective Date:** All pay increases will become effective on the first day of the first full pay cycle of qualifying year.

**Probation:** One year

Advance from casual hourly to regular hourly on one year anniversary date.

**Longevity wages:**

<table>
<thead>
<tr>
<th>After 10th year of continuous employment</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>.$25 / hr</td>
<td>.25 / hr</td>
<td>.30 / hr</td>
</tr>
<tr>
<td>After 15th year of continuous employment</td>
<td>.30 / hr</td>
<td>.30 / hr</td>
<td>.35 / hr</td>
</tr>
<tr>
<td>After 20th year of continuous employment</td>
<td>.35 / hr</td>
<td>.35 / hr</td>
<td>.40 / hr</td>
</tr>
</tbody>
</table>

**Longevity PTO:**

| After 5th year of continuous employment | PTO begins to accrue at 900 hours |
| After 10th year of continuous employment | PTO begins to accrue at 850 hours |
| After 15th year of continuous employment | PTO begins to accrue at 800 hours |
| After 20th year of continuous employment | PTO begins to accrue at 800 hours |

**Holiday:**

Time and one half will be paid for time worked on the following holidays: New Year’s Day, Martin Luther King Day, Memorial Day, July 4th, Labor Day, Thanksgiving and Christmas Day.
Duluth Entertainment Convention Center Authority

Date: ______________________

By: David M. Ross
   Board President

By: ______________________
   Executive Director

International Union of Operating Engineers, Local 70

Date: 7-15-2016

By: ______________________
   President

By: David B. Morrow
   Business Manager

By:___________________________________________
   Secretary
   Recording-Correspondence

By: __________________________________________
   Negotiator

By: __________________________________________
   Steward

By: __________________________________________
   Steward