AGREEMENT

between

PALEN KIMBALL, LLC

and

INTERNATIONAL UNION OF OPERATING ENGINEERS,
LOCAL NO. 70, AFL-CIO

MAPLEWOOD MALL

January 1, 2017 through December 31, 2019
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WITNESSETH

WHEREAS, the employees as classified herein of Palen Kimball, I.I.C, employed at the Maplewood Mall have selected to bargain collectively with the Employer, and for purpose of majority of same have affiliated themselves as members of the Union and have chosen the Union to bargain collectively with the Employer on their behalf for wages, hours and working conditions, now, therefore, for the purpose of carrying out the intentions of the parties, it is mutually agreed as follows:

No Discrimination and Equal Employment

The parties have agreed that there shall be no discrimination against any employee or applicant for employment because of race, sex, creed, color, age, national origin, handicap status, Vietnam era, disabled Veteran status or any other basis prohibited by law. The parties further agree to comply with and cooperate affirmatively in the implementation of state and federal law and lawful regulations hereunder intended to prevent any such discrimination.

ARTICLE 1 – RECOGNITION

Section 1. The Employer recognizes the Union as the exclusive collective bargaining agency for all employees, as classified herein, who are employed at the Maplewood Mall.

Section 2. The Employer shall not enter into any agreement with the employees coming under the jurisdiction of this Agreement, either individually or collectively, which in any way conflicts with the provisions and terms of this Agreement.

Section 3. The Union shall have the sole and unequivocal right to set the level of dues, assessments and initiation fees.

1. All persons now employees or hereinafter employed by Palen Kimball, LLC, coming under the Union’s jurisdiction, shall become and remain members in good standing of the International Union of Operating Engineers, Local No. 70 or alternately shall pay the initiation fees,
assessments and dues uniformly required for membership in the Union, beginning not later than thirty-one (31) days following:

1) The date of their employment.
2) The date of execution of this Agreement, whichever occurs later.

Section 4. The Union shall indemnify and save the Employer harmless against any and all claims, demands, suits or other forms of liability that shall arise out of or by reason of action taken or not taken by the Employer in reliance on any list, notice or assignment furnished by the Union under provisions of this section.

Section 5. The Employer agrees to deduct monthly union dues from the wages of the employees covered by this Agreement. Such deductions shall be made only for employees who voluntarily provide the Employer with a written authorization agreeing that such deductions may be made. The authorization shall not be revocable for a period of more than one (1) year or beyond the termination date of this Agreement, whichever occurs sooner. Deductions shall be made by the Employer during the first pay period of each calendar month and transmitted to the Union together with a list of names of the employees and deductions made. The Union agrees to refund promptly any dues found to have been improperly deducted and transmitted to the Union.

Section 6. Within thirty (30) days after an employee covered by this Agreement has been hired, the Employer shall mail to the Union written notice thereof stating the employee’s name, address, work classification and date of hiring.

ARTICLE 2 – GRIEVANCE AND ARBITRATION

Section 1. Any controversy arising over the interpretation or adherence of the terms and provisions of this Agreement shall be settled promptly by negotiations between the Union and the Employer. If the controversy cannot be so settled within twenty (20) days after it has been presented to the other party, it shall be referred to arbitration. Should the Union and the Employer be unable to agree on an Arbitrator within five (5) days after the expiration date of the above ten (10) days period, the grieving party shall request a list of five (5) qualified Arbitrators from the Minneapolis Area of Federal Mediation and Conciliation Services. The Arbitrator shall be selected by the alternate scratching of names.
The grieving party shall scratch the first name. The last name remaining shall be the Arbitrator. The decision of the Arbitrator shall be final and binding on all parties concerned. Each party shall bear the expense involving their own people and shall share the expense of the Arbitrator.

Section 2. All grievances arising under this Agreement must be filed, in writing, with the other party within twenty (20) days after their original occurrence in order to be eligible for arbitration as provided herein.

Section 3. The Union agrees there will be no strike or picketing of the Employer's business unless the Employer has refused to arbitrate or refused to abide by an arbitration decision under Article 2 – Grievance and Arbitration.

Section 4. The Employer agrees that they will not lock out their employees unless the Union has refused to arbitrate or refused to abide by an arbitration decision under Article 2 – Grievance and Arbitration.

Section 5. Either party may request an extension of the time limits. The request must be in writing and mutually agreed to between the parties.

ARTICLE 3 – SENIORITY

Section 1. Definitions:

Subd. 1. Employee Seniority. Seniority shall be established as the employee's most recent date of employment at the Maplewood Mall. In some cases the seniority date precedes Palen Kimball, LLC as the Employer.

Subd. 2. Classification Seniority. Classification seniority shall be established as the employee's most recent date of employment at the job site in a classification covered by this Agreement.

Section 2. Seniority Rights:

Subd. 1. Qualifying. Employees covered by this Agreement will be entitled to seniority rights from their most recent date of hire.
Subd. 2. Part-Time Seniority. Regardless of seniority, full-time employees will have seniority rights over part-time employees. If a full-time employee's hours are reduced due to medical reasons, the employee will continue to be classified as full-time for purposes of seniority. An employee's time on paid and/or unpaid leave will not change his/her seniority date.

Subd. 3. Loss of Seniority. Seniority will be lost by any of the following reasons:

A. Voluntary quit.
B. Discharge for cause.
C. Failure to return from layoff within two (2) weeks after being notified to return by certified mail sent to the employee's last known address;
D. Retirement.
E. One (1) year of separation from employment for any reason.

Section 3. Benefit Eligibility. Employer seniority shall be used in determining an employee's eligibility to benefits under this Agreement.

Section 4. Layoff. Layoff shall be by classification at the job site where the reduction is needed in the inverse order of seniority (i.e., last one hired first one laid off). If the employee being laid off has seniority in another classification, he/she may bump (displace) the least senior employee in that classification providing the laid off employee has more classification seniority than the employee being bumped.

Subd. 1. Notice. In the event a layoff becomes necessary, the Employer will notify the Union with the name(s) of the employee(s) to be laid off, in writing, at the earliest opportunity, but the notice shall not be less than two (2) weeks before the date of the layoff.

Section 5. Recall from Layoff. Employees shall be recalled in the reverse order of layoff by certified mail sent to the employees last known address. It is the responsibility of the employee on layoff status to keep the Employer informed of any change of address.
Section 6. Job Openings.

Subd. 1. Bidding. When an opening occurs, employees within the classification at the job site of the opening will have the first right to bid for the opening by seniority and the skills to perform the job. If no employee, within the classification, at the job site bids for the position, the position will be offered to other classifications at the job site in order of their classification seniority and skills. If no employee in any classification bids for the position it will be offered system-wide to other job sites.

Subd. 2. Posting and Vacancies. All vacancies will be posted for not less than seven (7) calendar days at all sites. Employees who desire the position will use the facility’s internal application procedure, on or before the date the posting closes.

Subd. 3. Limited Return Rights. An employee may return to his/her former classification, within the first thirty (30) days after being awarded a position in a different classification, provided the vacant position in his/her former classification has not yet been filled.

Section 7. Notice to the Union. The Employer will notify the Union office when an external candidate is being sought for an open position covered by this Agreement. The notice will include required and preferred skills, specialty background desired and the work shift, if known. The Union may refer interested applicants to the Employer for the open positions.

ARTICLE 4 – HOLIDAYS

Section 1. The following are approved holiday for all regular full-time employees:

- New Year's Day
- Thanksgiving Day
- Independence Day
- Labor Day
- Easter Sunday
- Memorial Day
- Christmas Day
- Personal Holidays
  (see conditions below)
If you are hired during the current calendar year, your personal holidays will be determined as provided below:

<table>
<thead>
<tr>
<th>Date of Hire</th>
<th>Personal Holidays</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 1st through June 30th</td>
<td>4 days</td>
</tr>
<tr>
<td>July 1st through September 30th</td>
<td>1 day</td>
</tr>
<tr>
<td>October 1st through December 31st</td>
<td>None</td>
</tr>
</tbody>
</table>

In addition, you must complete at least two (2) months of service prior to taking a personal holiday.

A personal holiday may be scheduled for any day important to you as long as the above mentioned conditions have been met and you have obtained your Supervisor’s approval prior to the date chosen. In those instances where several employees request the same day off, needs of the Mall must be given primary consideration. Personal holidays must be used in whole day increments and may not be carried over into the next year.

Management will try to make reasonable accommodations for employees who request time off to observe religious holidays. However, such time off will be charged to personal holidays, personal vacation, personal day credits or leave without pay.

On Employer designated holidays, regular full-time employees, who are not scheduled to work, will be paid at their regular rate for eight (8) hours. To be eligible for such holiday pay you must work your last scheduled work day before the holiday and your first scheduled work day after the holiday, unless you are excused by your Supervisor. To be eligible for holiday pay you must also be actively employed (not on leave) during the week in which the holiday occurs.

Any regular full-time and part-time hourly employee who works on an Employer holiday will be paid one and one-half (1 ½) times his/her regular rate of pay for the hours worked, plus the holiday pay. Only shifts that actually begin on the holiday are eligible for such premium payment.

Section 2. The normally scheduled operator will work the holiday.
Section 3. Four (4) paid personal holidays each year for the part-time employees. Part-time employees will not be eligible for holiday pay, except if they work the holiday.

ARTICLE 5 – VACATION

Section 1. Vacation Earnings. Future employees covered by this Agreement will earn vacation in accordance with the following schedule:

<table>
<thead>
<tr>
<th>Years of Service</th>
<th>Vacation (in hours)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year 1 through year 3</td>
<td>80 hours</td>
</tr>
<tr>
<td>Year 4 through year 7</td>
<td>120 hours</td>
</tr>
<tr>
<td>Year 8 and after</td>
<td>160 hours</td>
</tr>
</tbody>
</table>

Section 2. Credit Vacation. All employees will have their credited vacation deposited in their vacation bank on January 1st of each year.

Section 3. Vacation Carry Over. Employees will be allowed to carry over vacation past their anniversary date, to a maximum of two (2) weeks. With management approval, an employee will be allowed to carry over additional credited vacation time when a situation warrants the additional carry over.

Section 4. Vacation Scheduling. The employee with the greater seniority shall have preference, provided the employee has submitted their requests between December 1st and December 31st for vacation during the following 12 months. Any vacation requests submitted after January 1st for the time period of January 1st through October 31st will be awarded on a first-come, first-award basis. Any vacation requests for the time period between November 1st and December 31st, will be awarded by seniority.

Section 5. Vacation Pay. During the time the employee is on vacation, vacation pay shall be at the hourly rate, including shift premiums, if applicable, for the shift that the employee would otherwise be scheduled to work.

Section 6. Part-Time Employees. Part-time employees will be eligible for vacation on a pro-rated basis.
Section 7. Vacation Pay Upon Separation or Termination. Employees are expected to provide the Company with a two (2) week notice of the employee’s intent to resign. Employees who provide the Company with the two (2) week notice will be paid any accrued and unused vacation pay.

Employees who fail to give the required two (2) week notice or are discharged/terminated from just cause will not be eligible for any vacation payout.

ARTICLE 6 – CLASSIFICATION

Section 1. Job Classification.

Chief Engineer
Engineer
Maintenance Engineer

ARTICLE 7 – HOURS, OVERTIME, WAGES & PREMIUM PAY

Section 1. Eight (8) hours shall constitute a regular work day. Forty (40) hours shall constitute a regular work week. The hours worked per day and the days worked per week shall be consecutive. In the event the Employer elects to change the work week’s schedule, notice of at least fourteen (14) days will be given. When the Employer elects to permanently change the employee’s shift/work schedules, at least twenty-one (21) days’ notice shall be given. The work week shall run from 12:01 am Monday through 12:00 midnight Sunday.

Section 2. The overtime rate of one and one-half (1 ½) times the basic hourly rate shall be paid for all time worked over forty (40) hours per week.

Section 3. Employees shall not be required to suspend work during regular working hours to absorb overtime.

Section 4. Employees called back to work after regular working hours shall be paid their regular hourly basic rate, but in no case shall an Engineer receive less than the equivalent of four (4) hours pay at the regular hourly basic rate unless Section 2 applies in this Article.
Section 5. The minimum rate of pay for the following classifications shall be as follows:

<table>
<thead>
<tr>
<th>Classification</th>
<th>Effective 1/1/2017</th>
<th>Effective 1/1/2018</th>
<th>Effective 1/1/2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chief Engineer</td>
<td>$31.49</td>
<td>$32.12</td>
<td>$32.76</td>
</tr>
<tr>
<td>Engineer</td>
<td>$25.68</td>
<td>$26.20</td>
<td>$26.72</td>
</tr>
<tr>
<td>Maintenance Engineer</td>
<td>$18.25</td>
<td>$18.62</td>
<td>$18.99</td>
</tr>
</tbody>
</table>

Section 6. Premium Pay.

A. The Boiler License Premium will be added to the employees hourly rate of pay.

B. The Boiler License Premium shall only apply to employees who currently possess and maintain a boiler license above the minimum required for each job classification.

C. Employees shall receive the Boiler License Premium for the highest license they possess above the required license.

<table>
<thead>
<tr>
<th>License</th>
<th>Premium per hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>Special</td>
<td>$0.10</td>
</tr>
<tr>
<td>2nd Class</td>
<td>$0.25</td>
</tr>
<tr>
<td>1st Class</td>
<td>$0.50</td>
</tr>
<tr>
<td>Chief</td>
<td>$0.75</td>
</tr>
</tbody>
</table>

Section 7. Shift Differential. In addition to the regular rate of pay a shift differential of fifty cents ($0.50) per hour will be paid for all shifts commencing after 12:00 PM each day.

Employees with a regularly scheduled shift start time after 12:00 PM each day, whose shift start time is involuntarily moved, on a temporary basis, to start before 12:00 PM, will receive shift differential for all hours actually worked after 12:00 PM.

Section 8. On Call Pay. The term "On Call" is limited to a status in which an employee, though off duty, is required by the Employer, to be available and able to respond to inquiries by telephone and/or, if necessary, return to duty. The employee shall receive clear advance notice that he/she will be on-call and any
schedule should be reasonable thus respecting the employees personal life. Employees have the right to decline on-call assignments.

An employee designated to be on-call will receive thirty-five dollars ($35.00) for each weekday the employee is on-call. The employee will receive forty-five dollars ($45.00) for each weekend day (Saturday or Sunday) or holiday the employee is on-call. In the event the on-call employee is called back into work, Article 7, Section 4 will apply.

**ARTICLE 8 – GENERAL CONDITIONS**

Section 1. Authorized representatives of the Union shall have access to the work where employees covered by this Agreement are employed. However, in order to preserve Employer-customer relations, the Union Representative shall not interfere with the Employer’s employees, the customer’s employees or cause such employees to neglect their work. Further, such Union Representative shall comply with customer rules.

**ARTICLE 9 – INSURANCE**

Section 1. Medical/Health and Dental Insurance. The Employer hereby agrees to provide and pay for Medical/Health and Dental insurance under the conditions set forth in the Employer’s policy for all other workers.

Section 2. Life Insurance. The Employer shall provide a group term life insurance benefit and an accidental death and dismemberment (AD&D) insurance benefit under the conditions set forth in the Employer’s policy for all other workers.

**ARTICLE 10 – RETIREMENT PLAN**

Section 1. The Employer shall pay monthly into the Central Pension Fund of the International Union of Operating Engineers and Participating Employers, four percent (4%) for each hour paid, or a minimum of one dollar ($1.00) for each hour paid, whichever is greater, in the preceding month for all eligible employees covered by this Agreement.
ARTICLE 11 – BEREAVEMENT LEAVE

Section 1. Funeral Leave. Employees shall receive up to five (5) days funeral leave with pay. The five (5) day funeral leave may be split into two (2) blocks, however each block must be in conjunction with the death or funeral. Members of the immediate family shall include spouse, father, mother, mother and father-law, step-parents, children, step-children, brother, sister, grandparents and grandchildren. All time off for bereavement leave must be approved by the employee’s supervisor.

ARTICLE 12 – LEAVE OF ABSENCE

Section 1. Palen Kimball, LLC will afford reasonable accommodation that does not cause undue hardship to qualified applicants and employees with a known disability or for an employee’s religious beliefs. The Employer will also provide leave under particular circumstances, as mandated by federal or state law. In addition, an employee may be eligible for the benefits of family and Medical Leave Act of 1993 (FMLA). Employee eligibility for this benefit is defined as:

A. Any employee who has been employed for at least twelve (12) months and has worked at least 1,250 hours (e.g., twenty-five (25) hours per week) based on a fifty (50) week year) during the previous twelve (12) month period.

Section 2. Under the act, eligible employees are entitled to twelve (12) weeks of leave during any twelve (12) month period to care for a newborn child; placement of a child with the employee for adoption or foster care; to care for a spouse, child or parent of the employee who has a serious health condition; or because of a serious health condition of the employee.

Note: Spouses who are employed by the same Employer may only take a combined total of twelve (12) weeks of leave to care for a family member.

Section 3. If you have paid vacation time or any personal leave due to you, you will be required to use that time prior to using unpaid leave. If the leave is due to a serious health condition of the employee or a family member, the employee will be required to provide certification of medical necessity, issued by the health care provider. The certification must state the day on which the serious health condition commenced, the probable duration of the condition, the appropriate
medical facts within the knowledge of the health care provider regarding the condition and that the leave is needed either to care for a family member or that the employee is unable to perform the functions of his/her position.

Section 4. If the individual employee is covered for health and life insurance through the Palen Kimball, LLC Health and Benefit Plan, he/she will receive the benefit of extended coverage at no cost (employee portion only) during the duration of the leave of absence. If however, the employee currently has dependents, they will be dropped from the insurance rolls and the employee will be offered the continuation of benefits for dependents under COBRA.

Section 5. Any employee who meets the above requirements and is granted an FMLA leave of absence will be guaranteed a return to an equivalent position with equivalent benefits, pay and other terms and conditions of employment.

Note: Certain “highly compensated” employees are not guaranteed to be restored to their former positions. If you have questions concerning the FMLA Act of 1993, contact the Human Resources Department located at Palen Kimball, LLC at 651-646-2800.

ARTICLE 13 – SAVINGS CLAUSE

Conditions of employment more favorable to employees in the employee handbook will not be diminished by this Agreement.

ARTICLE 14 – SICK LEAVE

Section 1. All regular full-time employees who have been employed for sixty (60) calendar days and who are on the payroll as of January 1st shall be credited with forty (40) hours of paid sick leave to be used during the calendar year. New employees hired after January 1st, who have completed sixty (60) calendar days of service, shall receive sick leave for the first calendar year based on the following table:

<table>
<thead>
<tr>
<th>Date of Hire</th>
<th>Paid Sick Leave Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 1st through February 29th</td>
<td>40 hours</td>
</tr>
<tr>
<td>Date Range</td>
<td>Hours</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>-------</td>
</tr>
<tr>
<td>March 1&lt;sup&gt;st&lt;/sup&gt; through April 30&lt;sup&gt;th&lt;/sup&gt;</td>
<td>32 hours</td>
</tr>
<tr>
<td>May 1&lt;sup&gt;st&lt;/sup&gt; through June 30&lt;sup&gt;th&lt;/sup&gt;</td>
<td>24 hours</td>
</tr>
<tr>
<td>July 1&lt;sup&gt;st&lt;/sup&gt; through August 31&lt;sup&gt;st&lt;/sup&gt;</td>
<td>16 hours</td>
</tr>
<tr>
<td>September 1&lt;sup&gt;st&lt;/sup&gt; through October 31&lt;sup&gt;st&lt;/sup&gt;</td>
<td>8 hours</td>
</tr>
<tr>
<td>November 1&lt;sup&gt;st&lt;/sup&gt; through December 31&lt;sup&gt;st&lt;/sup&gt;</td>
<td>0 hours</td>
</tr>
</tbody>
</table>

Section 2. At the end of the calendar year, employees who have not used all of their sick leave credits shall be reimbursed for any unused sick leave credits.

Section 3. Part-time employees will be eligible for sick leave on a pro-rated basis.

Section 4. Any unused sick days, at the time of termination/discharge for just cause will not be paid out to the employee.

**ARTICLE 15 – DURATION OF AGREEMENT**

Section 1. Term and Reopening Negotiations. This Contract shall remain in full force and effect for a period commencing on the date of the signing, unless provided otherwise herein, through December 31, 2019. If either party desires to modify or terminate this Contract it shall give written notice of such intent. Unless otherwise mutually agreed, the parties shall not commence negotiations more than one hundred and twenty (120) calendar days prior to the expiration of this Contract.
The Employer and the Union have agreed to the herein stated terms.

For: Palen Kimball, LLC

Michael Mingo, General Manager

For: International Union of Operating Engineers, Local 70

David Monsour, Business Manager

Michael Dowdle, President

Linda Powers, Recording Secretary

Drew Brodeen, Business Representative

David Hagen, Union Steward

6/6/17
Date:

6/13/2017
Date:

DB/jcb/opeiu#12
Contracts/Palen Maplewood