

AGREEMENT

By and Between

WINDEMERE TOWNSHIP

and

INTERNATIONAL UNION OF

OPERATING ENGINEERS

LOCAL NO. 49 AFL-CIO

July 1, 2019

Through

June 30, 2022

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AGREEMENT

By and Between

TOWNSHIP OF WINDEMERE

and

OPERATING ENGINEERS LOCAL NO.49, AFL-CIO

This Agreement is entered into between the Township of Windemere, hereinafter referred to as the Township or Employer, and the International Union of Operating Engineers, Local No.49, AFL-CIO, hereinafter referred to as the Union or exclusive representative.

ARTICLE 1 PURPOSE OF AGREEMENT

Section 1. This Agreement has as its purpose the promotion of harmonious relations between the Employer, its employees and the Union, the furtherance of efficient governmental services, establish procedures for the resolution of disputes concerning agreement interpretation and or application without interference or disruption of the efficient operation of the department, to specify the full and complete understanding of the parties, and place in written form the parties' agreement upon the terms and conditions of employment for the duration of this Agreement.

Section 2. Whenever any words are used in the Agreement in the masculine gender, they shall also be construed to include the feminine or neuter gender in all situations where they would so apply; whenever any words are used in the singular, they shall also be construed to include the plural in all situations where they would so apply, and wherever any words are used in the plural they shall also be construed to include the singular.

ARTICLE 2 RECOGNITION

Section 1. The Township of Windemere recognizes the Union as the exclusive representative for all employees employed by the Township of Windemere, Minnesota, who are public employees within the meaning of the Minnesota Statute §179A.03, excluding clerical, supervisory and confidential employees.

Section 2. In the event that a job classification is established by the Employer, which it proposed should be excluded from the Agreement, it is agreed that in the event of a controversy regarding said exclusion, the matter shall be submitted to the Bureau of Mediation for determination.

ARTICLE 3 CHECKOFF OF UNION DUES

Section 1. Checkoff of Union Dues. The Employer agrees to deduct from the salary of each employee who has signed an authorized payroll deduction card, a sum certified by the Financial Secretary of Local 49, which are Union dues, such deductions to be made from the payroll period ending the first half of each month, and transmit to the Financial Secretary of Local 49 (address to be supplied by the Union) the total amount with any change of employees from whose pay deductions were made. An employee may terminate his payroll deductions by written notice delivered to the Financial Secretary of Local 49, who shall forthwith transmit a copy of such termination to the Town Clerk.

ARTICLE 4 MANAGEMENT RIGHTS

Section 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 establish work schedules; and to perform any inherent managerial functions not specifically established or modified by this Agreement.

ARTICLE 5 EMPLOYER SECURITY

Section 1. Neither the Union, its officers or agents, nor any of the employees covered by this Agreement will during the life of this Agreement engage in, encourage, sanction, support or suggest any strike, slowdown, mass resignations, mass absenteeism, the willful absence from one's position, the stoppage of work or the absence in whole or part of the full, faithful and proper performance of duties of employment for the purpose of inducing, influencing, or coercing a change in the conditions, compensation or the rights, privileges or obligations of employment.

ARTICLE 6 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 and conditions of this Agreement.

Section 2. Union Representatives. The Employer will recognize representatives designated by the Union as the grievance representatives of the bargaining unit having the duties and responsibilities established by this Article. The Union shall notify the Employer in writing of the names of such Union representatives and of their successors when so designated.

Section 3. Processing of 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 such employee duties and responsibilities. The aggrieved employee and the Union representative shall be allowed a reasonable amount of time without loss in pay when a grievance is investigated and presented to the Employer during normal working hours provided the employee and the Union representative have notified and received approval of the designated 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 6.1, shall be resolved in conformance with the following procedures:

Step 1. An employee claiming a violation concerning the interpretation or application of this Agreement shall, within fourteen (14) calendar days after such alleged violation has occurred, present such grievance to the employee's supervisor as designated by the Employer. The Employer-designated representatives will discuss and give an answer to such Step I grievance within ten (10) calendar days after receipt. A grievance not resolved in Step I and appealed 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 and shall be appealed to Step 2 within ten (10) calendar days after the Employer-designated representative's final answer in Step 1. Any grievance not appealed in writing to Step 2 by the Union within ten (10) calendar days shall be considered waived.

Step 2. If appealed, the written grievance shall be presented by the Union and discussed with the Employer-designated Step 2 representative. The Employer-designated representative shall give the Union the Employer's Step 2 answer in writing within ten (10) calendar days after receipt of such Step 2 grievance. A grievance not resolved in Step 2 may be appealed to Step 3 within ten (10) calendar days following the Employer-designated representative's final Step 2 answer. Any grievance not appealed in writing to Step 3 by the Union within ten (10) calendar days shall be considered waived.

Step 3. Upon mutual agreement between the parties a grievance unresolved in Step Two and appealed to Step Three shall be submitted to the Bureau of Mediation Services for mediation. A grievance not resolved in Step Three may be appealed to Step Four within ten (10) calendar days following the employer's final answer to Step Three grievance mediation. In the event the parties are unable to agree to grievance mediation the grievance may be appealed to Step Four within ten (10) calendar days of the employer's answer in Step Two.

Step 4. A grievance unresolved in Step 2 or Step 3, whichever is appropriate shall be submitted to arbitration subject to the following procedure: The matter may be referred by either party within five (5) days to a Board of Arbitration, composed of three (3) members, one designated by the Township, one designated by the Union, and the third to be mutually agreed upon by the representatives of the parties.

Should the representatives of the Township and the Union fail to agree upon a third party within five (5) additional days, the third person shall be appointed as follows: The Federal Mediation and Conciliation Service shall be called upon to submit a panel of five (5) neutral arbitrators. After said panel has been submitted to the parties by the Federal Mediation and Conciliation Service, the neutral arbitrator shall be selected by striking four (4) names, the first strike to be determined by drawing lots, the fifth remaining name shall be the neutral member of the panel. The majority decision of the Board shall be final and binding on the Union, the Township and any employee affected in a controversy so settled.

Section 5. Arbitrator's Authority. 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.

The arbitrator's decision shall be submitted in writing within thirty (30) 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 fees and expenses of 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. 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 written agreement of the Employer and the Union in each step.

ARTICLE 7 DISCIPLINE

Section 1. General Policy: Board Supervisors are responsible for maintaining compliance with Township standards of employee conduct. The objective of this policy is to establish a standard disciplinary process for employees of the Township of Windemere. Township employees will be subject to disciplinary action only where just cause exists, such as for failure to fulfill their duties and responsibilities at the level required, including observance of work rules and standards of conduct and applicable Township policies.

Discipline will be administered in a non-discriminatory manner. An employee who believes that discipline applied was either unjust or disproportionate to the offenses committed may pursue a remedy through the grievance procedures established in the Township personnel policies. The Road Supervisor and/or the Township will investigate any allegation on which disciplinary action might be based before any disciplinary action is taken.

Section 2. Process: The Town board may elect to use progressive discipline with any employee. There may be circumstances that warrant deviation from the suggested order or where progressive discipline is not appropriate. Nothing in these personnel policies implies that any Township employee has a property right to the job he/she performs.

Documentation of disciplinary action taken will be placed in the employee's personnel file with a copy provided to the employee.

The following are descriptions of the types of disciplinary actions:

Oral Reprimand: This measure will be used where informal discussions with the employee's department head have not resolved the matter. All department heads have the ability to issue oral reprimands without prior approval. Oral reprimands are normally given for first infractions on minor offenses to clarify expectations and put the employee on notice that the performance or behavior needs to change, and what the change must be. The department head will document the oral reprimand including date(s) and a summary of discussion and corrective action needed.

Written Reprimand: A written reprimand is more serious and may follow an oral reprimand when the problem is not corrected, or the behavior has not consistently improved in a reasonable period of time. Serious infractions may require skipping either the oral or written reprimand, or both. Written reprimands are issued by the Board Members with prior approval from the entire Town Board. Written reprimands will be purged from the employee's personnel file and be of no effect one (1) year after the date of which the employee acknowledged the reprimand.

A written reprimand will: (1) state what did happen; (2) state what should have happened; (3) identify the policy, directive or performance expectation that was not followed; (4) provide history, if any, on the issue; (5) state goals, including timetables, and expectations for the future; and (6) indicate consequences of recurrence. Oral and written reprimands will be purged from the employee's personnel file and be of no effect one (1) year after the date of which the employee acknowledges the reprimand.

Employees will be given a copy of the reprimand to sign acknowledging its receipt. Employees' signatures do not mean that they agree with the reprimand. Written reprimands will be placed in the employee's personnel file. In the event the employee refuses to sign that they are acknowledging receipt of the reprimand, a statement will be attached stating that the employee refused to sign the written reprimand. In the event the employee refuses to sign that they are acknowledging receipt of the reprimand, a statement to that effect will be attached.

Suspension With or Without Pay: The Town Board may suspend an employee without pay for disciplinary reasons. Suspension without pay may be followed with immediate dismissal as deemed appropriate by the Township Board, except in the case of veterans. Qualified veterans will not be suspended without pay in conjunction with termination.

The employee will be notified in writing of the reason for the suspension either prior to the suspension or shortly thereafter. A copy of the letter of suspension will be placed in the employee's personnel file.

An employee may be suspended or placed on involuntary leave of absence pending an investigation of an allegation involving that employee. The leave may be with or without pay depending on several factors including the nature of the allegations. If the allegation is proven false after the investigation, the relevant written documents will be removed from the employee's personnel file and the employee will receive any compensation and benefits due had the suspension not taken place.

Dismissal: The town board may dismiss an employee only for what it considers to be just cause.

If the disciplinary action involves the removal of a qualified veteran, the appropriate hearing notice will be provided, and all rights will be afforded the veteran in accordance with Minnesota law.

Section 3. Drug Policy: All Windemere Township employees shall follow the State, Federal & Windemere Township drug policies.

ARTICLE 8 JOB SAFETY

Section 1. It shall be the policy of the Employer that the safety of employees, the protection of work areas, the adequate training in necessary safety practices, and the prevention of accidents are a continuing and integral part of its everyday responsibilities.

Section 2. It shall also be the responsibility of all employees to cooperate in programs to promote safety to themselves and the public and to comply with the rules promulgated to ensure safety. This employee responsibility shall include the proper use of all safety devices in accordance with recognized safety procedures.

Section 3. It shall be the responsibility of the Employer to provide Safety Equipment for the employee in order to meet State, Federal and Local laws. Such equipment shall include safety glasses, ear plugs, gloves, safety footwear, high visibility jackets and vests or any other miscellaneous equipment necessary in order to meet Federal, State or OSHA requirements.

ARTICLE 9 SENIORITY

Section 1. Definition. Seniority shall mean an employee's length of service with the Employer since his last date of hire. An employee's continuous service record shall be broken only by separation from service by reasons of resignation, discharge for cause, retirement, death or a layoff which exceeds one (1) year in duration. When two or more employees have the same seniority date, their positions on the seniority list shall be determined by lot.

Section 2. Layoffs. When a reduction in the work force becomes necessary, the employee with the least seniority shall be the first laid off provided the remaining employees are qualified to perform the work available. The last employee laid off shall be the first to be recalled for work provided he/she is qualified to perform the available work.

Any employee recalled to work and accepting same shall be given five (5) calendar days' advance notice in which to report for work. Registered mail will be used only in cases where the individual declines a telephone notification or cannot be reached by phone or other means. When the employee receives notice of recall he must notify the Township within a twenty-four (24) hour period following the receipt of such notice of his intention of accepting or rejecting recall or be terminated.

If an employee fails to report within five (5) days after the notice or attempt of notice, without giving a satisfactory explanation acceptable to the Township for not reporting he/she will be considered as having voluntarily quit. Employees shall notify the Township of their proper telephone number and post office address or change of address. The Township shall be entitled to rely upon the address shown upon its records.

Section 3. Probationary Employees. Employees shall be probationary employees for the first six (6) months of their employment and during such period may be discharged by the Employer without the same constituting a breach of this contract or causing a grievance thereunder. During the probationary period a promoted or reassigned employee may be returned to his or her previous position at the sole discretion of the Employer.

ARTICLE 10 HEALTH AND WELFARE INSURANCE

Section 1. Health and welfare. Township of Windemere employees will participate in the Operating Engineers Local #49 Health and Welfare Fund. Permanent employees eligible are those individuals who are members of the Operating Engineers Local #49, fair share permanent employees, and all new probationary permanent employees who are and will be working on a full-time basis.

Effective July 1st, 2016 permanent part time employees will contribute to the Health and Welfare insurance costs at the following schedule per month.

2019	\$400.00
2020	\$400.00
2021	\$400.00

The Township shall cover any increases to the cost of the premium for the duration of this Agreement.

ARTICLE 11 DISCRIMINATION

Section 1. The provisions of this Agreement shall be applied equally to all employees in the bargaining unit without discrimination as to persons with disabilities, race, color, creed, sex, national origin, religion or political affiliation. This contract shall comply with the Americans with Disabilities Act. During the process to identify a reasonable accommodation, the employee has the right to have union representation, if he/she so chooses. The Union and the employees covered by this Agreement shall share equally with the Employer the responsibilities established by this Article.

Section 2. The Union recognizes its responsibility as the exclusive representative and bargaining agent and agrees to represent all employees in the Township except those excluded by law, without interference, discrimination restraint or coercion.

Section 3. The Employer shall not discriminate against, interfere with, restrain, or coerce an employee from exercising the right to join or not to join the Union or participate in an official capacity on behalf of the Union, which is in accordance with the provisions of this Agreement. The Union shall not discriminate against, interfere with, restrain, or coerce an employee from exercising the right to join or not to join the Union and will not discriminate against any employee in the administration of the Agreement because of non-membership in the Union.

ARTICLE 12 HOURS OF EMPLOYMENT

Section 1. Workday. The workday will be determined by the job at hand and based on the need to complete.

Section 2. Overtime. All hours performed in excess of forty (40) hours per week shall be compensated at the rate of time and one half. All overtime needs to be approved by the Road Supervisor.

Section 3. Holidays. Double time will be paid on all hours worked for the following holidays: New Language:

New Year's Day	Thanksgiving Day
Memorial Day	Day After Thanksgiving
July Fourth	
Christmas Day	
Labor Day	

ARTICLE 13 REPARABILITY AND SAVINGS CLAUSE

Section 1. This Agreement is subject to the laws of the United States, the State of Minnesota and the Township of Windemere.

Section 2. If any Article or Section of the Agreement or of any riders thereto should be held invalid by operation of law or by any tribunal of competent jurisdiction or if compliance with or enforcement of any Article or Section should be restrained by such tribunal pending a final determination as to its validity, the remainder of this contract and of any rider thereto, or the application of such Article or Section to persons or circumstances other than those as to which it has been held invalid or as to which compliance with or enforcement of has been restrained, shall not be affected thereby. In the event that any Article or Section is held invalid or enforcement of or compliance with which has been restrained, as above set forth, the parties affected thereby shall enter into immediate collective bargaining negotiations for the purpose of arriving at a mutually satisfactory replacement pertaining to the same subject matter for such Article or Section during the period of invalidity or restraint.

ARTICLE 14
WAGES

The title of Maintenance Supervisor/Operator will be changed to Working Foreman.

Section 1. Wage Scale. There is a 2.5 % wage scale increase each year of the contract.

<u>CLASSIFICATIONS</u>	<u>7/1/19</u>	<u>7/1/20</u>	<u>7/1/21</u>
Working Foreman	\$36.71	\$37.63	\$38.57
Maintenance Worker	\$25.63	\$26.27	\$26.93

ARTICLE 15
PENSION

Supplemental Pension Plan - Central Pension Fund

Section 1. Supplemental Pension Plan. Minnesota State Law allows public employees to participate in employer paid pensions (M.S. §356.24, Subd. 1(9 and 10)). The Central Pension Fund Plan of Benefits and the Trust Agreement govern the plan.

It is understood the amount contributed to this pension is a pre-tax employer contribution. THE AMOUNT PAID SHALL BE FUNDED EQUALLY BETWEEN THE EMPLOYER AND THE EMPLOYEE AT FIFTY PERCENT (50%) EACH. It is further understood that the employee contribution is made possible by reducing the current wage by the necessary amount and then requiring the employer to contribute that amount along with the employer's equal matching amount. Nothing in the funding mechanism changes the nature or characteristics of these pre-tax employer contributions. All future wage increases, and overtime are addressed after the pension contribution is calculated back onto the wage (example in the final sentence of the paragraph below).

Section 2. The parties agree that the agreed upon 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 source other than this wage reduction.

Section 3. The Employer shall pay this contribution directly to the I.U.O.E. Central Pension Fund at 4115 Chesapeake Street NW, Washington, D.C. 20016.

Section 4. For purposes of determining future wage rates, the Employer shall first restore the amount of the wage reduction, which is currently the CPF contribution rate of \$1.20/hour. (one dollar and twenty cents per hour.), then apply the applicable wage multiplier, then reduce the revised wage by the CPF contribution rate.

Section 5. For purposes of calculating overtime compensation the Employer shall first restore the amount of the wage reduction \$1.20/hour (one dollar and twenty cents per hour.) then apply the applicable 1.5 wage multiplier required under the Fair Labor Standards Act and the collective bargaining agreement, then pay the resulting amount for overtime worked.

Section 6. A contribution of \$2.40 (two dollars and forty cents per hour.) per straight time hour worked prevents annual CPF contributions for individual 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.

Section 7. The parties agree that the Public Employees Retirement Association interprets employer contributions to the CPF as being included in determining "salary" for the purposes of the public pension.

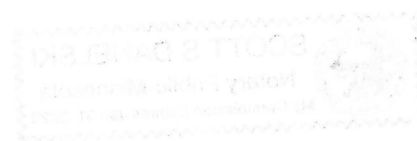
Section 8. The CPF Plan of Benefits and the Agreement and Declaration of Trust will serve as the governing documents.

Section 9. Effective July 1st, 2016 the contribution rate equals \$2.40 (two dollars and forty cents per hour.) for all hours worked.

Section 10. 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.

ARTICLE 16 TRAINING CENTER

Training Center. The Township agrees to contribute \$.50 per hour per employee to the Local 49 Training Center effective July 1, 2019 for the duration of the contract to the Local 49 Training Center. The Township may select which employees will attend the training center based on the training needs of the Township. Any employees that desire to attend the Training Center on vacation or personal time will not require approval of the Township Supervisor. All training center contributions will be made by the Township on all hours worked or paid, excluding hour paid out as part of a retirement or severance payout.



ARTICLE 17
TERMINATION

This Agreement shall be effective July 1, 2019 (Retroactive) and shall continue in full force and effect through June 30, 2022. This Agreement shall automatically renew itself thereafter until and unless either party, at least one hundred fifty (150) days prior termination of this contract, notifies the other party in writing of its desire to terminate or modify the Agreement. If the notice given is one expressing an election to terminate the Agreement, it shall then expire on the first day of July 2022. If the notice is one of modification, the parties shall then begin negotiations of the proposed modification as soon as possible after such notice has been given. During the period of negotiations on the modifications, the terms and conditions of the Agreement not certified at impasse shall remain in full force and effect.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 13th day of February, 2020.

WINDEMERE TOWNSHIP

By

[Signature]
John Wesely, Board Chair

By

[Signature]
Heidi Kroening, Board Supervisor

By

[Signature]
Pete Steen, Board Supervisor

By

[Signature]
Scott Danelski, Township Clerk

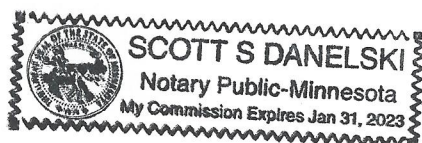
INTERNATIONAL UNION OF
OPERATING ENGINEERS,
LOCAL NO. 49, AFL-CIO

By

[Signature]
Jason George, Bus. Manager and Financial
Secretary

By

[Signature]
Dan Manick, Area Bus. Representative



APPROVED JAN 29 2020

Revised/Updated 01/15/2020