

COLLECTIVE BARGAINING AGREEMENT

By and Between

Mike Pusateri Excavating Inc.

-And-

**GENERAL TRUCK DRIVERS AND HELPERS UNION
Local No. 92**

June 1, 2019 – May 31, 2022

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This Agreement, made and concluded at East Liverpool, Ohio, by and between MIKE PUSATERI EXCAVATING, INC., hereinafter referred to as the "EMPLOYER," and GENERAL TRUCK DRIVERS AND HELPERS UNION LOCAL NO. 92, of the International Brotherhood of Teamsters, hereinafter referred to as the "UNION."

WITNESSETH:

That for the purpose of promoting harmonious relationship between the Employer and the employees, the Company and the Union agree to the following terms:

ARTICLE 1

- A.** The Employer agrees to recognize and hereby does recognize the Union, its designated agents and representatives, its representative successors and/or assigns, as the sole and exclusive collective bargaining agent on behalf of all of the employees of the Employer as hereinafter defined, with respect to wages, hours and all other terms or conditions of employment.
- B.** The Employer further agrees that it will not recognize, deal with, or enter into contractual or other relations, either written or oral, with any other labor organization, agency, committee, group of employees, employee, or any other person with respect to wages, hours and all other terms or conditions of employment for and on behalf of or with any of its employees, as hereinafter defined, or which affects such wages, hours, and all other terms or conditions of employment.
- C. EMPLOYEES DEFINED:** The employees covered by this Agreement shall be construed to mean any truck driver, chauffeur, or mechanic. Mechanics, however, shall be deleted from the bargaining unit upon their written authorization.
- D. WORK TO BE PERFORMED:** It is agreed by and between the parties hereto that all work of the Employer presently performed or to be performed shall be done by the employees of the bargaining unit covered herein.
- E. WORK TO BE PERFORMED ON HEAVY CONSTRUCTION:** It is understood between the Employer and the Union that all work performed within Heavy and Highway Construction as defined in the Agreement between Ohio Conference of Teamsters and Labor Relations division of the Ohio Contractors Association shall be performed at not less than the rate or any other working condition or provision as agreed by the parties mentioned above.

F. For the purpose of maintaining qualified construction drivers for the above work, the parties agree to maintain the seniority system as practiced in the East Liverpool area, namely:

- 1.** A list of qualified heavy construction employees will be maintained by the Local Union on the basis of last day worked in heavy construction. The Employer shall call and use employees from this list whenever the regular employees list from Mike Pusateri Excavating, Inc. is exhausted and the Employer needs additional workers. Such employees will be included in the dues check off list for any time worked.
- 2.** The provisions of this contract shall apply to such employees except where applicable the state agreement between the parties mentioned above is more favorable.

ARTICLE 2

This Agreement shall be binding upon the parties hereto, their successors, administrators, executors, and assigns. In the event an entire operation is sold, leased, transferred, or taken over by sale, transfer lease, assignment, receivership or bankruptcy proceeding, such operation shall continue to be subject to the terms and conditions of this Agreement for the life thereof. It is understood by this Section that the parties hereto shall not use any leasing device to a third party to evade this contract. The Employer shall give notice of the existence of this Agreement to any purchaser, transferee, lessee, assignee, etc. of the operation covered by this Agreement or any part hereof. Such notice shall be in writing with a copy to the Union at the time the seller, transferee, or lessor executes a contract of transaction as herein described. In the event the Employer fails to give the notice herein required and/or fails to require the purchaser, the transferee, or the lessee to assume the obligations of this contract, the Employer shall be liable to the Union and to the employees covered for all damages sustained as a result of such failure to give notice of such failure to require assumption of the terms of this contract.

ARTICLE 3

A. All present employees who are members of the Local Union on the effective date or on the date of execution of this Agreement, whichever is the later, of this subsection shall remain members of the Local Union in good standing as a condition of employment.

2. The transmission of such messages and information which shall originate with and are authorized by the Local Union or its officers provided such messages and information:
 - a. have been reduced to writing, or
 - b. if not reduced to writing, are of a routine nature and do not involve work stoppages, slow downs, refusal to handle goods, or any other interference with the Employer's business.
- B.** The wages of the stewards shall be the same as all regular employees covered by this Agreement.

ARTICLE 5

- A.** The Employer agrees to grant the necessary and reasonable time off, without discrimination or loss of seniority rights and without pay, to any employee designated by the Union to attend a labor convention or serve in any capacity on other official Union business provided forty eight (48) hours of written notice is given to the Employer by the Union, specifying the length of time off. The Union agrees that in making its request for time off for Union activities, due consideration shall be given to the number of men affected in order that there shall be no disruption of the Employer's operation due to lack of available employees.
- B.** An employee shall be permitted to preserve his seniority privileges in the event he takes a leave of absence for a period of sixty (60) day period, and the leave may be extended for like periods, providing he first obtain the written permission of the Employer and the Local Union. However, should said employee engage in other employment during the permitted leave of absence without the permission of both the Employer and the Local Union, he shall be considered as quit and lose his seniority.
- C.** The employee must make suitable arrangements for the continuation of Health and Welfare and Pension payments before the leave may be approved by either the Local Union or the Employer.

ARTICLE 12

- A.** All employees of the Company shall be subject to the rules and regulations of the Company, provided such rules and regulations do not conflict with the provisions of this Agreement. A copy of Company rules and regulations is to be made available to each employee and a copy sent to the Local Union. The Employer shall not be restricted in taking disciplinary action on infractions not specified in rules as listed.
- B.** In no event shall anyone in supervisory do the work of a regular employee.
- C.** The Employer shall not require members of the Union to take out on the highways any vehicle not equipped with safety appliances as required by law. Members of the Union shall make written reports on Company forms listing defects in equipment and give to the Employer. The Company agrees to investigate all reports promptly. If the employee does not receive prompt consideration on major safety defects, the employee shall take the matter up with the Business Representative of the Local Union who shall take it up with the Company.

ARTICLE 13

The working schedule of hours of employment for all employees covered by this Contract shall be forty (40) hours per week. All time worked in excess of forty (40) hours in any one (1) week and eight (8) hours in any one day shall be paid at the rate of time and one half (1 ½) the regular rate of pay. Any work done on Saturday shall be paid for at the rate of time and one half (1 ½) the regular rate of pay. Any time worked on Sunday shall be paid for at the rate of double the regular rate of pay.

ARTICLE 14

In the event that the maximum work week is reduced by legislative act to a point below the regular work week provided herein, the Contract shall be reopened for wage negotiations only.

ARTICLE 15

The Employer shall not require, as a condition of continued employment, that an employee purchase truck tractor and/or tractor and trailer or other vehicular equipment.

ARTICLE 16 - Vacations

- A.** Employees covered by this Agreement who have worked sixty percent (60%) or more of the total working days during the immediately preceding twelve (12) month period, shall receive a vacation with pay as follows:

Three (3) or more consecutive years of service	One (1) week of vacation
Five (5) or more consecutive years of service	Two (2) weeks of vacation
Ten (10) or more consecutive years of service	Three (3) weeks of vacation
Twenty (20) or more consecutive years of service	Four (4) weeks of vacation

No more than one vacation may be earned in any twelve (12) month period.

- B.** Any employee upon giving a reasonable notice of not less than one (1) week to his Employer shall be given vacation pay before starting vacation.
- C.** The amount of vacation pay shall be in all cases forty (40) hours per week for (1) week of vacation, eighty (80) hours for two weeks of vacation. This pay to employee is at the straight time rate of pay.
- D.** The vacation period of each qualified employee shall be set with due regard to the desire, seniority and preference of the employees, consistent with the efficient operation of the Employer's business.

ARTICLE 17 – Holidays

- A.** The following holidays shall be paid for at the rate of eight (8) hours of pay for the holiday in addition to any monies the employee may earn on such holidays: Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.
- B.** In order to qualify for holiday pay, it is provided that the regular or extra employee must work the regular work day immediately preceding and following the holiday, if said employee is requested to do so and has not exhausted such employee's hours or work, or unless such employee is unable to work on account of proven illness or unless absence is mutually agreed to.
- C.** Employees who are serving their thirty (30) day probationary period are not entitled to holiday pay for holidays falling within such probationary period. If a holiday falls within the vacation period of a regular employee, such employee shall receive pay for such holiday in addition to vacation pay. Regular employees are entitled to holiday pay if the holiday falls within the first thirty (30) days of absence due to illness or due to occupational injury, or during period of permissible absence under Article 5. This does not apply to employees taking leave of absence for full time employment with the Union.

- D.** If any holiday falls within the thirty (30) day period following an employee's layoff due to lack of work, and such employee is also recalled to work during the same thirty (30) day period but did not receive any holiday pay, then in such case such employee shall receive an extra day's pay for each holiday in the week in which he returns to work. Said extra day's pay shall be equivalent to eight (8) hours at the straight time hourly rate specified in the Contract. An employee who is laid off because of lack of work and is not recalled to work within the aforementioned thirty (30) day period is not entitled to the extra pay upon his return. Under no circumstances shall the extra pay referred to herein be construed to be holiday pay, nor shall it be considered as hours worked for weekly overtime.

ARTICLE 18 – Health and Welfare

- A.** The Employer shall contribute to the OCA-OCT Health and Welfare Fund for each eligible employee as follows: effective June 1, 2019, the sum of \$7.00/hour on all hours worked. Rates shall be determined for the effective dates of June 1, 2020 and June 1, 2021; however, if increases are needed, said increases shall be paid for by the Employer, unless said increases are above a 10% increase from the initial cost at which time would be subject to negotiation for years two and three of this Agreement. To be eligible, the employee must meet all of the following: (i) be covered by this Agreement, (ii) must have been on the Employer's payroll for at least two (2) consecutive months in which employee was credited with at least 180 hours of work for which contributions were made on his/her behalf. For purposes of this Article 18, paid holidays and paid vacation days will be considered hours worked.
- B.** If an employee is absent because of illness or off the job injury in excess of any accrued vacation days, and if the employee has notified the Employer of such absence and has provided medical certification of such absence from the employee's treating physician, then Employer shall continue to make the required contributions for a period of four (4) weeks. If an employee is injured on the job, the Employer shall continue to make the required contributions until such time as the employee returns to work; provided however, such contributions shall not be paid for a period of more than six (6) months. If an employee is granted a leave of absence (other than under the Family Medical Leave Act), the Employer shall collect from the employee, prior to the leave of absence being effective, sufficient monies to pay the required contributions into the Health and Welfare Fund during the period of absence.
- C.** Contributions to be made weekly for each eligible employee.

ARTICLE 19 – New Equipment

Where new types of equipment and/or operations for which rate of pay are not established by this Agreement are put into use after May 31, 2019, within operations covered by this Agreement, rates governing such operations shall be subject to negotiations between the parties. Rates agreed upon or awarded shall be effective as of the date such operations are put into use.

ARTICLE 20 – Protection of Conditions

The Employer agrees that all conditions of employment in its individual operation, in relation to wage rates, hours of work, overtime differentials, and general day to day working conditions, shall be maintained at not less than the highest minimum standards in effect at the time of the signing of this Agreement and that the conditions of employment shall be improved wherever specific provisions for such improvement are made in this Agreement. It is agreed that the provisions of this paragraph shall not apply to inadvertent or bona fide errors made by the Employer or the Union in applying terms and conditions of this Agreement if such error is corrected within ninety (90) days from the date of error, nor shall the provisions of this paragraph with respect to hours of work apply or be effective in any work week during which the Employer's normal operations are restricted due to business conditions or any causes beyond the reasonable control of the Employer.

ARTICLE 21 – Unauthorized Activity

- A.** It is further mutually agreed that the Local Union will, within two (2) weeks of the date of the signing of this Agreement, serve upon the Employer a written notice, which notice will list the Union's authorized representatives who will deal with the Employer, make commitments for the Union generally, and in particular have the sole authority to act for the Union in calling or instituting strikes or any stoppages of work, and the Union shall not be liable for any activities unless so authorized. It is further agreed that in all cases of an unauthorized strike, slowdown, walkout, or any unauthorized cessation of work in violation of this Agreement, the Union shall not be liable for damage resulting from such unauthorized acts of its members. While the Union shall undertake every reasonable means to induce such employees to return to their jobs during any such period of unauthorized stoppage of work mentioned above, it is specifically understood and agreed that the Employer, during the first twenty four (24) hour period of such unauthorized work stoppage, shall have the sole and complete right of reasonable discipline short of discharge, and such Union member shall not be entitled to or have any recourse to any other provisions of this Agreement. After the first twenty four (24) hour period of such stoppage, and if such stoppage continues,

ARTICLE 23 – Grievance and Arbitration Procedure

- A.** Should any matter of difference or grievance arise with respect to the meaning or application of any provision of this Agreement, such matters shall be settled and determined in accordance with the following procedure.
- B.** The employee with the grievance shall first take it up with the Employer. Should no settlement be agreed upon, such employee shall then reduce the grievance to writing and take it to the steward. The steward shall then meet with the Employer and the employee involved. If no settlement is reached, then the steward shall call the Business Agent of the Union and the Business Agent will then meet with the involved people outlined above. By presenting the grievance, the employee grants to the Union complete authority to present, negotiate, and bargain regarding this grievance and agrees to be bound by such disposition of the grievance as may be made or agreed to by the Union or its delegated representatives. The employee may be present at any and all steps of the grievance procedure.
- C.** If the matter is not settled pursuant to the above paragraphs, within three (3) days after it shall have been presented to the Business Agent or the Local Union, then within not more than ten (10) days thereafter, the matter shall be submitted to arbitration by a single arbitrator selected by mutual agreement of the Employer and the Union. If the Employer and the Union shall be unable to agree upon such arbitrator, the Employer or the Union may request the American Arbitration Association to select such arbitrator. The compensation and expense of such arbitrator shall be paid by the Employer and the Union in equal shares. All other expenses of such arbitration shall be paid by the party incurring the same.
- D.** Any settlement arrived at in accordance with the provisions of the above paragraphs, or the decision of the arbitrator made pursuant to the provisions of the above paragraphs, shall be final and binding upon all parties to such matter.
- E.** No aggrieved party shall have the right to invoke the grievance procedure provided above, or the arbitration procedure provided above, nor shall any grievance or difference be valid, unless the matter of such grievance or difference shall have been presented as provided above.

The grievance procedure as outlined is not mandatory where the provisions of Article 21C apply.

ARTICLE 27 – Funeral Leave

Three (3) days shall be allowed as funeral leave for the death of any of the following family members: spouse, child, parent, brother, sister, or child of spouse.

ARTICLE 28 – Casual Employees

- A.** The Employer shall have the right to use casual employees. A casual employee is an individual who is not on the regular seniority list and who is not serving a probationary period.
- B.** Casuals shall not have seniority status. The Employer shall not use any casual while a seniority employee is laid off or to cause a lay off. The Employer shall not use a casual to prevent a probationary employee from reaching seniority. No casual shall work overtime hours until/unless all other bargaining unit and probationary employees have been first given the opportunity for said overtime work.
- C.** Casual employees shall only be used to cover temporary vacancies caused by workman compensation injuries, vacation, and leaves of absence. Any casual employee, who works more than 500 hours in any one (1) calendar year, shall be immediately placed on the regular seniority list as a new permanent employee.
- D.** The Employer will fill permanent openings and any new positions with thirty (30) day probation employees, as provided in Article 3.

ARTICLE 29 – Teamsters-National 401(K) Savings Plan

The Employer hereby agrees to participate in Teamsters-National 401(K) Savings Plan (the "Plan") on behalf of all employees represented for purposes of collective bargaining under this Agreement.

The Employer will make contributions of \$20.00 per day worked for each employee covered under this Agreement up to a maximum of \$100.00 per week. A day worked, for purposes of this Article, shall include any day on which the employee works a minimum of four (4) hours and shall also include any paid holidays or paid vacation days during said week.

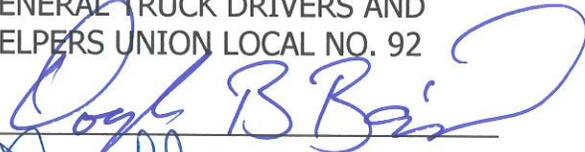
The Employer will make or cause to be made payroll deductions from participating employees' wages, in accordance with each employee's salary deferral election subject to compliance with ERISA and the relevant tax code provisions. The Employer will forward such deduction sum to State Street Bank or its successor at such time, in such form and manner as required pursuant to the Plan and Declaration of Trust (the "Trust").

Revisions agreed upon or ordered shall be effective as of June 1, 2019 or June 1st of any subsequent contract year. The respective parties shall be permitted all legal or economic recourse to support their request for revisions if the parties fail to agree thereon.

In the event of an inadvertent failure by either party to give notice as set forth above, such party may give such notice at any time prior to the termination or automatic renewal date of this Agreement. If a notice is given in accordance with the provisions of this Section, the expiration date of this Agreement shall be the sixty first (61st) day following such notice.

IN WITNESS WHEREOF, the parties have set their hands and seals this _____ day of _____, 2019.

GENERAL TRUCK DRIVERS AND
HELPERS UNION LOCAL NO. 92



Date: 6-25-19

MIKE PUSATERI EXCAVATING, INC.



Date: 6-17-19