

# **LABORERS AGREEMENT**

**Landscape and Related Work  
in the State of Minnesota**

*between*

**Landscape and Erosion  
Control Contractors**

*and*

**Laborers District Council  
of Minnesota  
and North Dakota**

*on Behalf of*

*Its Affiliated Local Unions*

**2017 • 2018 • 2019**

**Expires April 30, 2020**

**MINNESOTA LANDSCAPE and EROSION CONTROL**  
**Collective Bargaining Agreement**  
**May 1, 2017 - April 30, 2020**

THIS AGREEMENT, made and entered into by and between, or on behalf of the parties and in the capacities and status designated in Article 1 hereof, establish rates of pay, wages, hours of employment, fringe benefits and other terms of employment for purposes of collective bargaining between the Union and Landscape and Erosion Control Contractors in the State of Minnesota.

WITTNESETH:

That the parties hereto, for and in consideration of the mutual promises and obligations herein contained, agree to and with each other as follows:

**ARTICLE 1**  
**Designation of Parties**

**1.1** Companies engaged in Landscape Work as defined in Article 2 who are signatory to this Agreement, hereinafter called Employers or Contractors, or any person, firm, partnership, corporation, joint venture or other legal entity owned or operated or substantially under the control of the Employer or one or more principal(s) of the Employer; or a subsidiary of the Employer; or any person, firm, partnership, corporation, joint venture or other legal entity which owns, operates, or substantially controls the Employer are parties to this Agreement as principals.

**1.2** The Laborers' District Council of Minnesota and North Dakota on its own behalf and on behalf of its affiliated Local Unions and the Employees whom they represent and on whose behalf they are recognized or are to be recognized are parties hereto, hereinafter called the Union. The status of said Union is dual, in that it is a party hereto as principal and also as agent for the Employees it represents and on

whose behalf it is recognized or is to be recognized as hereinafter provided.

## **ARTICLE 2**

### **Definition of Work & Scope of Agreement**

**2.1** This Agreement shall apply to on-site Landscape Work defined as Plantings Landscape, Green Roof systems, and Related Work and Structural Landscape and Related Work and shall exclude growers and work involving residential contracts when each single structure contains twelve (12) units or less, however this Agreement shall apply to all projects covered by Project Labor Agreements or funded through union sources, including but not limited to AFL-CIO Trusts, regardless of size.

**2.2** Plantings Landscape (“softscape”) and Related Work is defined as: seeding, sodding and the planting of woody and herbaceous plant material including native plant material such as grasses, shrubs, and trees; the installation of green roof plants, mats, flats and related components, and trays whether pre-grown or built up systems whether the system is planted on an elevated roof or not; the installation of edging and groundcover including mulches, light weight soils, decorative rock and other materials associated with plantings; and the installation of erosion control measures limited to erosion blanket, silt fence and bale checks and temporary erosion control measures.

**2.3** Structural Landscape (“hardscape”) and Related Work is defined as: work performed under this agreement not otherwise defined as Plantings Landscape and Related Work.

**2.4** This Agreement applies to all Landscape Work conducted in the State of Minnesota.

## **ARTICLE 3**

### **Union Security**

**3.1 Recognition.** The Employer recognizes the Union as the exclusive representative of all Employees performing work within the jurisdiction of the Union for the purpose of collective bargaining with respect to rates of pay, wages, fringe benefits, hours of employment and other conditions of employment. The Union is hereby recognized by the Employers as the sole and exclusive bargaining representative of the Employees represented by it. The Union represents that it is qualified for such recognition.

**3.2 Membership.** The Union shall be entitled to union security to the extent that each Employee covered by this Agreement shall, on the eighth (8<sup>th</sup>) day following the beginning of employment in such collective bargaining unit by such Employer under the coverage of this Agreement or the effective date of this Agreement, whichever is later, be required to become and remain a member in good standing of the Union as a condition of employment. Upon notice from the Union to a responsible Employer representative, advising that an Employee covered by this Agreement has failed to maintain membership in the Union in good standing, as covered above, the Employer shall forthwith discharge the Employee.

**3.3 Checkoff.** From the first day of employment, the Employer agrees to recognize voluntary and properly signed and lawful authorization cards of its Employees requesting the Employer to make deductions from wages for the amount of initiation fees, arrearages, assessments and monthly dues. Such amounts are to be sent to the Union not more than 10 days after the first day of employment.

In the event no wages are due the Employee, or are insufficient to cover the required deduction, the Employer will so state on the Union list provided. In such event, the Union will make its own arrangements with the Employee as to payment of such dues, fees or assessments.

The Union agrees that there shall be no liability on the part of the Employer for the collection of any unpaid dues that may be due to the Union from the Employee, who because of absence from work or termination of employment, has no wages payable to him at the regular time for dues collections. 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 upon, certified lists furnished to the company by the Union or by the Employee; or for the purpose of complying with any of the provisions of this paragraph.

## **ARTICLE 4**

### **Hiring**

**4.1** The Employers agree to give the Union equal opportunity in hiring new Employees. Equal opportunity shall be defined to mean that the Employer shall call the Union for not less than 50% of its new Employees. Nothing in the foregoing shall be deemed to require the Employers exclusively to call the Union, or to hire exclusively the Employees referred to the Employers by the Union. The Employer or his supervisor must inform new Employees that the Employer is a Union Contractor and as such, Employees on or before the 8th day of employment must become and remain a member in good standing as a condition of employment. There shall be no discrimination against any Employee because of affiliation or non-affiliation with the Union, race, color, creed, age, sex, disability, political or religious beliefs.

**4.2** When called and the Union fails to provide qualified Employees within 24 hours, the Employer shall be free to employ anyone to perform the work at the appropriate scale as contained herein.

**ARTICLE 5**  
**Classifications and Wage Rates**

**5.1** All equipment operated, regardless of controls or power, coming under the Laborers' jurisdiction must be operated by a Laborer.

**5.2** The Employer agrees to pay the wage rates including benefits as listed herein for all Employees covered under this Agreement from the first day of employment, regardless of whether or not such Employees are members of the Union and for all time worked including time spent traveling between work sites and time driving company owned trucks or equipment when under the direction and supervision of the employer, and not including commuting to and from home.

**5.3** Only Landscape Work as defined in Article 2 shall be paid at the Landscape Laborer wage rates.

**5.4 Plantings Landscape Laborer I**

An Employee who has worked less than six hundred (600) hours for the Employer and is performing Plantings Landscape and Related Work may be classified as Plantings Landscape Laborer I. No more than 30% of the Employer's Employees may be classified as Plantings Landscape Laborer I. Upon request, the Employer shall provide the Union with payroll information in order to demonstrate compliance with this subpart. If an Employer violates the requirements set forth in this subpart, the Employer may not classify any of its Employees as Plantings Landscape Laborer I, and must pay Planting Landscape Laborer II wages and benefits to all workers it would otherwise classify as Plantings Landscape Laborer I for the term of this Agreement.

**May 1, 2017 – Total increase of \$1.25, allocated as follows:**

<u>Rate</u>	<u>Vacation</u>	<u>FCF</u>	<u>TOTAL</u>
\$20.92	\$2.30	\$0.02	\$23.24

May 1, 2018 – Total increase of \$1.25, fringe benefit allocations TBD

May 1, 2019 – Total increase of \$1.25, fringe benefit allocations TBD

**5.5 Plantings Landscape Laborer II**

All other Employees performing Planting Landscape and Related Work including those who have worked in a previous calendar year for the Employer or are referred to the company by the Union shall be classified as Plantings Landscape Laborer II.

**May 1, 2017 – Total increase of \$1.90, allocated as follows:**

<u>Rate</u>	<u>Vacation</u>	<u>H&amp;W</u>	<u>Pension</u>	<u>FCF</u>	<u>TOTAL</u>
\$22.17	\$2.30	\$7.75	\$4.84	\$0.02	\$37.08

May 1, 2018 – Total increase of \$1.95, fringe benefit allocations TBD

May 1, 2019 – Total increase of \$1.95, fringe benefit allocations TBD

**Vacation is a taxable wage.** Health and Welfare, Pension, and Vacation and FCF contributions are to be sent to: Zenith American Solutions, P.O. Box 124, Minneapolis, MN 55440-0124.

**Prevailing Wage Work:** When the prevailing wage rate as certified by the Minnesota Department of Labor and Industry in the area in which the work is being performed is less than 10% of the total package for Landscape Laborer II workers, the Employer may pay 80% of the wage rate for Landscape Laborer II workers plus the full amount of fringe benefits.

**5.6 Structural Landscape Laborer**

All Employees performing Structural Landscape and Related Work shall be paid the following wage rates effective **May 1, 2017:**

**District 1** – Metro Area -

<u>Class</u>	<u>Rate</u>	<u>Vac<sup>1</sup></u>	<u>H&amp;W</u>	<u>Pen</u>	<u>Tr/App</u>	<u>LECET</u>	<u>FCF</u>	<u>Total</u>
1	\$30.80	\$2.30	\$7.75	\$8.17	\$32	\$08	\$02	\$49.44

**District 2A** – Duluth Area -

<u>Class</u>	<u>Rate</u>	<u>Vac<sup>1</sup></u>	<u>H&amp;W</u>	<u>Pen</u>	<u>Tr/App</u>	<u>LECET</u>	<u>FCF</u>	<u>Total</u>
1	\$29.93	\$2.40	\$7.75	\$7.75	\$32	\$08	\$02	\$48.25

**District 2B** – Virginia Area -

<u>Class</u>	<u>Rate</u>	<u>Vac<sup>1</sup></u>	<u>H&amp;W</u>	<u>Pen</u>	<u>Tr/App</u>	<u>LECET</u>	<u>FCF</u>	<u>Total</u>
1	\$27.87	\$3.37	\$7.75	\$8.84	\$32	\$08	\$02	\$48.25

**District 2C** - Koochiching County -

<u>Class</u>	<u>Rate</u>	<u>Vac<sup>1</sup></u>	<u>H&amp;W</u>	<u>Pen</u>	<u>Tr/App</u>	<u>LECET</u>	<u>FCF</u>	<u>Total</u>
1	\$25.51	\$2.10	\$7.75	\$5.83	\$32	\$08	\$02	\$41.61

**District 3A** - St. Cloud Area -

<u>Class</u>	<u>Rate</u>	<u>Vac<sup>1</sup></u>	<u>H&amp;W</u>	<u>Pen</u>	<u>Tr/App</u>	<u>LECET</u>	<u>FCF</u>	<u>Total</u>
1	\$26.07	\$2.30	\$7.75	\$7.40	\$32	\$08	\$02	\$43.94

**District 3B** - Southeastern Area -

<u>Class</u>	<u>Rate</u>	<u>Vac<sup>1</sup></u>	<u>H&amp;W</u>	<u>Pen</u>	<u>Tr/App</u>	<u>LECET</u>	<u>FCF</u>	<u>Total</u>
1	\$26.68	\$2.00	\$7.75	\$7.60	\$32	\$08	\$02	\$44.45

**District 3C** - Southwestern Area -

<u>Class</u>	<u>Rate</u>	<u>Vac<sup>1</sup></u>	<u>H&amp;W</u>	<u>Pen</u>	<u>Tr/App</u>	<u>LECET</u>	<u>FCF</u>	<u>Total</u>
1	\$23.24	\$2.10	\$7.75	\$6.83	\$32	\$08	\$02	\$40.34

**District 4** - Western Area -

<u>Class</u>	<u>Rate</u>	<u>Vac<sup>1</sup></u>	<u>H&amp;W</u>	<u>Pen</u>	<u>Tr/App</u>	<u>LECET</u>	<u>FCF</u>	<u>Total</u>
1	\$22.19	\$2.10	\$7.75	\$5.83	\$32	\$08	\$02	\$38.29

All District Increases

**May 1, 2018** Increases vary by District, call Local Union for rates.

**May 1, 2019** Increases vary by District, call Local Union for rates.

All Districts:

Foreman/Lead \$1.50 above classification employed in.

General Foreman \$2.25 above Foreman scale (appointed at Employers discretion).

<sup>1</sup>Vacation is a taxable wage and shall be paid for all hours worked and at one and one-half (1½) or two (2) times the hourly rate when overtime is worked and at two (2) times on Sundays and Holidays.

Health & Welfare, Pension, Vacation, Training, LECET and FCF contributions are to be sent to: Zenith American Solutions, P.O. Box 124, Minneapolis, MN 55440-0124.

## **ARTICLE 6 Subcontracting**

**6.1** The Employer agrees not to subcontract any work covered by this Agreement to be performed at the construction site to any person, firm or corporation which is not in contractual relationship with the Laborers' International Union of North America or any of its affiliated Local Unions.

## **ARTICLE 7 Grievance-Arbitration Procedure**

**7.1** In case of a dispute arising over the interpretation of or adherence to the terms and provisions of this Agreement, the Employee should first discuss the matter with the Employer, and if the dispute is not resolved, it shall be settled by negotiations between the Union and the Employer. Should the Union and the Employer fail to reach a satisfactory settlement within fifteen (15) days of the time the complaint is made, either party (Employer or Union) may request a panel of arbitrators from the Federal Mediation and Conciliation Service, and the Federal Mediation and Conciliation Service is to submit a list of names of seven (7) arbitrators, and one (1) will be selected to hear the dispute. The parties will select the Arbitrator by each one alternately striking off a name, and the Arbitrator left shall be designated as the Arbitrator. The party requesting arbitration shall elect which party shall strike first from the arbitrator list. A decision shall be handed down within thirty (30) days from the completion of the hearing. This decision shall be final and binding upon both

parties. The expenses of the Arbitrator selected shall be shared equally by the Union and the Employer.

**7.2** Notwithstanding the provisions of this Article, the trustees of the Minnesota Laborers' Welfare, Pension, Vacation Trust funds shall have the right of actions as set forth in Article 16.

## **ARTICLE 8**

### **No Strike-No Lock-Out Actions**

**8.1** The Union and the Employer agree that there shall be no strikes, work stoppages, slow-downs, stay-in or other concerted interference with the Employer's business or affairs by the Union and/or the members thereof, and there shall be no lock-out during the existence of this Agreement without first using all possible means of peaceful settlement of any controversy which may arise. Spread-work tactics, slow-downs, standby-by crews, forcing of overtime has been and is condemned by both parties, and Employees engaging in same shall be liable for disciplinary action.

**8.2** Picket Line: It shall not be a violation of this Agreement, and it shall not be cause for discharge or disciplinary action in the event an Employee refuses to enter upon any property involved in a primary labor dispute, or refuses to go through or work behind any primary picket line, including the primary picket line of Unions party to this Agreement, and including primary picket lines at the Employer's places of business. The Employer may require Employees to cross such picket lines to maintain newly planted perishable items, for a reasonable period.

## **ARTICLE 9**

### **Hours of Employment and Overtime Rate of Pay**

**9.1** Forty (40) hours shall constitute a weeks work beginning on Monday through Friday of each week. Where work is required in excess of forty (40) hours in any one week, such work shall be paid for at the rate of one and one-half (1½) times the hourly rate. All time

worked in excess of twelve (12) hours in any one day shall be paid at one and one-half (1½) time the hourly rate. All time worked on Saturday shall be paid at one and one-half (1 ½) times the hourly rate. EXCEPTION: If the Employee has not worked forty (40) hours, Monday through Friday, due to his/her own accord, or due to two (2) or more lost days due to inclement weather, he/she shall be paid straight time on Saturday until said Employee has worked forty (40) hours. Sundays and Holidays are paid at two (2) times the hourly rate.

**9.2** Employees reporting to work at the direction of the Employer shall be paid for two (2) hours if not put to work, unless weather will not permit. If an Employee is called to work and commences work, he shall be guaranteed a minimum of four (4) hours pay; except when work is unable to proceed because 1) railroads or common carriers fail to make deliveries as scheduled; 2) the engineer refuses to permit work; or 3) acts of God, including weather conditions, will not permit work.

**9.3** For all production time worked on Sundays and Holidays, or days celebrated as such the Employees shall be paid twice the regular rate of pay except for necessary maintenance of perishable items, when the regular overtime rates (time and one-half (1½) over forty (40) hours in a week, or twelve (12) hours in a day) shall apply. No Employee shall be required to work on such days.

For the purposes of this Agreement, the following days are stated to be Holidays: Christmas Day, Memorial Day, Independence Day, Labor Day, New Year's Day, and Thanksgiving Day. No work shall be done on Labor Day except in extreme emergencies.

**9.4** If an Employee is required to work six (6) consecutive hours without a meal break of thirty (30) consecutive minutes, he shall be compensated for the thirty (30) minutes so worked at the applicable rate of pay. This shall not be construed to deny any Employee time to eat his meal. In addition to the above break, the Employee shall be entitled to a break in the forenoon and the afternoon, but shall not otherwise hinder the progress of the job. The break shall not exceed

ten (10) minutes from the time the Employee stops working until he resumes work, and shall be taken in close proximity of the Employee's workstation.

**9.5** Wages for work and services rendered shall be paid weekly on the job or by mail and on a regularly designated workday. All Employees must be paid in full when terminated or discharged from the job; however, if the superintendent or agent of the Employer does not have this authority, the Employee must receive his payroll check within twenty-four (24) hours. If the Employee does not appear to collect his check, the Employer will immediately mail his check to the Employee's last known address.

**9.6** In case of a dispute arising over hours, wages, and fringes, the Union shall have the right to examine the payroll records of the individual Employees covered by the Agreement upon which there is a dispute. Prior to the actual examination, a written request shall be submitted to the Employer involved.

**9.7** The Employer shall communicate with the Union prior to starting projects of \$17,000 or more.

**9.8** An Employer agrees to carry unemployment compensation, worker's compensation and social security payments for all Employees in his employment.

## **ARTICLE 10 Management**

**10.1** Management reserves the right to manage its jobs to the best interest of Management; the right to retain or dispense with Employees; to reduce or increase the number of Employees needed on each project, crew, activity or piece of equipment. Under no conditions will Union representatives make demands for more Employees in a crew on specific projects, insofar as it does not conflict with this Agreement.

**10.2** The Employer may discharge any Employee whose work or behavior is unsatisfactory or who fails to observe the safety precautions or other reasonable rules and regulations prescribed by the Employer or any governmental agency. No Employee shall be discharged for refusing to work under unsafe conditions.

## **ARTICLE 11**

### **Union Stewards**

**11.1** The Employer recognizes the right of the Union to designate job Stewards to handle such Union business as may from time to time be delegated to them to see that the terms and conditions of this Agreement are being complied with. The Employer agrees that any Steward shall be kept on the job if the crew is reduced due to weather conditions and/or if any Employees covered by this Agreement are kept on the job. The Steward, however, will not be an additional worker and must be part of the working crew. The Employer also agrees that the job Steward shall be kept on the job until completion of the work covered by this Agreement and are not to be laid off before such time without a hearing before a committee composed of a Representative of the involved Employer and an officer of the Union, which hearing shall be held not later than the end of the next business day following the giving of notice of layoff by the involved Employer to the involved job Steward.

**11.2** Only authorized Union representatives shall have the right to confer with Employees on the job. Each and every Union representative shall first contact the job superintendent or foreman, or whoever is in charge of the project, before conferring with any Employee. At no time shall such Union representative hinder or interfere with the progress of the work.

## **ARTICLE 12**

### **Savings Clause**

**12.1** This Agreement is intended to be in conformity with all applicable and valid State and Federal laws, rules and regulations.

**12.2** Any conflict between the provisions of this Agreement and the terms of any such laws and regulations shall cause the provisions of this Agreement so in conflict to be superseded or annulled but shall not supersede or annul the terms of this Agreement which are not so in conflict.

### **ARTICLE 13** **Term of Agreement**

**13.1** This Agreement is recognized as settling all issues for the duration of this Agreement and constitutes the entire Agreement between the parties and concluded all matters, which were subject of negotiations unless other matters are mutually agreed upon by the parties.

**13.2** All provisions of this Agreement shall take effect as of May 1, 2017 through April 30, 2020, and from year to year thereafter; provided however, that this Agreement may be terminated in writing by registered or certified mail to any party at least 60 days before the expiration date. Further, the Union may open this agreement during the term of the agreement to address changes related to Article 2 (Definition of Work & Scope of Agreement) by notifying the parties in writing at least 60 days before scheduling a meeting to meet and negotiate.

### **ARTICLE 14** **Violation of Agreement**

**14.1** In the event the Employer deliberately violates the provisions of this Agreement relating to wages, hours of work or overtime differentials, any back pay owed to the Employee because of such violation shall be paid by the Employer at the rate of two (2) times the standard straight time and overtime rate. The vacation benefit, as a taxable wage, shall be included in any such backpay calculations.

**14.2** Reasonable evidence of clerical error or honest mistake in interpretation of this Agreement shall exempt the Employer from the double backpay provisions. In such a case, the Employer shall be

required to pay only the actual amount of back pay involved, at the standard straight time and/or overtime rate.

**14.3** When there is evidence of collusion between the Employer and Employee to violate the Agreement, any back pay collected shall be made payable to the Employee, and shall be deposited with the Union, if the Arbitrator so orders.

## **ARTICLE 15**

### **Conflicting Agreements**

**15.1** The Union agrees that it will not negotiate any agreement with any Employer doing landscape work which would provide terms or benefits more favorable to such Employer, than are afforded by this Agreement and any supplements to this Agreement, unless this Agreement is modified to meet such terms.

## **ARTICLE 16**

### **Fringe Benefits**

The Employer agrees to contribute every month, not later than the 15<sup>th</sup> day of the following month, hereinafter called the “due date,” such sums for Pension, Health and Welfare, Vacation, Training/Apprenticeship and LECET as is designated in the wage schedule of this Agreement for each hour worked by all Employees covered by this Agreement. The Fringe Benefit Funds shall be known separately as the Minnesota Laborers Pension Fund, the Minnesota Laborers Health and Welfare Fund, the Minnesota Laborers Vacation Fund, the Construction Laborers Education, Training and Apprenticeship Fund of Minnesota and North Dakota and the Minnesota Laborers-Employers Cooperation and Education Trust (LECET) Fund and collectively as the Minnesota Laborers Fringe Benefits Fund under separate Trust Agreements, hereinafter called Fund(s), copies of which are available upon request from the Fund Administrator, and to which the Employer is automatically bound. The Trustees shall equally represent the Union and the Employer.

**16.1** The fringe benefit contributions are to be paid on one check and submitted to the agent of the Funds as designated by the Trustees.

**16.2** (a) The Employer is required to accurately report all hours worked by each Employee covered by this Agreement on a report form provided by the Fund Administrator.

(b) All fringe benefit contributions are paid on an hourly basis on all hours worked. This includes straight time, one and one-half time and double time. The Vacation contribution is taxable and on Structural Landscape and Related Work is paid in the same manner as the work performed at one and one-half and double time. The Pension, Health and Welfare, Training and LECET contributions are not pyramided, and on Plantings Landscape and Related Work, Vacation contributions are not pyramided. All benefits shall be paid for all hours worked. Structural Landscape and Related Work Example: If hourly wage is \$3.00 plus \$.10 for Pension, Health and Welfare, Training and LECET plus \$.02 Vacation; time and one-half overtime wage rate is \$4.50 plus \$.10 for Pension, Health and Welfare, Training and LECET plus \$.03 Vacation; double time overtime wage rate is \$6.00 plus \$.10 for Pension, Health and Welfare, Training and LECET plus \$.04 Vacation.

**16.3** (a) In the event that a National Health Insurance Program is enacted, the Employer contribution to the current Health and Welfare Plan, as described in Article 5, shall be applied to any cost incurred by the Employer and/or the Employees covered hereunder in connection with such National Health Plan.

(b) If the current Employer contribution is in excess of the cost of such National Health Plan, then at the discretion of the Employees covered hereunder, the difference shall become a contribution to either a supplemental health and welfare insurance plan and/or one of the existing Pension Plans.

**16.4** There shall be no requirement that Employees sent to work outside the scope of this Agreement be paid fringes, nor shall the

Employer be required to duplicate fringe contributions. The Employer shall maintain adequate records from which the Funds may determine whether Employees worked outside the scope of the Agreement.

**16.5** (a) An Employer shall be considered “delinquent” for a particular work month if its required report and payment for that month are not postmarked on or before the 15th day of the following month (the “due date”), irrespective of whether such delinquency is willful or otherwise.

(b) If an Employer becomes delinquent for a particular work month (as provided in (a) above), the Employer shall also pay, as liquidated damages and not as a penalty, an amount equal to 10% of the payment otherwise due for such work month, it being understood and acknowledged by the parties that actual damages are extremely difficult or impossible to ascertain and that the amount so fixed as liquidated damages is reasonable.

(c) An Employer is also required to pay interest on all delinquent fringe benefit contributions at the rate prescribed by the Trustees in the Trust Agreements as may be amended from time to time.

(d) If an Employer becomes delinquent for a particular work month (as provided in (a) above), as to any or all of the Trust Funds, or should the Trust Funds reasonably deem itself insecure in the payment or collection of fringe benefit payments by reason of the Employer’s past delinquencies, insolvency, insufficient capitalization, and/or lack of assets subject to attachment within the State in which work is performed, then the Fund Administrator, upon submission of an affidavit of the Fund Administrator to Employer attesting to same, shall have the right to compel the Employer to post a cash or fringe benefits surety bond (in a form acceptable to the Fund Administrator) in the face amount of the greater of \$20,000 or 125% of the total fringe benefit payments reasonably estimated to come due within the six (6) months following the date of Fund Administrator’s affidavit. This bond may be required whether or not a delinquency exists at the

time and may be required in addition to a bond posted for a prior delinquency.

The Union shall refuse to supply workers and shall prohibit Employees covered by this Agreement from working for any such delinquent Employer who fails or refuses to provide or maintain such a bond required under this Article.

(e) Illustration of clauses (a), (b), (c), and (d): If an Employer's report and payment for fringe benefit contributions for the January work month have not been postmarked before February 16, such Employer becomes delinquent at that point and must pay the full amount due, plus 10% of the delinquent amount, plus interest. If the report and the full payment for January (including the 10% liquidate damages amount and interest) are not postmarked before March 16, the Fund Administrator may submit an affidavit to the Employer and the Employer must then post a bond in the amount of \$20,000 or 125% of the estimated amount whichever is greater, in addition to reporting and paying the full amount due.

(f) The delinquent Employer shall also be required to pay all costs of collection actually incurred by the Trust Funds, including all attorney fees, service fees, filing fees, court reporter fees, and all other fees, costs and disbursements incurred by or on behalf of the Trust Funds in collecting the amount due. The Trustees at their discretion may reimburse (from the Funds) the Unions for picketing and bannering expenses actually incurred by the Union in collecting amounts due the Trust Funds, which expenses shall be deemed to be costs of collection incurred on behalf of the Trust Funds.

(g) Each Employer who is required to make payments to the Trust Funds shall promptly furnish to the Trustees, or the Unions, or their authorized agents, on demand, a complete set of all relevant employment and payroll records, including but not limited to federal forms W2s and W3s, federal quarterly 941 forms, federal forms 1099s and 1096s, Minnesota Unemployment Quarterly Reports (MUTAs or MN UCs) or such similar state required quarterly reports, time cards,

payroll and check registers. This includes any other relevant information that may be required in connection with the administration of the Trust Funds. The Trustees, the Unions, or their authorized agents may examine such records whenever such examination is deemed necessary by the Trustees, the Unions or their authorized agents in connection with the proper administration of the Trust Funds.

If any Employer fails or refuses to furnish its payroll records to the Trustees, the Unions or their authorized agents upon demand or refuses to afford the Trustees, the Unions or their authorized agents reasonable opportunity to examine the same in accordance with standard auditing procedures, the Trustees or the Unions may enforce such rights by legal action, in which event all attorney fees, service fees, filing fees, court reporter fees and other legal costs and disbursements, as well as the auditing fees and costs incurred in conducting such audit, shall be paid by such Employer on direction by the Trustees. The Unions shall also have the right to take economic action to enforce such rights on behalf of the Unions and the Trustees and the Trust Funds shall reimburse the Unions for picketing and banner expenses actually incurred in enforcing such rights.

Each Employer bound to this Agreement is obligated to maintain adequate records to identify the type of work being performed by its employees to allow the Funds to determine whether the Employer is accurately reporting hours to the Funds. If the Employer fails to maintain satisfactory records from which the type of work being performed by an individual may reasonably be determined, the Employer will be held liable for all of the hours worked by that individual for whom the employer is unable to produce satisfactory records verifying the type of work being performed by that individual.

(h) Notwithstanding the provisions of Article 7, Grievance-Arbitration Procedure, the failure, refusal or neglect of an Employer to report and to pay sums due the Trust Funds or otherwise to comply with the terms and provisions of this Article shall not be subject to arbitration. The Trustees or the Funds may proceed with legal action without

pursuing or participating in any dispute resolution process contained in this Agreement.

(i) The parties to this Agreement acknowledge that the provisions of this Agreement establishing rates of pay, wages, all hours of employment and other terms and conditions of employment, including fringe benefits, apply to Employees employed in job classifications within the jurisdiction of the Union from the first date of employment, REGARDLESS OF WHETHER OR NOT SUCH EMPLOYEES ARE MEMBERS OF THE UNION.

(j) No Agreement will be signed with any Employer who is delinquent with the submission of payment for fringe benefit contributions, past or present, unless or until fully paid. An Employer with a history of delinquencies may be required to post a fringe benefit bond in the manner and amounts as provided for in this Article, prior to the execution of a new Agreement.

**16.6** Any and all fringe benefit contribution rates shall be open for adjustment on any anniversary date upon thirty (30) days written notice to the Employers. Such adjustments shall operate to adjust wages in like amount.

**16.7** The Parties agree to the possibility of starting an annuity (defined contribution plan) during the term of this Agreement funded out of the existing package and administered by the Pension Fund Trustees.

## **ARTICLE 17**

### **Safety**

**17.1** Accident and injury free operations shall be the goal of all Employers and Employees. To this end, the Employer and Employee will, to the best of their ability abide by, and live up to the requirements of the several State and Federal Construction Safety Codes and Regulations.

**17.2** To this end, the Employer shall from time to time issue rules or notices to its Employees regarding on the job safety requirements. Any Employee violating such rules or notices shall be subject to disciplinary action. No Employee may be discharged for refusing to work under unsafe conditions. Further, the Employer will encourage Employees to attend safety and skills training available through the Construction Laborers Education, Apprenticeship & Training Fund of Minnesota & North Dakota.

**17.3** Such safety equipment as required by governmental regulations shall be provided without cost to the Employees. At the Employer's option, the Employees may be required to sign for safety equipment and shall be obligated to return same upon discharge, layoff, quit or other termination in comparable conditions as when issued, providing reasonable wear and tear. The Employer shall have the right to withhold the cost of such safety equipment if not returned.

**17.4** The Labor User Contractor (LUC) Committee Joint Labor-Management Uniform Drug/Alcohol Abuse Program, copies of which are on file with the Laborers District Council and the LUC Committee, is incorporated herein by reference and is made a part of this Collective Bargaining Agreement. This program is available to any signatory Employer on a non-mandatory basis. Any drug and or alcohol related policy or program adopted by the Employer must comply with the provisions of the LUC Program. The Union does not waive its rights to negotiate any issues including discipline related to drug and alcohol programs.

## **ARTICLE 18**

### **Work In Two Wage Classifications**

**18.1** Employees working in a classification that provides for a rate in excess of the Plantings Landscape Laborer rate shall be paid four (4) hours at the higher rate if they perform work in the higher classification for two (2) to four (4) hours. They shall be paid eight (8) hours at the higher rate if they perform work in the higher rate classification over four (4) hours. If they perform work in the higher

rate classification for two (2) hours or less or if the work is shut down, they shall be paid the higher rate for the hours actually worked in the higher rate classification.

**ARTICLE 19**  
**Fair Contracting Foundation,**  
**Labor-Management Cooperative Committee (LMCC)**

Effective May 1, 2014 the parties agree to participate in and fund the Fair Contracting Foundation of Minnesota (FCF) through a Labor-Management Cooperation Committee Trust Fund, pursuant to Sec. 6(b) of the Labor Management Cooperation Act of 1978, 29 U.S.C. §175a and Sec. 302(c)(9) of the Labor Management Relations Act, as amended.

The parties agree that the terms and conditions of this labor agreement help establish industry standards for safety, training, workforce availability, dependable benefits and reasonable wages. Unlawful conduct on construction projects jeopardizes these negotiated terms, interferes with contractors' lawful competition, erodes industry standards and conflicts with society's interests at large. Therefore, the FCF is established as a LMCC to monitor and enforce compliance with federal, state and local laws, rules and regulations. FCF's further purpose is to study and implement solutions to problems that impede fair competition and stunt economic development in the industry.

The Employer agrees to contribute every month, not later than the 15th day of the following month, hereinafter called the "due date," such sums for FCF as is designated in the wage schedule of this Agreement for each hour worked by all Employees covered by this Agreement. The FCF contributions are to be paid on one check along with the other fringe benefit contributions and submitted to the agent of the Funds as designated by the Trustees.

The FCF shall function in accordance with a Trust Fund established solely and exclusively for the FCF by a separate Agreement and Declaration of Trust for the Fair Contracting Foundation of Minnesota, any amendments thereto, and any of its governing documents. The terms of the FCF Agreement and Declaration of Trust and all other governing documents are fully incorporated into this Article by reference.

Local 405	Rochester	507-282-2349
Local 563	Metro Area	612-781-6933
Local 1091	Duluth	218-728-5151
Local 1097	Virginia	218-741-3638

Zenith American Solutions

Twin Cities	651-256-1800
Toll Free	800-814-4240

Apprenticeship Office	651-762-8235
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Training Center

Twin Cities	651-653-6710
Toll Free	888-758-6466

[www.MinnesotaLaborers.org](http://www.MinnesotaLaborers.org)