

AGREEMENT

By and Between

**TOWER/BREITUNG WASTEWATER
BOARD (TBWWB)**

and

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

January 1, 2021

Through

December 31, 2023

INDEX

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
	COVER PAGE	
	INDEX	0
1.	PURPOSE OF AGREEMENT	1
2.	RECOGNITION	1
3.	CHECKOFF OF UNION DUES/FAIR SHARE/ADMIN.	2
4.	MANAGEMENT RIGHTS	2
5.	EMPLOYER SECURITY	2
6.	GRIEVANCE PROCEDURE	3
7.	DISCIPLINE	5
8.	JOB SAFETY & CELL PHONE	6
9.	SENIORITY	6
10.	HEALTH AND WELFARE	7
11.	DISCRIMINATION	8
12.	HOURS OF EMPLOYMENT	8
13.	REPARABILITY AND SAVINGS CLAUSE	9
14.	WAGES & PROBATION	9
15.	TEMPORARY/SEASONAL EMPLOYEES	10
16.	PENSION	10
17.	HOLIDAYS	11
18.	SICK LEAVE	11
19.	VACATION	12
20.	GENERAL PROVISIONS	13
21.	DURATION	14

AGREEMENT

By and Between

TOWER/BREITUNG WASTEWATER BOARD

and

OPERATING ENGINEERS LOCAL NO.49, AFL-CIO

This Agreement is entered into between the Tower/Breitung Wastewater Board, hereinafter referred to as the TBWWB 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 TBWWB recognizes the Union as the exclusive representative for all employees employed by the TBWWB, Minnesota, who are public employees within the meaning of the Minnesota Statute §179A.03, excluding clerical, supervisory, part time and confidential employees.

Section 2. The Employer will notify the Union within 30 working days of all newly hired employees that meets the definition of Minn. State. 179A subd. 14. The Employer notification shall state employee name, job title, date of hire and hourly rate.

Section 3. 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/FAIR SHARE/ADMIN. 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/her 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. All Employees who have completed thirty (30) calendar days of employment shall become members of the Union and shall maintain their membership in good standing. "In good standing," for the purpose of this Agreement, is defined as to mean the payment of a standard initiation fee and standard regular monthly and/or administrative dues uniformly required as a condition of acquiring or retaining membership in the Union.

Section 2. Admin. Dues. Working dues in the amount of zero percent (0%) of gross wages excluding fringes shall be deducted and submitted to Local 49 on the employee's behalf.

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 function 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) working 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 1 grievance within ten (10) calendar days after receipt. A grievance not resolved in Step 1 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 fourteen (14) days to Arbitration. The Employer and the Union representative shall endeavor to select a mutually acceptable arbitrator to hear and decide the grievance. If the parties cannot agree on an arbitrator, the selection of an arbitrator shall be made in accordance with the Rules established by the Bureau of Mediation Services.

The Union and the Employer will endeavor to select a mutually acceptable arbitrator to hear and decide the grievance. If the Union and the Employer are unable to agree on an arbitrator, they may request, from the Director of the Bureau of Mediation Services, a list of qualified arbitrators. The parties will alternately strike names from the list of arbitrators until only one (1) name remains. The remaining arbitrator will hear and decide the grievance. If the parties are unable to agree on who will strike the first name the question will be decided by the flip of a coin.

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. The Employer will discipline for cause only. Discipline will be in one or more of the following forms.

- A. Oral reprimand
- B. Written reprimand
- C. Suspension
- D. Discharge

Section 2. Notices of suspension and/or discharge will be in written form and will state the reason(s) for the action taken. Suspensions will set forth the time period for which the suspension shall be effective. The Union shall be provided with a copy of each such notice.

Section 3. Written reprimands, notices of suspension, and notices of discharge which are to become part of an employee's personnel file shall be read and acknowledged by signature of the employee. The employee will receive a copy of such reprimands and/or notices. 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.

Section 4. Discharges will be preceded by a five (5) calendar day suspension without pay.

Section 5. Employees may examine their own individual personnel files at reasonable times under the direct supervision of the Employer.

Section 6. Grievances relating to discharge or suspension without pay may be initiated by the Union in Step 3 of the grievance procedure.

ARTICLE 8 JOB SAFETY & CELL PHONE

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.

Section 3. Tower/Breitung Wastewater employees will receive Two Hundred Dollars (\$200.00) a year for safety/clothing allowance with accompanying receipt. Allowances will not transfer from year to year – use it or lose it. Tower/Breitung Wastewater Board will pay for safety item(s) required by law.

Section 4. The employer shall cover the expense of a basic cell phone plan as well as any increases to the basic plan which consists of a fifty (\$50.00) per month rate presently for the duration of this Agreement.

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 too 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 TBWWB 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 TBWWB for not reporting he/she will be considered as having voluntarily quit.

Employees shall notify the TBWWB of their proper telephone number and post office address or change of address. The TBWWB 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. TBWWB employees are eligible for coverage from the Operating Engineers Local No. 49 Health and Welfare Fund ("Health and Welfare Fund"). The terms of the Trust agreement establishing the Health and Welfare Fund is hereby incorporated as a part hereof. The Employer agrees to make monthly contributions to the Health and Welfare Fund and will execute a separate participation agreement regarding those contributions.

The Tower/Breitung Wastewater Board will make a combined contribution per month toward employee health and medical insurance coverage and also to the Union's Health Reimbursement Account (HRA) as provided in this paragraph. The Tower/Breitung Wastewater Board will contribute to each employee participating in the Union-designated health and medical insurance plan (the Local 49 Health and Welfare Fund monthly premium) and HRA a combined amount per month of \$1,800.00. The Employer contribution to the HRA as provided herein shall be the difference between the maximum combined Employer contribution stated above in this paragraph and the Employer contribution to the cost of the insurance premium for health and medical insurance coverage for those employees participating in the Union-designated plan.

Section 2. Health Reimbursement Arrangement. HRA contributions shall run concurrent with the Health and Welfare bargaining premium contributions.

Effective March 1, 2012, HRA Contributions shall be based on years of employment commencing on the completion of the sixty (60) calendar day probationary period based on the following schedule:

Year 1 - \$100.00 per month
Year 2 - \$200.00 per month
Year 3 - \$300.00 per month
Year 4 - \$400.00 per month

Year five (5) the HRA contribution will be the difference as set forth in Section 1 of this Article.

Section 3. In the event that the cost of the health and welfare becomes a burden to the TSWB opening of this agreement shall be considered upon agreement by both parties signatory to this agreement, TBWWB and the Union for considerations of revision.

Section 4. Life Insurance: The TBWWB shall provide and make premium payments for a group term life insurance policy for full-time employees as follows, twenty thousand dollar (\$20,000.00) policy and provide a one thousand five hundred dollar (\$1500.00) paid up policy at age 65.

Life insurance and medical coverage shall be provided by the Employer during disability, sick leave and vacation.

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 full-time employees of the TBWWB 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. Work day work week full-time employee. The work day will be determined by the job at hand and based on the need to complete. The normal work week shall

consist of forty hours (40).

Section 2. Hours worked in excess of eight hours per day or forty hours per week shall be compensated at one and one half (1 ½) times the straight time rate to be taken either in wages or compensatory time off at the employee's discretion.

ARTICLE 13 REPARABILITY AND SAVINGS CLAUSE

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

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 AND PROBATION

Each step 1 through step 5 represents one (1) year of service. The employee's wage shall increase to Step 6 after completing ten (10) years of service and to Step 7 after completing eighteen (18) years of service, and to Step 8 upon completing twenty (20) years of service, and to Step 9 after twenty-five (25) years of service.

Effective January 1, 2021

Start	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9
22.07	22.66	23.26	23.90	24.56	25.22	25.90	26.67	27.48	28.30

Effective January 1, 2022

Start	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9
22.95	23.34	23.96	24.62	25.30	25.98	26.68	27.47	28.30	29.15

Effective January 1, 2023

Start	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9
23.41	23.81	24.44	25.11	25.81	26.50	27.21	28.02	28.86	29.73

Probation shall consist of up to sixty calendar days. Insurance, HRA and pension shall commence on completion of the sixty calendar day probationary period.

The employee in the position of full-time waste/wastewater shall receive an additional one hundred twenty five dollars and zero cents (\$125.00) per month for the inconvenience of being on call for weekends and hours after the close of the employee's work day.

ARTICLE 15 TEMPORARY/SEASONAL EMPLOYEE

Temporary or Seasonal employees shall be defined pursuant to Minnesota Statute 179A.03, Subd. 14, Sec. F, as employees whose positions are basically temporary or seasonal in character and are employed; (1) for not more than 67 working days in any calendar year; or (2) for not more than 100 working days in any calendar year and the employees are under the age of 22, are full-time students enrolled in a non-profit or public educational institution prior to being hired by the Employer, and have indicated, whether in an application for employment or by being enrolled at an educational institution for the next academic year or term, an intention to continue as students during or after their temporary employment.

- A) Temporary/Seasonal employees required to work in excess of the time limits specified above shall be classified as temporary General Maintenance. The union will obtain written authorization from the employee for the deduction of wages for (1) union dues established by the union in the event that the employee is re-classified.
- B) The rate of pay for temporary/seasonal employees shall not exceed the 80% minimum rate for the classification of Full-time Wastewater Worker in the agreement, and they shall receive no additional benefits of the Agreement.
- C) Temporary/Seasonal employees shall not operate heavy equipment unless specifically assigned by a supervisor to perform duties of a short duration (under 1 hour) when regular employees are unavailable.
- D) In no instance may a temporary/seasonal appointment exceed 180 work days in one calendar year.
- E) All time worked in a temporary/seasonal capacity shall be recorded and applied to satisfy pay progression and benefits in the event the affected temporary/seasonal employee becomes a permanent employee.

ARTICLE 16 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 one hundred percent by the employer.

All employees considered full time employees of the TBWWB shall receive contributions of two dollars and forty cents (\$2.40) per hour for all straight time hours, not to exceed five thousand dollars (\$5000.00) in any one year.

All full-time employees hired after January 1st, 2021, shall fall under the following schedule for Central Pension Fund contributions:

Year 1	\$0.50 per hour
Year 2	\$1.00 per hour
Year 3	\$1.50 per hour
Year 4	\$2.00 per hour
Year 5	\$2.40 per hour

ARTICLE 17 HOLIDAYS

All regular full-time employees of the Waste Water Department shall receive the following paid holidays:

New Year's Day	Memorial Day	Veteran's Day
Martin Luther King Day	Fourth of July	Christmas Day
Presidents Day	Labor Day	Personal Day.
Good Friday	Thanksgiving Day	Employee's Birthday

Holidays will be compensated by an extra paid day off, or on approval of the Employer, payment will be given to the department operator.
If work is required on a holiday, employee will be paid time and a half plus one day off.

ARTICLE 18 SICK LEAVE

Section 1. All regular full-time employees of the Tower/Breitung Waste Water Department shall earn sick leave at the rate of one and one quarter (1 1/4) days per month of service, accumulative to 120 working days.
After three (3) consecutive day's absence from work due to illness or accident, the Employer shall have the right to insist on a doctor's certificate confirming the employee's inability to do work. If such certificate is not furnished when demanded the Employer shall have the right to refuse any sick leave allowance.

The employer will pay for all physical examinations required by the Employer or by any State rules or regulations.

No sick leave credit will be accrued while an employee is, away from work due to leave of absence, sickness or disability, nor will sick leave pay be allowed during leave of absence or during layoff, except as described below:

Sick leave pay credit shall cease on the day preceding the day on which the employee retires. If an employee becomes ill or injured while on vacation, the scheduled vacation time is counted as vacation; and, if the disability continues beyond the scheduled time of the vacation, sick leave pay (any remaining sick leave credit) will begin on the first consecutive scheduled working day after the end of the scheduled vacation.

Any sick leave credits remaining to retiring employee will be paid on retirement date.

Section 2. Sick leave shall also be granted for sickness or other medical reasons in the employee's immediate family (mother, father, children, brother, sister, spouse and spouse's immediate family). This leave shall be granted up to three (3) days.

Section 3. Two days absence without loss of pay shall be allowed an employee in the case of death in the immediate family. Immediate family shall be defined as spouse, children, parents, sisters, brothers, grandparents or grandchildren of either the employee or his/her spouse.

ARTICLE 19 VACATION

All regular full time employees of the Maintenance Department shall earn annual vacation at their regular weekly rate of pay as follows:

<u>Weeks of paid Vacation</u>	<u>Years of Service</u>
Upon completion of the following:	
1 week	1 year
2 weeks	2 years
3 weeks	5 years
4 weeks	10 years

One Additional day for each year after twelve (12) years of service. Vacation to be capped upon qualifying for six weeks' vacation.

Upon termination of employment for any cause, the employee shall be paid for any accumulated vacation credit, including pro rata, payment for a period less than one year, providing he gives two weeks written notice.

Vacation time may not accumulate from one calendar year to another unless arrangements are mutually agreed upon by the Employee and Employer.

ARTICLE 20
GENERAL PROVISIONS

Section 1. Employees who are required to attend TBWWB meetings shall receive their regular rate of pay for said meetings.

Section 2. If an employee is selected to serve on jury duty or is subpoenaed as a witness for TBWWB related matters, the employee will notify the Employer as soon as possible after receipt of notification. The employee will turn in the amount of jury duty pay received, and the Employer shall pay the employee his/her regular pay (calculated as per the employee's regularly scheduled hours). Pay received for mileage allowance shall not be considered as part of the jury duty pay to be submitted to the Employer. The Employer may ask to have the employee excused from jury duty.

When subpoenaed, the employee shall be compensated his/her daily wage for each day he/she provides testimony and/or is required to prepare for such testimony.

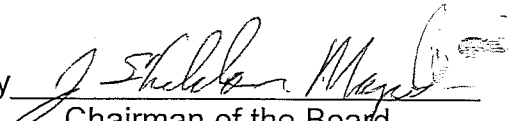
Section 3. The TBWWB shall cover all costs associated with attaining any new licenses that may become mandatory as well as maintaining the licenses presently required for operations of the water and wastewater plants.

ARTICLE 21
DURATION


This Agreement shall be effective January 1, 2021, and shall continue in full force and effect through Dec. 31, 2023. 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 Jan. 1, 2023. 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.

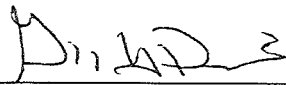
IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____.

Tower/Breitung Wastewater Board

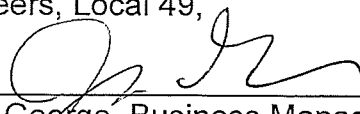
By 
Chairman of the Board


By Timothy S. Towner

By 

By 

International Union of Operating
Engineers, Local 49,

By 
Jason George, Business Manager,
Financial Secretary

By 
Daniel Manick, Area Business Rep.

Tower Breitung Wastewater Board Joint Powers Agreement

This agreement is entered into by and between the City of Tower, a Minnesota municipal corporation, and the Township of Breitung.

Whereas, Minnesota Statutes section 471.59 provides that two or more governmental units may by agreement jointly exercise any power common to the contracting parties; and

Whereas, the City of Tower and the Township of Breitung (collectively “the Parties”) previously entered into a joint powers agreement entitled “Joint Powers Agreement Between the City of Tower, Minnesota and the Township of Breitung, Minnesota” dated June 2, 1987 (the “Original Agreement”); and

Whereas, the City and the Township agree to establish a board to function as the water and wastewater treatment facilities for the City of Tower and the Township of Breitung and to jointly own the necessary facilities; and

Whereas, the City and the Township believe that it is in the mutual interest of the City and the Township to cooperate in providing good quality water to their citizens and in providing for the removal of wastewater after use by the citizens; and

Whereas, in light of events that occurred since the “Original Agreement” was executed, the City and the Township desire to replace the “Original Agreement” with a new agreement.

Now, therefore, in consideration of the promises and covenants contained herein, and in accordance with Minnesota Statutes section 471.59, the City and Township agree as follows:

Article 1 Revocation

- 1.1 The Original Agreement is hereby revoked by the City and the Township, declared null and void, and replaced in its entirety by this Agreement.

Article 2 Name

- 2.1 The joint powers entity governed by this Agreement shall continue to be known as the Tower Breitung Wastewater Board (“the Board”).

Article 3

Purpose

- 3.1 The purpose of this Agreement is as follows:
- 3.1.1 To provide an updated mechanism so that the City and Township may continue to provide a safe, efficient, and cost-effective means for jointly acquiring, maintaining, and operating water facilities and wastewater disposal facilities, and to do so in a manner that is fair and equitable to the citizens of each respective entity, while adhering to all applicable local, state, and federal regulations.
 - 3.1.2 This agreement is also intended to allow the joint powers entity to provide other similar or related services as determined by the governing board, and to incur obligations and debt in furtherance of the entity's purpose, as allowed by Minnesota Statutes section 471.59 and other applicable law.
 - 3.1.3 This agreement is intended to provide for the formation and establishment of the Tower Breitung Wastewater Board, which shall be empowered with the legal, institutional, managerial, and financial capability to administer the wastewater and water treatment needs of the two communities, to define the extent of service, and the terms of water and sewer usage, to define responsibility for cost compensation, and to define special conditions and arbitration.

Article 4

Governance

- 4.1 Governing Board. A governing board shall be formed to oversee the operation of the water and wastewater facilities for the two communities.
- 4.1.1 Membership. The Board shall be comprised of four members as follows:
 - 4.1.1.1 Two members from the Breitung Township Board appointed in March each year
 - 4.1.1.2 Two members from the Tower City Council appointed in January each year
 - 4.1.2 Annual Meeting. The annual meeting of the Tower Breitung Wastewater Board will be held the third Wednesday of April at 5:00PM at the Tower City Hall.
 - 4.1.3 Voting Power. A quorum shall consist of no less than 3 Board members. Each member of the Board shall have one vote, and all decisions shall be made by simple majority vote. Abstentions shall not be counted as votes cast to this section. Proxy votes are not permitted.

- 4.2 By-laws. The Board has adopted bylaws to govern its operations. Such bylaws shall be consistent with this Agreement and applicable law.
- 4.3 Officers.
- 4.3.1 The Board shall elect a Chair and a Vice Chair from its membership. The Chair shall conduct Board meetings. The Chair and the Vice Chair shall each serve a one year term beginning May 1st. The Vice Chair shall assume the Chair's duties in the Chair's absence.
- 4.3.2 The Board shall appoint a secretary/treasurer.
- 4.3.3 The Board shall have the authority to appoint, hire, contract, and/or engage staff and/or committees as it deems necessary to fulfill the purpose of the organization.
- 4.3.4 The Board may elect or appoint other officers as it deems necessary to conduct its affairs.
- 4.4 Meetings. The Board shall comply with Minnesota Statutes Chapter 13D, Open Meeting Law. All meetings shall take place in the City of Tower, unless otherwise approved by the Board in a public meeting and properly noticed as required by state law.
- 4.5 Compensation. Each member of the Board shall receive a stipend for attending duly noticed Board meetings. The amount of the stipend shall be set annually by the Board.

Article 5

Powers of the Board

- 5.1 General Powers. The Board may enter into contracts necessary for the exercise of its duties and responsibilities to govern the Board. The Board may take such actions as is necessary to enforce such contracts. Contracts let and purchases made pursuant to this Agreement shall conform to the requirements applicable to contracts required by law.
- 5.2 Staff. The Board may employ staff and outside consultants as reasonably needed in furtherance of the Board's duties and in support of the Board's purpose.
- 5.3 Budget. The Board shall develop and adopt an annual budget by December 15th of each year.
- 5.4 Insurance. The Board shall obtain liability and property insurance up to the relevant Minnesota liability limits, and such other insurance as it deems necessary to indemnify the Board and its members, agents, employees, officers, and employees of the parties to the extent that they perform duties for the board for actions of the Board, employees, officers and employees of the parties to the extent that they perform duties for the board

and its members arising out of this Agreement. This insurance is separate from any insurance held by either of the individual entities.

- 5.5 Property Acquisition. The Board may acquire all real and personal property and equipment, including wastewater and water treatment facilities and related infrastructure, necessary to carry out the purposes of this Agreement.

Article 6

Staff

- 6.1 Operator. The Board shall enter into a service contract or hire a properly licensed wastewater facilities operator to operate and maintain the wastewater facilities in accordance with Federal, State, and Local regulations. The Board shall adopt an official job description to be reviewed and updated as needed.
- 6.2 Secretary – Treasurer. The Board shall appoint a Secretary/Treasurer. The Board shall adopt an official job description to be reviewed and updated as needed.
- 6.3 Additional Staff. The Board may hire other staff as deemed necessary.
- 6.4 The terms and conditions of employment for all staff shall be determined by the Board.

Article 7

Indemnification

- 7.1 Applicability. The Board shall be considered a separate and distinct public entity to which the Parties have transferred all responsibility and control for actions taken pursuant to this Agreement. The Board shall comply with all laws and rules that govern a public entity in the State of Minnesota and shall be entitled to the protections of Minnesota Statutes Chapter 466.
- 7.2 Indemnification and Hold Harmless. The Board shall fully defend, indemnify and hold harmless the Parties against all claims, losses, liability, suits, judgements, costs, and expenses by reason of the action or inaction excluding reckless and intentional acts of the Board and/or employees and/or the agents of the Board only to the fullest extent permitted by law. This agreement to indemnify and hold harmless does not constitute a waiver by any party of limitations on liability provided under Minnesota Statutes section 466.04.

To the full extent permitted by law, actions by the Parties pursuant to this Agreement are intended to be shall be construed as “cooperative activity” and it is the intent of the Parties that they be deemed a “single governmental unit” for the purposes of liability as set forth in Minnesota Statutes section 471.59, subdivision 1a(a)-(b). It is further provided that for purposes of that statute, each Party to this Agreement expressly declines responsibility for the acts or omissions of other party.

The parties to this Agreement are not liable for the acts or omissions of the other Parties to this Agreement except to the extent to which they have agreed in writing to be responsible for acts or omissions of the other Parties.

Any excess or uninsured liability shall be borne equally by the parties, but this does not include the liability of any individual officer, employee, or volunteer which arises from his or her own malfeasance, willful neglect of duty, or bad faith.

Article 8

Revenue

- 8.1 All user charges and assessments shall be collected by the Parties. The Board shall bill the Parties as necessary to cover all costs associated with the acquisition, operation, and maintenance of the wastewater facilities and related infrastructure. Each entity through their respective governing bodies shall determine the rate that they will charge their consumers. The Board shall determine the frequency of the periodic billings of the Parties as well as the method for calculating the charges. The "Board" shall be strictly accountable for all funds and responsible for reporting to the entities. The accountability for funds, receipts, and methods of disbursements shall be in accordance with the rules and regulations established by the Government Accounting Standards Board.
- 8.2 It is expressly understood that grants provided by the United States Environmental Protection Agency (EPA), the Minnesota Pollution Control Agency (MPCA), the Iron Range Resources and Rehabilitation Board (IRRRB), and any other funding agency not specifically identified above shall be considered as contributions on behalf of both communities, even though the award of the grant(s) may be administered or received by only one of the communities.
- 8.3 The Board shall make every effort to provide good quality water and service and for the removal of wastewater from the City of Tower and the Township of Breitung. The Board shall use every means to assure the rate charged for water and wastewater removal to the two entities is at the lowest possible rate.
- 8.4 The Board shall provide reasonable fund balance to take care of any unforeseen contingencies.

Article 9

Term

- 9.1 This Agreement shall commence upon approval of the governing body of each Party, and shall remain in effect until (1) terminated by mutual consent of the Parties, (2) suspended or superseded by a subsequent agreement between the Parties, or (3) terminated by operation of law.

Article 10

Distribution of Property

- 10.1 In the event that this Agreement is terminated and The Board ceases to exist as a separate entity, all real and personal property held by "The Board" shall be divided between the Parties in proportion to their historical financial contributions. Said division shall be proposed by The Board and approved by the governance of each entity prior to cessation of The Board. In the event an agreement cannot be reached, the matter shall be submitted to mediation, and if that is not successful, then it shall be decided by binding arbitration.

Article 11

Amendments

- 11.1 Amendments and supplements to this Agreement may be initiated by the City or Township, but shall not be valid until agreed to and signed by both.

Article 12

Settlement of Disputes

- 12.1 In cases of disputes pertaining to the interpretation of this Agreement, the City and the Township are expected to discuss and negotiate with each other in good faith to resolve the dispute. In such cases where an agreeable conclusion cannot be reached, the City and the Township shall agree to submit the dispute to the process of binding arbitration as provided by law. In cases where the negotiated conclusion produces an agreement not covered by this Agreement, supplemental agreements may be adopted to clarify existing or to provide additional provisions, including, but not limited to procedures for the user charge system and debt retirement system, control of the sewer use, and industrial pretreatment. Both parties shall over their own costs incurred in the event of a dispute.

Article 13

Effective Date

This Agreement shall be effective on the date approved by the signatures of the undersigned City and Township. This agreement shall remain in effect indefinitely.

Executed by the City of Tower this 27th day of November 2017.

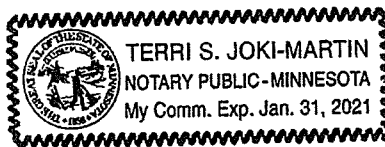
Mayor, Josh Carlson

City Clerk Treasurer Linda K Keith

[illegible]


The foregoing agreement was acknowledged before me this 27th day of November, 2017 by the Mayor and the City Clerk Treasurer of the City of Tower, Minnesota.

Gemma S Johnson
Notary Public



Executed by the Township of Breitung this 29th day of December 2017.

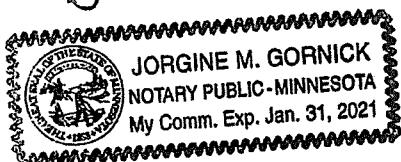
Timothy S. Tomsich
Tim Tomsich, Chairman of the Board


Valeda McDonald, Town Clerk

[illegible]

The foregoing agreement was acknowledged before me this 29th day of December, 2017 by the Chairman of the Board and the Town Clerk of the Township of Breitung, Minnesota.

Jorgine M. Lovick
Notary Public



Tower Breitung Wastewater Board By-Laws

Article 1

Purpose of the Board

- 1.1 To own, operate, and maintain a water treatment and wastewater disposal facility for the benefit of the City of Tower and the Township of Breitung.
- 1.2 To provide adequate water and wastewater treatment capacity so as not to inhibit the development and growth of the two communities.
- 1.3 To provide other similar or related services as determined by the "Board".

Article 2

Definitions

- 2.1 The "Board" shall mean the joint powers board known as the Tower Breitung Wastewater Board, as established by the Joint Powers Agreement.
- 2.2 Entities shall mean the City of Tower and the Township of Breitung.
- 2.3 Joint Powers Agreement shall mean the Tower Breitung Wastewater Board Joint Powers Agreement.
- 2.4 Operator Employee or consultant who is a licensed water and wastewater facility operator and is hired by the "Board" to operate the "Board's" facilities.
- 2.5 CBOD Carbonaceous biochemical oxygen demand, as defined by the Minnesota Pollution Control Agency
- 2.6 TSS Total suspended solids, as defined by the Minnesota Pollution Control Agency.

Article 3

Membership

- 3.1 Membership within the "Board" shall be established by the Joint Powers Agreement.

Article 4

Exclusive Use and Benefit

- 4.1 The wastewater treatment facility is for the exclusive use of the residents within the City and Township. No wastewater generated or emanating from property outside the entities limits shall be treated without prior approval from both the City Council of the City of Tower and the Town Board of the Township of Breitung.

Article 5

Powers

The Board shall have the power necessary to carry out the management, business, and affairs of the Tower Breitung Wastewater Board, except as otherwise reserved to the City and the Township in the Joint Powers Agreement or the By-Laws. Powers of the "Board" shall include but are not limited to:

- 5.1 Exercising responsibility for the "Board's" operation and financial condition.
- 5.2 Collecting payments for services and pay authorized expenses.
- 5.3 Promulgating and amending, as needed, operating policies, procedures, and a schedule of fees and charges.
- 5.4 Monitoring compliance with statutes, rules, and regulations applicable to the "Board".
- 5.5 Entering into contracts, leases, and other agreements.
- 5.6 Renting, leasing, purchasing, and otherwise procuring or receiving real or personal property.
- 5.7 Employing personnel either as employees or by contract.
- 5.8 Hiring such consultants as needed for the proper operation and maintenance of the facility.

Article 6

Board Meetings

The "Board" may set the time, date, and place for holding regular meetings, subject to the requirements set forth in the Joint Powers Agreement. The "Board" shall provide for adequate and timely notice of the meeting. Special meetings of the "Board" may be called by or at the request of the Chair, or in their absence, the Vice Chair, or any two members of the "Board".

Article 7

Amendments

The "Board" shall have the power to amend the By-Laws. Amendments may be proposed by any "Board" member. Proposed amendments must be provided to the "Board" at least 30 days prior to the "Board" meeting at which the proposed amendment is to be considered.

Article 8

Wastewater Monitoring and Billing

The "Board" recognizes that the ability of the "Board" to fulfill the purposes for which it was created depends in part on its financial stability as well as the entities cooperation in eliminating and preventing excessive loads on the water and wastewater facilities. In order to ensure that the "Board" remains financially sound and consistently operates in compliance with all applicable rules and limitations, the following shall occur:

- 8.1 The Chief Operator shall schedule the measurement of the hydraulic, CBOD, and TSS loads on the wastewater inflow from each community at their respective lift stations and meters by the 15th of each month. Sampling shall be done using approved standard sample handling procedures.
- 8.2 The Operator may observe random hydraulic measurements within each community as conducted by their personnel or agents in order to monitor wastewater sources with potentially problematic wastewater. The results from all such measurements shall be set forth in the periodic reports to the respective entities. The Operator shall provide to the entities all information about the source of high hydraulic, CBDO, or TSS levels reasonably available so as to allow the entities in which the source is located to take steps necessary to reduce the high levels.
- 8.3 Levels in excess of MPCA permissible levels measured at the plant influent, shall be reported within 24 hours to both entities.
- 8.4 The "Board" shall adopt a fee schedule by December 1st of each year that generates sufficient revenue to cover all reasonably foreseeable expenses for operating and maintaining the water and wastewater treatment facility.
 - 8.4.1 Fees are to be invoiced to, and funds received from the entities; there shall be no direct billing to the end users of the water and wastewater facilities. The fees are to be invoiced on a calendar month basis, with payments due within 30 days of billing.
 - 8.4.2 The "Board's" fee schedule shall be based upon the respective entities' hydraulic flows.

Executed by the City of Tower this 27th day of November 2017.

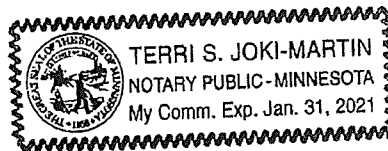
Mayor, Josh Carlson

City Clerk Treasurer Linda K Keith

[illegible]

The foregoing agreement was acknowledged before me this 27th day of November, 2017 by the Mayor and the City Clerk Treasurer of the City of Tower, Minnesota.

Genni S. Johnson
Notary Public



Executed by the Township of Breitung this 27 day of November 2017.

29th

December

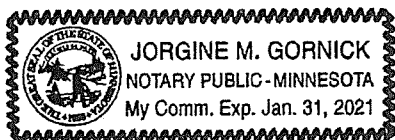
Tim Tomsich, Chairman of the Board

Valeda McDonald, Town Clerk

[illegible]

The foregoing agreement was acknowledged before me this 29th day of December, 2017 by the Chairman of the Board and the Town Clerk of the Township of Breitung, Minnesota.

Jagvir M. Shrivastava
Notary Public



APPENDIX A

FIRE AND RESCUE ADDENDUM

EMPLOYEE RECRUITMENT AND SELECTION

Scope

The Fire Chief or his/her designee will manage the hiring process for positions within the Department. While the hiring process may be coordinated by staff, the Board is responsible for the final hiring decision and must approve all hires. All hiring decisions will be based upon merit and fitness for the position. Applicants should have 15 minute response time to the Fire Hall unless the Board determines otherwise.

Features of the Recruitment System

The Board or its designee will establish the minimum qualifications for each position with input from the appropriate supervisor. To be eligible to participate in the selection process, a candidate must meet the minimum qualifications.

The Fire Chief or his/her designee will determine if a vacancy will be filled through open recruitment or by promotion, transfer, or some other method. This determination will be made on a case-by-case basis, although most vacancies will be filled through an open recruitment process.

Application for employment will generally be made online or by application forms provided by the Department. Other materials may be accepted as determined by the Fire Chief or his/her designee. Supplemental questionnaires may be required in certain situations. All candidates must complete and submit the required application materials by the posted deadline, in order to be considered for the position.

The deadline for application may be extended by the Fire Chief. Unsolicited applications will not be kept on file.

Vacancies may be filled on an "acting" basis as needed. The Board will approve all acting appointments. Pay rate adjustments, if any, will be determined by the Board.

Internal vacancies will be open to any Department employee who: (1) has successfully completed the initial training period; (2) meets the minimum qualifications for the vacant position; and (3) currently is and for the past year has been in good standing with the Department.

Testing and Examinations

Applicant qualifications will be evaluated in one or more of the following ways: training and experience rating; written test; oral test or interview; performance or demonstrative test; physical agility test; or other appropriate job-related exam.

Pre-Employment Medical Exams

The Fire Chief or his/her designee may determine that a pre-employment medical examination is necessary to determine fitness to perform the essential functions of the position. Where a medical examination is required, an offer of employment is contingent upon successful completion of the medical exam.

When a pre-employment medical exam is required, it will be required of all candidates who are finalists and/or who are offered employment for a given job class. Information obtained from the medical exam will be treated as a confidential medical record.

When required, the medical exam will be conducted by a licensed physician designated by the Department with the cost of the exam paid by the Department.

If a candidate requires accommodation to perform one or more of the essential functions of the job, the Fire Chief or his/her designee will confer with the candidate regarding reasonable accommodations. If a candidate is rejected for employment based on the results of the medical exam, he/she will be notified of this.

Selection Process

The selection process will be a cooperative effort between the Fire Chief and the Board, subject to final approval by the Board. Any, all, or none of the candidates may be interviewed.

The process for hiring seasonal and temporary employees may be delegated to the Fire Chief, with each hire subject to final Board approval.

Background Checks

All finalists will be subject to a background check to confirm information submitted through the application process and to assist in determining the candidate's suitability for the position. Except where already defined by state law, the Fire Chief will determine the level of background check to be conducted based on the position being filled.

COMPENSATION

Compensation

Compensation for employees will be set by the Board at the time of hire, or on an annual basis.

Expense reimbursement or travel expenses must be pre-authorized by the Fire Chief.

Any employee who suffers lost wages while on an emergency call can request reimbursement for wages lost, up to eight hours of pay at a maximum rate of \$25 per hour. Requests must be in writing, with proof of lost wages.

Any employee responding to wildland fires requested by the Minnesota Department of Natural Resources will be paid the hourly rate per the current DNR contract.

Tuition Reimbursement

To be considered for tuition reimbursement, an employee must be in good standing and have been employed by the Department for at least one year. All requests for tuition reimbursement must be approved in advance by Fire Chief and the Board. Each request will be considered on a case-by-case basis by the Fire Chief, with final approval/disapproval by the Board.

WORK RULES

Attendance and Absence

The operations and standards of service on the Department require that employees be at calls, trainings, and other events unless valid reasons warrant absence. To be considered a member in good standing for a calendar year employees are required to do the following:

1. Attend 10% of all emergency calls and Department scheduled events;
2. Attend 25% of regular monthly meetings;
3. Complete required physical and fit test every two years; and
4. Attend 100% of all required training per the annual training plan.

Any member who is not able to meet these requirements will be subject to discipline, up to and including termination.

Required Training

All required training must be completed by each employee as per the annual training plan. Make up sessions for required training will be scheduled as needed.

Access to and Use of Department Property

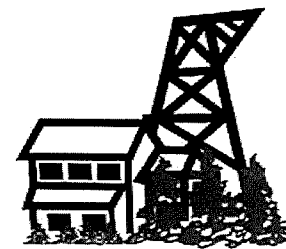
Any employee who has authorized possession of keys, tools, cell phones, pagers, or other Department owned equipment must register his/her name and the serial number (if applicable) of or identifying information about the equipment with his/her supervisor. All such equipment must be turned in and accounted for by any employee leaving employment with the Department in order to resign in good standing.

Employees are responsible for the safekeeping and care of all Department equipment. The duplication of keys is prohibited unless authorized by the Fire Chief. Any employee found having an unauthorized duplicate key will be subject to discipline, up to and including termination.

Appearance and Emergency Call Response

All employees must respond to emergency calls with the required PPE.

TOWNSHIP OF BREITUNG



PO Box 56 | Soudan | MN | 55782

Breitung Township Contract Agreement

Compensation to the Members of Breitung Fire and Rescue Department

This contract is between Breitung Township, through it's Town Board of Supervisors at 33 First Avenue, Soudan, MN 55782 and The Breitung Fire and Rescue Department, a volunteer Fire Department, through its Officers at 33 First Avenue, Soudan, MN 55782.

This contract is to comply with Minnesota Statutes Section 471.88. subs 1,6, and made pursuant to Minnesota Statutes Section 365.181.

Contract Agreement Start Date:

Current Contract Expiration Date:

1. The Breitung Fire and Rescue is to hold its Annual Meeting in January of each year, whereas compensation for its officers is discussed and voted upon for each officer and a recommendation is made to the Town Board of Breitung for compensation to Breitung Fire and Rescue Officers. The Town Board will vote upon the Fire and Rescue recommendation for approval at the Reorganizational Meeting to be held in March of that same year and agrees to pay the approved compensation for services rendered by the Breitung Fire and Rescue Department.
2. At any time should there be an Officer who is to receive compensation, and is also a member of the Town Board, that Officer will abstain from discussion of compensation and will abstain from voting on compensation.

Adopted by the Breitung Town Board on XXXXX. Supervisors XYZ By vote of

Adopted by the Breitung Fire and Rescue Department on XXX. By vote of

Approved: Chairman

Approved: Fire Chief

Attested: Clerk

Timothy Tomsich-Chairman

Trevor Banks-Chief

Dianna Sundahl - Clerk