

TO: MAYOR AND CITY COUNCIL
FROM: LANELL ENDRES, INTERIM CITY ADMIN/FINANCE DIRECTOR
SUBJECT: MEMORANDUM OF UNDERSTANDING-WES ANWAY
MEETING DATE: FEBRUARY 20, 2018

BACKGROUND

At the special City Council meeting held on Thursday, February 9, 2018, the City Council appointed Utilities Supervisor Wes Anway as the Interim Public Works Director. Mr. Anway is a member of the International Union of Operating Engineer, Local 49 therefore a Memorandum of Understanding is required. The attached Memorandum outlines the duties as they relate to employee supervisory functions and rate of pay for the Interim Public Works Director.

REQUESTED COUNCIL ACTION

I respectfully request the Council to approve the Memorandum of Understanding as presented.

Attachment(s):
Memorandum of Understanding

International Union of Operating Engineers

LOCAL NO. 49, 49A, 49B, 49C, 49D, AND 49E
MINNESOTA • NORTH DAKOTA • SOUTH DAKOTA

CLAYTON J. JOHNSON, President
BRUCE STAHNKE, Vice President
TIM L. OLSON,
Recording-Corresponding Secretary
ERIC R. O'GARY, Treasurer



GLEN D. JOHNSON
Business Manager/Financial Secretary

Affiliated with the A.F.L. - C.I.O.

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February 12, 2018

MEMORANDUM OF UNDERSTANDING

The parties are executing this agreement to address interim duties that will be assigned to the Utilities Supervisor during the term of the Public Works Director Vacancy. Once the position is filled the Utilities Supervisor will then continue with the duties normally assigned to the position. The duties assigned shall not be of such nature that they violate the below provision of state law and change the employees bargaining unit eligible status.

PELRA defines a supervisory employee as the following:

Minn. Stat. § 179A.03

Subd. 17. Supervisory employee.

*“Supervisory employee” means a person who has the authority to undertake a **majority** of the following supervisory functions in the interests of the employer: **hiring, transfer, suspension, promotion, discharge, assignment, reward, or discipline of other employees, direction of the work of other employees, or adjustment of other employees' grievances on behalf of the employer.** To be included as a supervisory function which the person has authority to undertake, the exercise of the authority by the person may not be merely routine or clerical in nature but must require the use of **independent judgment**. An employee, other than an essential employee, who has authority to **effectively recommend** a supervisory function, is deemed to have authority to undertake that supervisory function for the purposes of this subdivision. The administrative head of a municipality, municipal utility, or police or fire department, and the administrative head's assistant, are always considered supervisory employees.*

The removal of employees by the employer from a nonsupervisory appropriate unit for the purpose of designating the employees as "supervisory employees" shall require either the prior written agreement of the exclusive representative and the written approval of the commissioner or a separate determination by the commissioner before the redesignation is effective.

At no time shall the employee be able to perform more than 4 of the 10 functions of a supervisor and the functions the employer has assigned are: **assignment, reward, direction of work and adjustment of other employees' grievances**. The other 6 items highlighted above shall be handled by either ranking management or elected officials of the City of Cannon Falls and at anytime the Utility Supervisor can be overruled by the aforementioned. Furthermore the City of Cannon Falls also agrees not to challenge the employees inclusion in the bargaining unit. The rate of pay shall be \$36.15 hr for the period that the employee will be assigned these extra duties.

CITY OF CANNON FALLS

**INTERNATIONAL UNION OF
OPERATING ENGINEERS,
LOCAL No. 49**

By _____

By _____
Glen D. Johnson, Business Manager

By _____

By _____
Jay Poitevin Organizer/Contract Specialist