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**AGREEMENT**

**Between**

**THE CITY OF ROCHESTER, NEW YORK**

**And**

**THE INTERNATIONAL UNION OF OPERATING ENGINEERS  
LOCAL 71-71A**

**July 1, 1996 to June 30, 1999**

NYS PUBLIC EMPLOYMENT  
RELATIONS BOARD  
RECEIVED

JUL 28 1997

#Employees: 12

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## PREAMBLE

This City-wide master Agreement entered into by the City of Rochester (hereinafter referred to as the Employer) and Local 71-71A, International Union of Operating Engineers (hereinafter referred to as the Union), has as its purpose the promotion of harmonious relations between the Employer and the Union, the establishment of an equitable and peaceful procedure for the resolution of differences and the establishment of rates of pay, hours of work and other conditions of employment.

**IN ACCORDANCE WITH THE PUBLIC EMPLOYEES' FAIR EMPLOYMENT ACT, SECTION 204-a, IT IS AGREED BY AND BETWEEN THE PARTIES THAT ANY PROVISION OF THIS AGREEMENT REQUIRING LEGISLATIVE ACTION TO PERMIT ITS IMPLEMENTATION BY AMENDMENT OF LAW OR BY PROVIDING THE ADDITIONAL FUNDS THEREFORE, SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE LEGISLATIVE BODY HAS GIVEN APPROVAL.**

The City and the Union recognize their responsibility to participate in and support the Affirmative Action Plans and efforts undertaken by the City in accordance with the Equal Employment Act of 1972, Public Law 92-261, as it may be amended. The parties agree that they will administer this contract in accordance with applicable Affirmative Action Laws, and the rules and regulations of any appropriate administrative agency charged with implementing such laws.

## ARTICLE 1 RECOGNITION

### **Section 1 - Unit definition**

A. The City recognizes the Union as the sole and exclusive collective bargaining agent for the purpose of establishing salaries, wages, hours and other terms and conditions of employment, as defined in Section 201 (4) of the Civil Service Law, for employees of the City in the following titles:

Lead H.V.A.C. Engineer

H.V.A.C. Engineer

Assistant H.V.A.C. Engineer

B. When new titles are created that appear to be within the scope of the unit, or existing unit titles are changed, the City will consult with the Union in determining whether the new or amended titles should be included in the bargaining unit defined above. If the parties cannot agree on the unit status of a title, the matter shall be settled by an arbitrator. The City may create the position and fill the vacancy subject to a final determination. Pending such final determination, the position shall be placed in the bargaining unit.

## **ARTICLE 2 UNION SECURITY**

### **Section 1 - Dues Deduction**

A. The City shall deduct union dues on the second pay date of each month from the wages of those employees who have filed with the Director of Finance an appropriate written authorization and shall remit the same to the Union. The necessary authorization forms shall be provided by the Union. The amount of Union dues to be deducted from each employee's wages shall be certified to the Finance Director by the Secretary-Treasurer of the Union.

B. The total of all such dues deductions and representative cost deductions shall be remitted each month to the designated financial officer of the Union together with a list from whom such dues and representative costs have been deducted.

C. Any change in the amount of Union dues to be deducted must be certified by the Union in writing and be forwarded to the Finance Director. Deductions of Union Dues at the new certified rate shall be made by the City at the next regular pay period for the Union deductions, providing, however, that the certification to the City is made at least two weeks prior to such regular pay period for Union deductions.

### **Section 2 - Agency Shop**

A. This is an Agency Shop Agreement. The City agrees to deduct an amount equal to the normal monthly dues paid by Union members from the earnings of said employee who is not a Union member as their representative costs and remit such amount to the Union in the same manner as provided in Section 1 of this Article .

### **Section 3 - Indemnification**

The Union agrees to indemnify and shall promptly refund to the City any funds received in accordance with this Article which were erroneously deducted.

### **Section 4 - Bulletin Boards**

A. The employer agrees to provide sufficient bulletin boards for the use of the Union to post notices at each work installation.

B. The employer agrees to post job notices on all bulletin boards referred to in A above and to forward a copy of the notice to the Union.

C. The Union agrees to send a notice of acknowledgement to the City Employee Relations Office upon its receipt of a job posting notice.

### **Section 5 - Access to Premises**

The Employer agrees to allow representatives of Local 71, including the Business Manager, to enter the premises of the Employer to discuss Union matters with Stewards or members of the Unit, provided such representatives do not unduly interfere with the performance of duties assigned to the employees or disrupt the business operations of the Employer.



## **ARTICLE 3 HOURS OF WORK**

### **Section 1 - Standard Work Week**

For payroll purposes only, the standard work week shall begin with Sunday and end on the following Saturday.

### **Section 2 - Work Day**

The work day shall coincide with the calendar day and shall consist of 24 hours beginning at midnight provided any shift which begins on or after 8:00 P.M. will be considered part of the next calendar day.

### **Section 3 - Regular Hours of Work**

The regular hours of work of members of the Bargaining Unit shall not exceed eight (8) hours in any one work day and forty (40) hours in any standard work week.

### **Section 4 - Regularly Scheduled Work Week**

Except as otherwise provided in this Article, the regularly scheduled work week shall consist of five (5) consecutive days from Monday through Friday, inclusive.

### **Section 5 - Consecutive Hours of Work**

The regular hours of work each day shall be consecutive except for:

1. Interruptions for lunch periods.
2. As otherwise provided for certain employees in this Agreement, or as may be agreed to by the City and Union during the life of this Agreement.

### **Section 6 - Special Work Weeks**

A. The City and the Union recognize their obligation to provide certain services to the community on a continuous basis outside the regularly scheduled work week established in Section 4 of this Article. To meet this need, the parties agree that special work weeks can be scheduled in selected positions.

B. Special work weeks shall consist of five (5) consecutive days of work other than the regularly scheduled work week of Monday through Friday unless otherwise provided. It is agreed that no action will be taken by the City without first consulting with the Union as specified in Section 8 A. of this Article. Special work weeks other than those set forth in this section may be established with the concurrence of the Union.

C. In making assignments to special work weeks, volunteers will first be solicited. If the necessary number of employees does not volunteer, then assignments will be made in order of inverse seniority among employees capable of performing the work.

### **Section 7 - Posting of Schedules**

Work schedules showing the employees' work weeks, work days, shifts and hours shall be posted on all department bulletin boards at all times except in those areas where the employees' work schedule remains unchanged.

### **Section 8 - Work Schedule Changes**

A. The Employer reserves the right to designate and change the work schedules, weeks, days, hours and shifts of employees. However, except in operational emergencies, the Employer agrees to consult with the Union prior to making any such changes. In addition, except in operational emergencies, notice of not less than seven (7) calendar days after consultation with the Union, shall be given to the Union and the employee or employees involved, in writing, prior to changing the work schedule, work day hours or shift of any personnel covered by this Agreement.

B. Notice of not less than forty-eight (48) hours shall be given prior to changing or cancelling an employee's scheduled shift when the shift would otherwise be worked at premium pay, unless emergency conditions beyond the control of the employer make it impossible to perform the work.

### **Section 9 - Rest Periods**

A. All employees' work schedules shall provide for a ten (10) minute rest period during each one-half (1/2) shift. The rest period shall be scheduled at the middle of each half shift depending on the work situation. However, the two, ten (10) minute periods are guaranteed.

B. Employees required to work at least two (2) hours beyond their regular quitting time into the next shift, shall receive a ten (10) minute rest period for each two (2) hours worked beyond his normal quitting time.

### **Section 10 - Lunch Period Policy**

A. There shall be a 20 minute paid lunch period for the personnel who are required by their assignment to remain at the Public Safety Building, City Hall and the CVMF during the course of the work day. Employees receiving a paid lunch must remain at their work site or be on route between job locations during their paid lunch period.

B. Where working conditions do not require continuous maintenance of a work station or continued presence at the work site, lunch period shall be unpaid and for a minimum of 30 minutes duration as may be determined by the employer.

C. The failure to take a 20 minute lunch period shall not entitle the employee to additional compensation. The failure to take an unpaid lunch period upon request of a supervisor shall be treated as overtime and governed by general overtime regulations.

### **Section 11 - Clean-up Time**

Department Heads shall grant clean-up time of ten (10) minutes where appropriate.

### **Section 12 - Employee Address and Telephone Number**

It shall be the responsibility of the employee to keep the Department Head informed of his current address and telephone number where he can be notified of emergencies, changes in schedule, disciplinary actions, standby and overtime assignments and other matters. The City shall have no obligation to notify employees at home under any provision of this Agreement if an employee fails to keep his Department Head so informed.

## **ARTICLE 4 OVERTIME**

### **Section 1 - Premium Pay**

A. All time worked beyond the regular hours of work as defined in Article 3, Section 3, or as established for in a special work week, shall be paid at the rate of time and one-half.

B. If an employee is absent without pay any time during the work week, an equal amount of time outside of his regularly scheduled work week will be paid at straight time before he becomes eligible for premium time.

### **Section 2 - Work Schedule Changes**

No individual employee shall have his work schedule or regular day off schedule changed for the purpose of avoiding payment of overtime. This provision shall not apply when the work schedule has been changed in accordance with Article 3, Section 8(A) of this Agreement.

## **ARTICLE 5 REPORTING PAY AND SCHEDULING OF WORK**

### **Section 1 - Tardiness**

A. Repeated and excessive tardiness shall be defined as follows: Four (4) or more occurrences during a thirty (30) consecutive calendar day period of reporting late for work.

B. Penalties for violating the provisions of A above shall be as follows:

1. First Offense: Written Reprimand
2. Second Offense: Three (3) day suspension without pay
3. Third Offense: Five (5) day suspension without pay
4. Fourth Offense: Further disciplinary action including termination.

The levels of discipline stated above are permissive, and the Department Head may consider extenuating circumstances and impose a lesser penalty. If a period of nine months expires from the date of an offense as defined herein without the commission of an additional offense, the employee shall be considered to be at the First Offense level in the event of any further offense.

C. If the employee reports for work after his regularly scheduled starting time, he shall be assigned work only if:

1. The employee calls in at least fifteen (15) minutes prior to his starting time and indicates his expected time of arrival, which must be within one hour of his starting time.
2. The supervisor informs him that work will be available.
3. The employee arrives at the time he indicated to the supervisor
4. If the employee is told that no work is available, his absence shall be considered authorized.

D. Nothing in this Article will relieve an employee of the responsibility to report to work in sufficient time before the start of the work day so that he can begin work at the start of his designated shift.

E. In the event that a public or private transportation breakdown, act of God, strike (except

a strike or concerted action by members of the bargaining unit) is responsible for an employee's failure to report for work as provided above, then the employee will be excused, but not paid, for the time he has missed.

F. The provisions of this section will not apply if notice had been given that no work is available.

### **Section 2 - Unreported Employee Absences**

A. Except as otherwise provided, employees are required to report all absences from work to a telephone number designated by the appropriate division no later than the beginning of their regularly assigned starting time. Employees failing to report an absence as required will be subject to disciplinary action as set forth in C below. Employees who report for work within one (1) hour of their regularly assigned starting time shall not be considered as having an unreported absence. Such employee shall be considered tardy.

B. The City and Union recognize that unreported employee absences cause serious operational problems and place an undue burden upon fellow employees. In order to keep these situations to an absolute minimum, the parties agree that unreported absences will result in disciplinary action as prescribed in C.

C. Penalties: Penalties for failing to report absences shall be as follows:

1. First Offense: Written Reprimand.
2. Second Offense: A three (3) day suspension without pay.
3. Third Offense: A five (5) day suspension without pay.
4. Fourth Offense: Further disciplinary action which may include termination.

The levels of discipline stated above are permissive, and the Department Head may consider extenuating circumstances and impose a lesser penalty.

### **Section 3 - Employees on Overtime Shift**

Employees scheduled to work an overtime shift will be subject to all attendance rules as if it were a regular work shift.

### **Section 4 - Reporting Pay for Incomplete Shifts**

If, because of inclement weather or other reasons, an employee is excused from duty after the beginning of the shift by the Department Head or his authorized representative, he shall be paid one-half (1/2) day's pay. If any part of the day is worked, an employee shall be paid for the time actually worked, but for no less than one-half (1/2) day's pay. An employee so excused from duty shall be allowed to use accrued personal, vacation or sick leave credits to make up any difference for the hours provided for herein and his regularly scheduled work day. Sick pay can only be used when all personal and vacation credits have been exhausted.

### **Section 5 - Call Back Pay**

A. Any employee who has completed his regularly scheduled shift and who has left the job site and who is called back for duty which is not contiguous to his regularly scheduled shift and which is in addition to or outside of his regularly scheduled shift as defined in Section 3 (C) of Article 3, and who presents himself for work as scheduled, shall be assigned at least four (4) hours of work, unless previous notice has been given that no work is available prior to reporting

to work.

B. There shall be only one four (4) hour call back payment for each four (4) hour period, regardless of the number of times an employee is called back during such period. Employees will receive no more than eight (8) hours of call back pay in any twenty-four (24) hour period, and in addition thereto, will be paid for actual time worked over the eight (8) hour limit.

#### **Section 6 - Stand-by Pay**

A. Any employee instructed to stand-by (be available by telephone) one or more times during any twenty-four (24) hour period in which he has scheduled work, shall be paid two (2) hours at his regular straight time rate for such period.

B. Any employee instructed to stand-by one or more times during any twenty-four (24) hour period in which he is not scheduled to work shall be paid for four (4) hours at his regular straight time rate for such period.

C. Employees on stand-by pay status pursuant to this section must remain at home or, if they must leave their home, must notify a designated supervisor of their whereabouts during the time when an employee is on stand-by status.

D. In the event an employee on stand-by is ordered to work and reports to work, he shall be paid only one-half (1/2) of the stand-by pay to which he is otherwise entitled. Employees covered by this provision shall be paid at the time and one-half rate only for the number of hours actually worked, and shall not be entitled to call-back pay in Section 5 above.

E. In the event an employee on stand-by cannot be contacted or is ordered to work and does not report to work, he shall not be paid any stand-by pay and will be subject to disciplinary action.

F. Employees functioning as Snow Inspectors during the winter months shall not be eligible for Stand-by Pay.

#### **Section 7 - Overtime Designations**

A. Overtime will be designated into two categories: Scheduled and Emergency. Scheduled overtime is that overtime for which notification is given to the employee at least one day in advance of the overtime. Emergency overtime is that overtime which has less than one day advance notice and is authorized by the Department Head or his authorized representative.

B. An employee shall work scheduled or emergency overtime which he has accepted, unless the employee has a reason for not working such overtime which would constitute an excusable reason for not working regularly scheduled hours.

#### **Section 8 - Distribution of Overtime**

A. Overtime opportunities will be distributed equally among employees working within the same job title and within the same City facility and bureau who can do the work. Distribution of overtime opportunities shall be equalized over each three (3) month period beginning on the first day of January, April, July and October. Employees not wishing to be considered for overtime opportunities under this subdivision may waive their rights under this section, in writing. Said waiver may be withdrawn in writing at any time. However, there shall be no obligation to equalize overtime opportunities for such employees during the quarter in which the waiver is submitted or withdrawn.

B. Scheduled overtime shall be credited toward equalization of overtime hours when the opportunity to work such scheduled overtime is offered to the employee.

C. Emergency overtime opportunities will be credited toward equalization of overtime hours. If an employee refused emergency overtime such refusal shall not be used in determining the employee's eligibility for subsequent overtime opportunities.

D. On each occasion, the opportunity to work scheduled overtime and, whenever possible, the opportunity to work emergency overtime shall be offered to the employee in the job title and within the same City facility and bureau who can do the work and who has the least number of overtime hours to his credit at that time, except that the City shall not have to recall an employee when a unit employee in the same job title or a higher unit job title in the same job series is on the job site and is willing to work the overtime. If this employee is unable to work the overtime, the employee with the next fewest overtime hours to his credit will be offered the assignment. This procedure shall be followed until the required number of employees has been scheduled for the overtime work.

E. When there is no volunteer for the required overtime work, whether scheduled or emergency, the employer shall choose the employee(s) needed to do the work by selecting the least senior employee(s) within the same job title capable of performing the work, except that the City shall not have to recall an employee when a unit employee in the same job is on the job site. Overtime assignments of employees on the job site shall be rotated on the basis of inverse seniority. Such employees shall be deemed to have been offered and to have accepted the overtime work. In the event there are two or more employees with identical seniority, the employee with the least credited overtime shall be assigned the work.

F. A record of the overtime hours credited to each employee shall be available to the Union upon request.

G. Where an entire classification of employees within the same City facility and bureau is required to work overtime, all such employees notified shall be deemed to have been offered and to have accepted the overtime work.

H. If any employee establishes that he did not receive overtime opportunities to which he was entitled under the provisions of this Section, such employee shall have preference to future overtime opportunities until such situation is corrected.

#### **Section 9 - Shift Preference**

Shift preference will be granted on the basis of seniority within the same job title and the same department where a vacancy exists, provided the employee submits a written request to his Department Head for a shift change.

#### **Section 10 - Exceptions to Special Pay**

The Employer shall not be required to pay reporting pay, call back pay, or stand-by pay in the event that:

A. Strikes, work stoppages in connection with labor disputes, or failure of utilities beyond the control of the employer interfere with work being provided, or

B. An employee is not put to work or is laid off after having been put to work, either at his own request or due to his own fault.

**Section 11 - Not a Guarantee**

Nothing in this agreement or in the Article shall be construed as a guarantee of hours of work per day or per week when interruptions of normal City operations are beyond the control of the City.

**Section 12 - Absence as Resignation**

Notwithstanding any other provision of this Article, any employee absent from work without authorization for ten (10) consecutive work days shall be deemed to have resigned from his position. This provision shall not apply to employees who are in the process of changing from full pay to one-half pay sick leave status.

**ARTICLE 6  
HOLIDAYS**

**Section 1 - Holidays, Recognized and Observed**

A. The following days will be recognized and observed as paid holidays:

New Year's Day	Labor Day
Lincoln's Birthday	Columbus Day
Washington's Birthday	Veteran's Day
Good Friday	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day
Martin Luther King Jr. Day	

B. Employees otherwise scheduled to work on a day on which a holiday is observed who are excused from work because of the holiday shall receive one day's holiday pay for each of the holidays listed above.

C. Whenever any of the holidays listed above shall fall on a Saturday, the preceding Friday shall be observed as the holiday, or as provided by law.

D. Whenever any of the holidays listed above shall fall on a Sunday, the succeeding Monday shall be observed as the holiday, or as provided by law.

E. Whenever any of the holidays listed above is observed on a scheduled day off, such day shall be paid at the employee's current daily rate or the employee shall be given another day off in lieu thereof at the option of the Employer. If the City elects to give the employee another day off in lieu of the holiday, the City shall schedule such day off to fall within two (2) weeks after the holiday. If another day off cannot be scheduled within such time, the employee shall be paid for the holiday and shall not receive a day off in lieu of the holiday.

F. The City Director of Employee Relations shall notify the union of the exact dates on which the above listed holidays shall be celebrated. This notification shall be submitted to the Union before the beginning of each contract year. In the event of a legal change of the date of celebrating a holiday, the Union will be notified of such change as soon as possible.

**Section 2 - Eligibility Requirements**

- A. Employees shall be eligible for holiday pay under the following conditions:
1. The employee would have been scheduled to work on such day, if it had not been observed as a holiday. Any employee on approved vacation or sick leave who would otherwise have been scheduled to work on such day, shall be deemed to have met this condition. For purposes of this Section, the term "approved vacation or sick leave" does not include a leave for compensable injury or occupational disease as provided by Article 10, Section 7.
  2. The employee worked his full regularly scheduled work day before and after the holiday, except where an employee on either of such days is on an authorized sick day, vacation day or an authorized emergency personal leave day as allowed by the terms of this Agreement. An unpaid sick day must be verified by a medical certificate of illness or injury to be deemed authorized within the meaning of this section.
- B. No employee who is scheduled to work a holiday shall be compensated for that holiday if he fails to report to work and does not comply with the reporting provisions of this Agreement.

**Section 3 - Work Assigned on Holidays**

Employees assigned by the Department Head, or his authorized representative, to work on any of the holidays listed above in Section 1, shall be paid time and one-half for all hours worked, in addition to their regular holiday pay.

**Section 4 - Hours for Overtime Purposes**

For the purpose of computing overtime, each holiday shall be regarded as a normal work day, provided the employee is paid holiday pay for that holiday.

**ARTICLE 7  
VACATIONS**

**Section 1 Total Vacation Credits, Choice of Vacation Period**

- A. Vacation credits shall be granted in accordance with Section 5 of this Article and may be accumulated only up to a maximum of two years of credits. The smallest unit of vacation credits which may be used shall be one-half (1/2) day.
- B. "Closed" periods are those periods designated by the Department Head or his designated representative during which vacations may be denied. These periods shall be established after consultation with the Union. All other periods shall be considered as "open" periods for purposes of requesting vacation.

February 1 through March 1 of each year shall be designated by all Departments as a "Vacation Selection Period" for employees who wish to submit vacation requests for the "Open" periods. Requests of this nature shall be for periods of no less than five (5) consecutive work days. In the event of conflicts over vacation requests received during this selection period, seniority will prevail. Vacation requests made during the rest of the year shall be granted within



two (2) working days of the request provided that:

1. The period has not already been approved for another employee, in which case the Employer may deny the request if the nature of the work makes it necessary to limit the number of employees on vacation during the same period.
  2. The period is not declared as closed at the time such request is made.
  3. The vacation requests for two (2) working days or less are made in writing at least two (2) working days prior to the date(s) requested.
  4. That vacation requests for three (3) to five (5) working days are made in writing at least five (5) working days prior to the dates requested.
  5. That vacation requests for more than five (5) days are made in writing at least two (2) weeks prior to the dates requested.
  6. In the event of conflicts over vacation requests received on the same day, seniority will prevail.
- C. Any periods during which a City facility is not operated shall be designated as periods during which the employees of such facilities must take their vacations. These periods must be established prior to February 1 each year and after consultation with the Union.
- D. No vacation time shall be granted until earned, nor shall any employee be allowed to use accumulated vacation leave during the first six (6) months of employment. No employee who leaves the service of the City within the first six months of employment shall be compensated for vacation time.
- E. Vacation choices and schedules shall be posted on all department and bureau bulletin boards for examination by the employees or Union Steward of that unit.
- F. Vacation pay shall be paid in advance of the start of the employee's vacation period when the employee requests it, provided the request is made by the employee at least two (2) weeks in advance of the vacation.
- G. In emergency situations, a Department Head, at his sole discretion, may grant a request for an emergency vacation pay advance. In such situations, notice of at least one (1) working day is required.
- H. Vacation pay shall be paid on the basis of the employee's regularly scheduled work day at his regular straight time rate of pay in effect at the time of use.

### **Section 2 - Holiday During Vacation Period**

If a holiday occurs during the calendar week in which a vacation is taken by the employee, the employee shall receive the holiday pay in lieu of the vacation pay for that day.

### **Section 3 - Work During Vacation Period**

- A. Employees who have their vacation cancelled by the City within two (2) months of their scheduled vacation time shall be paid at a rate of time and one-half for time worked during the cancelled vacation. The actual vacation shall be rescheduled at a time agreeable to the City and the employee.
- B. Provisions as set forth in subdivision A above shall not apply when, because of an emergency declared by the Mayor, vacations and time off are cancelled for all employees. Employees on vacation shall not be recalled.

**Section 4 - Vacation Rights in Case of Separation, Death or Layoff (Termination Pay)**

A. Any full-time employee who is laid off, retired or separated from the service of the employer for any reason, prior to taking his vacation, and who gives at least two (2) weeks notice to the City of his resignation or retirement, shall be compensated in cash for the unused portions he has accumulated at the time of separation. However, no more than fifty (50) days unused vacation credit may be paid.

B. In the case of the death of an employee, such payment shall be made to his estate, and shall not exceed two (2) years of accruals.

**Section 5 - Vacation Schedule**

All employees shall accrue vacation on the following basis unless otherwise provided:

<u>SERVICE TIME</u>	<u>ACCUMULATION</u>	<u>ANNUAL ACCRUAL</u>
Less than 2 years	10/12 day per month	2 weeks (10 working days)
2 full years but less than 15 years	15/12 day per month	3 weeks (15 working days)
15 full years	20/12 days per month	4 weeks (20 working days)
16 full years	21/12 day per month	4 weeks, 1 day (21 working days)
17 full years	22/12 day per month	4 weeks, 2 days (22 working days)
18 full years	23/12 day per month	4 weeks, 3 days (23 working days)
19 full years	24/12 day per month	4 weeks, 4 days (24 working days)
20 full years or more	25/12 day per month	5 weeks (25 working days)

Vacation accruals commence after one calendar month of full-time employment and monthly thereafter.

**ARTICLE 8  
SICK LEAVE**

**Section 1 - Allowance**

A. Employees, by their service for the employer, earn and accrue sick leave benefits to be used by them to have adequate income in the event of illness or injury.

B. Any employee contracting or incurring any non-service connected sickness or disability which renders such employee unable to perform the duties of his employment, or who must make medical or dental visits which cannot be scheduled during non-working hours as a result of any illness or injury, shall receive sick leave with pay to the extent allowed by this Article.

C. Employees shall be eligible to utilize accrued sick leave after thirty (30) days of service with the employer.

D. An employee requesting a sick day must report his absence, nature of illness, and the expected date of return no later than his regular starting time to a phone number or supervisor specified by the Employer. If the employee is unable to report back to work as indicated, he shall so advise the employer in accordance with this section. This requirement will be waived

by the division head when notice could not be given as set forth above due to circumstances beyond the control of the employee.

E. Employees assigned to work overtime outside of their own department cannot use sick leave credits during the same calendar day in which the premium pay is requested.

### **Section 2 - Accumulation**

A. Employees shall start to earn sick leave from their date of hire and they shall accumulate sick leave as long as they are actively working in the service of the Employer or on an authorized paid leave at the rate of one (1) day per month, or twelve (12) days per year, up to a total of one-hundred eighty (180) days.

B. All sick leave accruals will be on a calendar month basis.

C. Any employee who is absent for four (4) days or more without authorization any time during a calendar month shall not accrue sick leave credits for that month. Authorized absence without pay shall not be considered an unauthorized absence for the purpose of this section provided that such authorized absence without pay is accompanied by a valid doctor's certificate which shall be presented by the employee to the Employer.

### **Section 3 - Requirement for Doctor's Certificate and Returning to Work**

A. Upon returning to work after using three (3) or more consecutive work days of sickness or injury leave an employee will be required to produce a doctor's certificate containing the date of the office visit, nature of illness, dates of absence and date of return to work. The City shall have the right to substantiate the validity of an employee's claim to sickness.

B. An employee who fails to produce a doctor's certificate upon returning to work, or within five (5) working days after returning to work from sick or injury leave, shall forfeit sick and injury leave pay for the period he did not work during such sickness or injury.

C. If an employee has already received sick leave pay to which he was not entitled, such pay shall be deducted from his next regular paychecks, and sick leave credits used shall be reinstated.

D. Any employee returning to work from a work-related injury involving time lost from work must present a statement to the Employer from his treating physician which identifies the nature of the injury and includes a clear statement that the employee is physically capable of returning performing all of his job duties. No employee will be allowed to return to work who has failed to provide this statement. At the sole discretion of the Employer, the employee may be required to be examined by a physician of the Employer's choice to confirm the employee's ability to perform all of the functions of his position. Such examination shall be performed at the City's expense and shall be performed prior to allowing the employee to return to work. Any dispute arising out of the implementation of this provision may be processed by the Union as a grievance at the 3rd step of the Grievance Procedure.

E. (1) Any employee returning to work from a prolonged illness of more than thirty (30) days must present to his supervisor a statement from his treating physician which confirms that the employee is physically capable of returning to his regular job. No employee will be allowed to return to work who has failed to present such physician's statement.

(2) Any employee returning to work from one-half pay sick leave status must present to

his supervisor a statement from his treating physician which confirms that the employee is physically capable of returning to his regular job duties. No employee will be allowed to return to work who has failed to present such physicians's statement.

F. Any employee out ill for thirty (30) consecutive calendar days shall provide his Department Head with a doctor's verification of illness. Such verification shall be submitted every thirty (30) consecutive calendar days thereafter.

#### **Section 4 - Injured or Partially Disabled Employees**

A. If a Department has reason to believe that an employee cannot perform his duties in a satisfactory manner due to a disability, the Department shall so notify the Safety Office.

B. The City Safety Office shall schedule an examination for such employee with a physician designated by the City. The cost of the examination shall be borne by the City.

C. Unless, in the opinion of the Department Head, the employee presents a potential hazard to himself, others or property, the employee shall remain on active duty until the results of the examination are available. If in the Department Head's judgement, the employee's presence on the job presents a potential hazard to himself, others or property, the employee will be placed on leave and may use accrued paid leave credits.

D. An employee placed on leave pursuant to subdivision C, who is subsequently medically certified as being capable of performing all of his regular job duties shall be returned to active duty, and shall have restored to him any paid leave credits used by him during such period of leave.

E. If the employee is medically certified as being incapable of performing all of his regular job duties, the City will attempt to transfer the employee into an equal or lower paying vacant position which the employee is medically capable of performing and for which he qualifies.

F. If no such vacancy exists, the employee will be allowed to bump into an equal or lower paying position providing the employee has the necessary seniority, qualifies for the title and is capable of performing the required job duties.

G. If the employee refuses or does not qualify for transfer or bumping, the City will offer the employee a layoff, with recall rights upon certification by a physician appointed by the City that the employee is medically capable of performing all of the job duties.

H. If the employee refuses any of the above options, the City will terminate the employee.

#### **Section 5 - Extended Sick Leave at One-Half Pay**

A. Extended leave at one-half pay shall be authorized after sick leave accruals, unused vacation days and personal leave days have been exhausted with the approval of the Department Head and Employee Relations Director. Such leave shall be granted only on the basis of a doctor's certificate, clearly stating the nature and expected length of disability. Said doctor's certificate is to be filed with the Department Head within seven (7) calendar days of the employee exhausting all full pay accruals. The extended sick leave will be retroactive to the date of eligibility.

B. Eligibility: Extended sick leave at one-half (1/2) pay shall be granted to employees with a minimum of one year of continuous service. This benefit can only be used once every 12 months no matter how short the duration of one-half pay is used.

C. **Initial Allowances:** Based upon years of service to the City, employees will have the following allowances of extended sick leave at one-half pay for each of the service time periods indicated:

- One full year but less than three years - 30 working days
- Three full years but less than six years - 60 working days
- Six full years or more - 90 working days

Service time must be continuous years of service with the City of Rochester.

D. **Additional Allowances:** If an employee utilizes any amount of extended sick leave at one-half pay, he will begin reaccumulating the allowance according to the schedule in subdivision C as if he were a new employee. However, an employee will retain any unused allowance previously accumulated. Retained allowances and additional allowances provided in this subdivision shall not be cumulative and in no event shall the total allowance exceed the maximum allowance set forth in subdivision C. An employee's eligibility for additional allowance will be calculated from the day he resumes working after having last used extended sick leave at one-half pay.

E. Employees shall receive the following fringe benefits while on one-half (1/2) pay sick leave: Pension, Blue Cross/Blue Shield, Medical and Hospital benefits and Life Insurance. There shall be no accrual of vacation, sick or personal leave while on one-half (1/2) pay sick leave.

#### **Section 6 - Excessive Use of Sick Leave**

Excessive use of sick leave is defined as five (5) incidents of sick leave, whether paid or unpaid, in a three consecutive month period. An incident is defined as one or more consecutive days of sick leave arising from the same illness or two separate uses of sick leave of at least one-half shift each. Penalties for excessive use of sick leave shall be as follows:

- |                |  |
|----------------|--|
| First Offense  | Written Reprimand  |
| Second Offense | Three (3) Day suspension without pay                       |
| Third Offense  | Five (5) Day suspension without pay                        |
| Fourth Offense | Further disciplinary action which may include termination. |

The levels of discipline stated above are permissive, and the Department Head may consider extenuating circumstances and impose a lesser penalty. If a period of nine months expires from the date of an offense as defined herein without the commission of an additional offense, the employee shall be considered to be at the First Offense level in the event of any further offense.

Upon prior certification by a physician that an employee must be under continual medical attention for an illness which requires that employee to use sick leave, such sick leave related to that illness shall not be an incident under this section provided that the employee submits a physician's statement to his Department Head that he was undergoing such continual medical attention at the time he used sick leave. The certificate must be submitted each time the employee uses sick leave. In the event the employee does not submit the medical certification, the sick leave will be covered by this section.

**ARTICLE 9**  
**UNPAID LEAVES OF ABSENCE**

**Section 1 - Eligibility**

An employee may submit a written request to his appointing officer for an unpaid leave of absence not to exceed one year. Approval of this request shall be at the sole discretion of the appointing officer.

**Section 2 - Benefits**

A. Employees will retain but not accrue seniority, sick leave, vacation leave, and personal leave while on any leave of absence granted under Article 9. All other benefits shall be discontinued except that if such leave is granted because of a temporary disability, certified by a physician prior to the request for leave, Blue Cross/Blue Shield coverage and life insurance coverage (as provided in Article 12 of this Agreement) shall continue for the length of the disability but in no event longer than the granted leave of absence. Any employee liable to contribute to Health Insurance who is in arrears of such contribution for a period of more than two (2) months shall lose their Health and Life Insurance coverage.

B. Employees shall be returned in the same title they held at the time the leave of absence was approved provided the employee furnishes the City two (2) weeks notice of the exact day of return. Employees who return from an unpaid leave of absence shall not necessarily be returned to the same job assignment.

**Section 3 - Other Employment**

A leave of absence for employment with other than the City of Rochester, shall not be approved.

**Section 4 - Application for Leaves**

A. Any request for an unpaid leave of absence shall be submitted in writing by the employee to his Department Head. The request shall state the reason the leave of absence is being requested and the length of time off the employee desires.

B. Authorization for an unpaid leave of absence shall be furnished to the employee in writing by his Department Head with a copy to be sent to the Union by the Department Head.

C. Requests for immediate unpaid leaves not to exceed ten (10) working days because of a special emergency shall be answered within 24 hours of the receipt of the request by the Department Head.

D. Upon receipt by the Department Head of a request for an unpaid leave of absence such request shall be answered within ten (10) working days.

E. In the event that the Department Head fails to comply with the time limits as set forth in subdivision D above, the request for such leave shall be deemed granted. This provision shall not apply to requests that do not conform to the requirements set forth in Section 4(A) of this Article.

**Section 5 - Educational Leaves**

A. After completing one (1) year of service, any employee, upon request, may be granted a leave of absence for educational purposes, subject to the approval of the City. The period of

the leave of absence may not exceed one (1) year.

B. There shall be a minimum of three (3) years between the end of such leave of absence with extension and the granting of a new leave of absence.

C. Employees may also be granted leaves of absence for educational purposes not to exceed one (1) month in any one (1) calendar year to attend conferences, seminars, briefing sessions or other functions of a similar nature that are intended to improve or upgrade the individual's skill or professional ability, as it applies to his position in City employment.

#### **Section 6 - Family Medical Leave Act (FMLA)**

The Employer may adopt policies and procedures that are lawful under the Family and Medical Leave Act ("FMLA"), including a policy requiring an employee to exhaust sick leave or other paid leave before being granted FMLA leave.

### **ARTICLE 10 PAID LEAVES**

#### **Section 1 - Death in Family**

In the event of death in the family of an employee (spouse, parents, children, sisters, brothers, grandparents, grandchildren, father-in-law, mother-in-law, brother-in-law, sister-in-law) or any relatives residing in the employee's household, the employee will be allowed up to four (4) consecutive work days leave of absence, from the date of death, with pay, to make household arrangements, arrangements for the funeral or to attend the funeral services.

Notice of death shall be furnished to the employer by the employee upon request.

#### **Section 2 - Personal Leave**

A. Employees covered by this Agreement shall receive personal leave days upon request in accordance with this Section.

B. On the first day of the first full payroll period after January 1 of each year, each employee who has been employed for one (1) or more continuous years shall be credited with four (4) days of personal leave. Employees continuously employed for less than one year on January 1 will receive personal leave as follows:

Employees hired on or prior to April 1 of the previous year will be credited with four (4) personal days. Employees hired after April 1, but on or prior to October 1 of the previous year, will be credited with two (2) personal days. Employees on unpaid status or in any other employment status which does not allow for the accrual of personal leave during all or any part of the preceding calendar year shall receive the pro rata amount of personal leave to which such employee would otherwise be entitled.

C. Personal leave is to be used for personal business that cannot be done outside of the employee's workday. Except in urgent emergencies, employees must request personal leave at least 48 hours in advance from an authorized supervisor. Employees requesting personal leave with less than 48 hours notice must state the purpose of the leave. Personal leave shall not be unduly denied. However, Bureau or Division Heads shall have the right to limit the number of employees on personal leave according to City work requirements.

D. Personal leave may not be taken for less than one hour.

E. On the first day of the first full payroll period after January 1 of each year all unused personal leave will be converted to sick leave. This provision is not intended to increase the maximum sick leave accruals set forth in Article 8, Section 2.

In lieu of receiving full future accruals of personal leave as provided in this Section, employees may elect to receive payment for three (3) full days of personal leave at one-half their rate of pay as of the December 30 preceding the time of accrual. Employees so electing will not be credited with three (3) days of personal leave. The option to elect payment in lieu of personal days will be made in advance as prescribed by the City with payment to be not later than one month after the time when personal leave accrual would otherwise be made.

F. Personal leave cannot be taken the day before or after any holiday covered by this Agreement except in case of an emergency approved by the Department Head or his authorized representative.

### **Section 3 - Jury Duty**

A. Employees shall be granted a leave of absence with pay when they are required to report for jury duty or jury service. An employee must notify his immediate supervisor no later than his first scheduled shift following receipt of a notice of selection for jury duty or examination, and must provide proof of the necessity of such service to his Department Head.

B. Employees are required to work all available reasonable hours outside of those actually required for jury duty, or jury duty examination in accordance with the employee's regular work schedule. Employees must request telephone alert to the extent allowed by the Commissioner of Jurors or the Court.

C. The City shall have the right to seek a waiver from jury duty for the employee. Employees exempted from jury duty must accept the exemption or shall not be paid by the City for such time.

D. An employee on jury duty shall receive his regular pay less the allowance paid to jurors.

### **Section 4 - Civic Duty**

Employees subpoenaed to appear before a court or other public body on any matter not related to their work, and in which they are not personally involved as a plaintiff or defendant, shall be granted leave with pay for the period necessary. Proof of such requirement may be required by the Department Head.

### **Section 5 - Civil Service Examination**

Employees shall be allowed time off at straight time pay to take open competitive and promotional examinations given by the City of Rochester Municipal Civil Service Commission for City positions within their career ladder. However, no employee shall be denied the right to use accrued leave time or time off without pay for the purpose of taking Civil Service examinations outside the scope of his career ladder, except in case of operational emergencies. The employee shall inform the division head or his designee as soon as possible of the need for such time off.



### **Section 6 - Military Service Leave**

A. Any employee who is a member of a reserve force of the United States or this State and who is ordered by the appropriate authorities to attend a training program or perform other duties under the supervision of the United States or this State shall be granted a leave of absence during the period of such activity with no loss of time or pay not to exceed thirty (30) days per calendar year as provided by law. In the case of a declared state of emergency, military service leave may be extended for an additional period not to exceed ten (10) calendar days per year, provided the employee provides a copy of his military orders.

B. The employee shall provide to the employer a copy of the employee's military authorization at least two (2) weeks prior to going on such leave in the event of scheduled military duty or upon return to work in the event of emergency military duty. Proof of attendance must be submitted upon return to work.

### **Section 7 - Leave for Compensable Injury or Occupational Disease**

A. The employer shall provide New York State Worker's Compensation coverage for employees.

B. Any employee who is unable to perform the duties of his employment because of a compensable injury or occupational disease, as defined in the Worker's Compensation Law, received or contracted in the service of the employer, and who receives Worker's Compensation benefits, shall receive a leave for compensable injury or occupational disease in accordance with Section 71 of the Civil Service Law and at the pay defined in this Article. All of the other terms and conditions applying to sick leave and to one-half pay sick leave shall apply to leave for compensable injury or occupational disease until such time as payment provided in Subdivision C cease. When such payments cease, the employee will receive no fringe benefits.

C. The pay for leave for compensable injury or occupational disease shall be in accordance with the following:

1. The amount of interim payments shall be equal to the difference between the employee's regular pay and any Worker's Compensation benefits he receives; and
2. The total amount of payments shall be deducted from and shall not exceed the employee's leave accruals.

## **ARTICLE 11 WAGES**

### **Section 1 - Wage Adjustment**

Effective July 1, 1996 there shall be a 2.8% increase to the hourly rates.

Effective July 1, 1997 there shall be a 3.0% increase to the hourly rates.

Effective July 1, 1998 there shall be a 2.5% increase to the hourly rates.

### **Section 2 - Salary Step Increases**

A. Effective July 1, 1985, all employees shall be placed at step A of the appropriate wage bracket.

B. Employees who are not at the top step of their salary bracket shall receive step increases

in accordance with the following:

Employees who have at least six (6) months of service in the same bracket as of January 1, 1997, January 1, 1998, or January 1, 1999, will receive a one (1) step increase effective on the first day of the first full payroll period after January 1, 1997, January 1, 1998, or January 1, 1999, unless their appointing officer, upon evaluation of the employee, determines that the employee should not receive a salary step increase at that time. An appointing officer may deny a salary step increase only on the basis of (a ) poor work performance, or (b) poor attendance. A denial of a salary step increase may be grieved under the procedures set forth in Article 18.

C. When an employee is promoted to a higher wage bracket, the employee shall be placed in the step of the higher bracket which shall result in a higher wage than that to which the employee was entitled prior to the promotion. When an employee is demoted to a lower wage bracket, the employee shall remain at the same step at which the employee was employed prior to the demotion, unless the appointing authority places the demoted employee at a higher step within the lower bracket.

### **Section 3 - Longevity Service Pay**

A. Employees in the bargaining unit will receive annual longevity payments based on their adjusted hire date according to the following schedule:

5 Years	\$25
10 Years	\$100
15 Years	\$200
20 Years	\$300
25 Years	\$400

B. Method of Payment: Longevity payments shall be applied by adding said payments to the employee's weekly or biweekly paychecks, whichever is applicable, in the following manner:

1. Employees shall be eligible for longevity payments upon the anniversary date of their employment which shall occur at the completion of the 5th, 10th, 15th, 20th and 25th year of service.
2. Longevity payments shall commence in the first full payroll period of the month following the month in which the anniversary falls.

### **Section 4 - Pay Period**

A. The salaries and wages of employees shall be paid on the same day each pay period. In the event this day is a holiday, the preceding day shall be the pay day.

B. The day of payment of salaries and wages may be subject to change by the employer upon giving of no less than sixty (60) days notice, after prior consultation with the Union.

### **Section 5 - Out-of-title Pay**

An employee designated by his Department Head or authorized representative to work out-of-title shall receive for the duration of such out-of-title work, the rate of pay he would receive if regularly promoted to the title, provided, however, that out-of-title shall not be extended where such work is for a period of time less than one full day. Out-of-title pay is not intended for employees being trained for a higher job classification while being trained and supervised within

a City-approved training program.

**Section 6 - Educational Reimbursement**

The educational (tuition) reimbursement program existing on June 30, 1981 shall be continued consistent with City regulations.

**Section 7 - Shift Differential**

All bargaining unit members who work a regularly assigned shift where a majority of the hours are between the hours of 1:00 p.m. and 8:00 a.m. shall receive a shift differential of \$.20 per hour for all hours worked on that shift.

**ARTICLE 12  
LIFE INSURANCE COVERAGE**

All employees shall be provided \$2,500 life insurance with double indemnity for accidental death. Employees shall be eligible to purchase additional life insurance on a payroll deduction basis once the City makes such a plan available.

**ARTICLE 13  
HOSPITALIZATION AND MEDICAL BENEFITS**

**Section 1 - Coverage for Active Members**

A. The City will make available the present level of hospitalization and medical insured benefits for single or family coverage, whichever is applicable, at no cost to the employee. In addition, the Full Outpatient Rider shall be provided at a cost to each covered employee of \$2.75 per month for a family contract, \$1.00 per month for a single contract and \$0.90 per month for a medi-comp (over 65) contract. Such coverage will begin on the first day of the month following the employee's employment date and shall terminate on the last calendar day of the month of the employee's termination.

Effective November 1, 1989 The Prescription Drug rider shall be a \$5 Co-pay.

B. Employees hired on or after July 1, 1981 and before January 1, 1990, shall be eligible for the hospitalization and medical insured benefits provided for in subdivision A. The City will contribute 85% of the total premium of such insured benefits for each such employee and the employee will contribute 15% of the total premium through payroll deductions.

C. Employees hired on or after January 1, 1990 shall have the Blue Cross/Blue Shield Comprehensive plan as their medical insurance plan. The employees shall contribute 10% of the monthly premium through payroll deductions.

D. Employees hired on or after July 1, 1993 shall be eligible for the Blue Cross/Blue Shield Comprehensive plan as their medical insurance plan. The member shall contribute 25% of the monthly premium through payroll deductions.

E. Employees electing coverage under an HMO option will pay any premium in excess of the City's contribution set forth in subdivisions B or C or D of this Section.

F. It is expressly understood by the parties that an employee married to another City employee shall be eligible for only one single health insurance contract in the event his or her spouse is covered by his or her own single health insurance contract, and further, that such employee shall not be eligible for any separate health insurance coverage if his or her spouse is covered by a family health insurance contract.

## **Section 2 - Coverage for Retirees**

A. The City will make available hospitalization and medical insurance to qualified employees who retire under the New York State Employees' Retirement System. In order to qualify for the benefits set forth in this section, employees must meet both of the following two conditions:

- 1 The employee must be at least age 55, unless granted a disability retirement, and must retire directly into or under the New York State Employees' Retirement System from active, full-time employment with the City and receive a pension therefrom, and
2. The employee must have served a minimum of ten (10) consecutive years of active, full-time employment with the City immediately preceding retirement into or under the New York State Employees' Retirement System. The term "consecutive" shall not apply to persons who have a break in service due to any leave granted under the terms of this Agreement or to any employee who is laid off and recalled pursuant to Article 16, Sections 6 and 8 of this Agreement or pursuant to Section 80 and 81 of the Civil Service Law. However, such employees must actually work a minimum of ten (10) years for the City, including at least one (1) year immediately prior to retirement. The required minimum period of time set forth in this paragraph will be waived in the event the employee is granted and receives a New York State Employees' Retirement accidental disability retirement.

B. Qualified employees, as defined in subdivision A of this section, who were hired before November 16, 1995, shall receive family or single hospitalization and medical insurance benefits, and at the contribution levels, all as set for active, full-time employees in Section 1 of this Article.

C. Qualified employees, as defined in subdivision A of this section, who were hired on or after November 16, 1995, may enroll for single or family coverage. The plan shall be the Blue Cross/Blue Shield Community Comprehensive II plan, as provided and amended by Blue Cross/Blue Shield of Greater Rochester. The employer shall contribute to the cost of the premium up to the amount it contributed at the time of the employee's retirement. The employee shall contribute the remaining cost of the premium through reduction in the pension payments.

D. Notwithstanding any provision of this section, the City shall not be liable for providing hospitalization and medical insurance benefits, or any portion of the cost thereof, to retirees eligible for hospitalization and medical insurance benefits available from a source other than the City of Rochester.

E. Retirees may select alternative coverage through an HMO made available by the

employer. Those selecting HMO coverage shall contribute at the rates consistent with those set forth for active employees. Retirees shall also contribute any amount in excess of the Employer's obligation as established above, up to \$20 per month.

### **Section 3 - Dental Benefits**

A. The City shall provide a dental plan for regular full-time employees covered by this agreement and their eligible dependents. The insurance carrier shall be Group Health Insurance Inc. and the dental policy shall be identified as the M-1 Plan without orthodontic benefits. Effective November 1, 1989 the plan shall become the Spectrum 2000 plan with orthodontic benefits. A booklet setting forth the details of the dental coverage program shall be furnished to each newly-hired employee

B. Employees eligible for the Dental Insurance Program may elect Single Plan coverage or Family Plan coverage. Employees electing to be covered under the Single Plan may do so on a non-contributory basis. Employees electing to cover themselves and their eligible dependents under the Family Plan will contribute 25% of the total cost of the Family Plan premium (which includes the individual employees) and the City will contribute 75% of the total cost of the Family Plan premium.

## **ARTICLE 14 RETIREMENT PLAN**

Employees shall be covered by the New York State Employees' Retirement System.

## **ARTICLE 15 SENIORITY**

### **Section 1 - Seniority Defined**

Seniority means an employee's length of continuous full-time service for the Employer from the employee's original date of hire as a full-time employee as adjusted by the subtraction of any unpaid leave time, except as provided in Section 5 of this Article, whether authorized or not.

### **Section 2 - Seniority Acquired**

A. All employees shall first acquire seniority on the day following the completion of six (6) months of continuous full-time service. No employee shall have seniority rights during this six (6) month period, and, in particular, such employee may be transferred, disciplined for other than Union activities, or discharged, all at the option of the Employer. Such employee shall not have the right to bid on promotional opportunities.

B. In the event of a transfer or promotion of an employee from one job classification to another job classification within the bargaining unit, the employee shall continue to acquire seniority from his adjusted date of hire.

### **Section 3 - Loss of Seniority**

Notwithstanding the provisions of Section 1 of this Article and except as otherwise provided in

Section 4 of this Article, an employee shall forfeit all accrued seniority and, if re-employed subsequently, have only the status of a new employee, under any of the following conditions:

- A. When he resigns his employment with the Employer, and is not rehired within one year, or
- B. When he is discharged for just cause, or
- C. When he is laid off for a period exceeding his seniority; or four (4) years for employees on preferred Civil Service list, whichever is greater, or
- D. When following layoff, he fails to report for work within three (3) weeks after written notice from the Employer by registered or certified mail to his last known address; or
- E. When he fails to return to work at the expiration of an authorized leave of absence.

#### **Section 4 - Restoration of Seniority**

Except where seniority was forfeited pursuant to Section 3 subdivisions B, D or E of this Article, should an employee be rehired, within the bargaining unit, by the Employer within one (1) year of termination of his seniority, the employee shall have his accrued seniority restored.

#### **Section 5 - Computing Length of Continuous Service**

A. In computing length of continuous service for seniority purposes, as defined above, time lost as a result of any of the following shall be considered as included within the period of continuous service:

1. Injury in the line of duty
2. Service as a regularly empaneled member of a State or Federal Jury.
3. Service pursuant to a military leave of absence.
4. Authorized Union leaves.
5. Authorized paid City leave of absence.

B. Except as provided above, there shall be no accrual of seniority while absent from City employment.

#### **Section 6 - Seniority List**

If requested by the Union, the Employer shall post on all Union bulletin boards a seniority list showing the adjusted hire date of each employee employed within the division in which the bulletin board is located. A copy of the seniority list shall be furnished to the local Union when it is posted. The seniority list will show the names, job titles and seniority date of all employees in the unit entitled to seniority. The seniority date shown on the list shall govern, unless written request for change in such date is received by the Employee Relations Director within thirty (30) days of the date of posting.

#### **Section 7 - Transfers Outside of Bargaining Unit**

An employee transferred by the Employer to a position within the employ of the Employer outside the coverage of this agreement, shall retain seniority acquired, but shall not accumulate additional seniority. This Section shall only take effect in the event the employee subsequently returns, on a permanent basis, to a position within the coverage of this Agreement.

### **Section 8 - Seniority for Local Union Officers**

A. Except as otherwise provided by law, a Union Steward, for the purpose of determining order of layoffs, shall have top seniority within the Division of the Department which he represents. Such Stewards shall be retained in employment so long as a work force exists in the Division of the Department which they represent, provided that no such Stewards shall be retained in employment under this paragraph unless work which they can learn to perform within a 30 day working period is available in the Division of the Department which they represent.

B. The above described Stewards who are employed in the competitive class and who are subject to layoff, shall, in event of such lay-off, be offered an equal or lower paying position.

## **ARTICLE 16 WORK FORCE CHANGES**

### **Section 1 - Definition of Promotion**

The term promotion, as used in this Article, means the advancement of an employee to a higher job classification within the bargaining unit. The term promotion shall not include the upgrading of a job title to a higher bracket, without any change in the job specification of the job title or to the reclassification of an existing position that is currently filled.

### **Section 2 - Promotional Opportunities**

A. Whenever an opportunity for promotion occurs because a job opens, in other than a temporary situation as defined elsewhere in this Article, in any existing job classification within the bargaining unit, or as a result of the development or establishment of a new job classification that has been added to the bargaining unit, a notice of such openings shall be posted on all Union bulletin boards stating the job classification, rate of pay and the nature of the job requirements in order to qualify. Such postings shall be for a period not less than five (5) working days.

B. During this period, employees who wish to apply for the open position, including employees on layoff, may do so. An employment application and a bidding form shall be submitted to the City of Rochester's Bureau of Employee Relations at City Hall. It shall be the employee's responsibility to keep informed of promotional opportunities.

C. A notice listing those employees who have qualified for the position shall be posted by the Employer on all bulletin boards within two (2) working days of the establishment of the list by the Employer. This notice shall be posted for a period of at least ten (10) working days. The name of the employee or employees selected for the position shall be sent to the Union Recording Secretary.

- D.
1. Lists of eligible employees resulting from a posting may be used to fill vacancies in the same title that occur within three (3) months of the last date of initial posting at the sole option of the Employer. In these cases, while the vacancy will not have to be posted, the City shall on the posting notice, as set forth in subdivision A of this Section, state that the application from such posting may be used for a period of three (3) months.
  2. The City will notify the Union of the vacancy occurrence and the City's intention

to fill the vacancy from the list established by the initial posting.

**Section 3 - Promotion for Laboring, Non-Competitive, Provisional, Temporary Appointments**

- A. The City shall fill jobs which are posted pursuant to Section 2 of this Article.
- B. Bidders who meet the minimum qualifications for the job shall be ranked in order of seniority.
- C. If the appropriate appointing authority determines that a bidder lacks the ability to do the job or cannot learn to do the job within a reasonable amount of time, the appointing authority shall state the reasons for such determination in writing, the Bureau of Employee Relations will submit them to the Union and the bidder shall be deemed not qualified for the appointment. Such reasons shall not be arbitrary and capricious.
- D. The appointing authority shall fill the vacancy by selecting one of the four qualified bidders standing highest on the list within thirty (30) days of the establishment of such list. If there are fewer than four qualified bidders to select from, the appointing authority may, but shall not be required, to fill the vacancy among the remaining qualified bidders.
- E. If no selection is made pursuant to the posting procedures, the appointing authority may request that the position(s) be advertised and shall select a candidate within thirty (30) days of the completion of the advertisement process.
- F. If the appointing authority does not request advertisement, an appointment offer must be made within thirty (30) days of the expiration of the posting procedures.
- G. In the event there are no qualified applicants, as determined by the appointing authority, the City shall not be obligated to fill the vacancy.
- H. The City may make an Affirmative Action Appointment upon:
1. Written certification to the Union by the Director of Employee Relations of the City's desire to make an Affirmative Action Appointment, and
  2. The selection by the appropriate appointing authority of a qualified bidder, regardless of ranking, whose appointment is consistent with the City's Affirmative Action Plan.
- I. Any employee selected in accordance with the procedures set forth in this Section and Section 2(E) shall undergo a probationary period of a minimum of two (2) months but not to exceed six (6) months. If it is found that such employee does not meet the requirements or responsibilities of the position to which he has been selected during the probationary period, then such employee shall be restored to his former position. This restoration shall not be considered a demotion. If work in his former position is not available, the layoff and seniority provisions of this agreement shall apply.
- J. The provision of subdivision A above may be waived when directed by a court of competent jurisdiction or Federal or State agency having such authority under law, in order to bring about an equitable distribution of employees as provided by the Equal Employment Act of 1972, U.S. Public Law 92-261, or the New York Human Rights Law (Executive Law, Article 15). However, the application of this provision does not prohibit individuals from exercising any rights possessed by them by statute.

**Section 4 - Promotion from Competitive Positions**

A promotional opportunity within the competitive class of the Civil Service which is to be filled



shall be filled pursuant to the Civil Service Law and the rules of the Rochester Municipal Civil Service Commission. In the event that there is no Civil Service list of eligible applicants, the selection shall be made in accordance with the provision of Section 2 and 3 of this Article.

#### **Section 5 - Consolidation or Elimination of Jobs**

A. Employees displaced by the elimination of jobs through job consolidation (combining the duties of two or more jobs), the installation of new equipment or machinery, the curtailment or replacing of existing facilities, the development of new facilities, or for any other reason, shall be permitted to exercise their layoff and bumping rights described above to transfer to another job in the bargaining unit for which they are qualified. An employee transferred as a result of the application of this provision shall be given a reasonable period of training needed to perform satisfactorily the job to which he is transferred. This reasonable period shall not be less than thirty (30) calendar days or exceed ninety (90) calendar days.

B. In the event of a merger or consolidation between the City of Rochester and the County of Monroe, or any other governmental unit, and functions or services employing persons covered by this Agreement, then in such event, any City employee electing transfer to the County of Monroe or any other governmental unit, shall be deemed to have voluntarily quit his City employment. However, the City will make every effort to insure that any employee electing such transfer will not lose any benefits that the transferring employee is presently receiving that can be legally transferred.

#### **Section 6 - Involuntary Transfer or Relocation**

A. When an employee is subject to involuntary transfer or relocation outside the employee's department, he shall be given written notice and the reason for the transfer, by the Employer, ten (10) working days prior to such proposed effective date. A copy of the notice of the transfer or relocation will be sent to the Union Steward in the Department from which the employee is being transferred or relocated and to the Business Manager of Local 71. Notice of transfer or relocation shall not be required if the transfer or relocation is due to the elimination of jobs or the establishment of a new City service.

B. When an employee is subject to involuntary transfer or temporary relocation to another facility exceeding three (3) days within the employee's department, he shall be given written notice and reason for transfer or temporary relocation at least five (5) working days prior to the transfer or relocation. A copy of this notice shall be sent to the Union Steward within the Bureau from which the employee is being transferred or relocated and to the Business Manager of Local 71. Notice of transfer or temporary relocation shall not be required if the transfer or relocation is due to the elimination of jobs or the establishment of a new City service or an emergency declared by the department head or due to a staffing problem directly related to the approval of an emergency leave of absence.

C. If an employee feels such transfer within the Department or outside of the Department is unjust, unreasonable, arbitrary or capricious, then the matter may be processed as a grievance under the grievance and arbitration procedure in this Agreement. This provision shall not apply to involuntary transfers or relocations that are due to elimination of jobs or establishment of new City services.

**ARTICLE 17**  
**DISCIPLINE AND DISCHARGE**

**Section 1 - Nature of Discipline and Discharge**

A. The City shall have the right to discipline an employee for just cause. The City shall endeavor to use progressive discipline where appropriate. Where the appointing authority or his designee determines to impose a written reprimand, a fine not to exceed \$100, suspension without pay not to exceed 30 calendar days, reduction in title and grade, or dismissal from service, notice of such discipline shall be made in writing and served upon the employee. The reason(s) for which disciplinary action is being taken and the penalty imposed shall be specified in the notice. The notice shall contain a description of the charges, including dates, times and places relevant to such charges. The Union will be sent a copy of all notices transmitted as a result of this section within twenty-four (24) hours after notice has been sent to the employee.

Notwithstanding the provisions in Article 5, Section 1 and Section 2, and Article 8, Section 7, an employee may be disciplined for a poor attendance record or excessive absenteeism.

If the employee is summoned for disciplinary action, and desires a Union Representative to be present at the scheduled time, the Union Representative shall be allowed to be present.

B. If the employer has reason to reprimand an employee, it shall be done in a manner that will not embarrass the employee before other employees or the public.

C. Except for fraud or any felony where the statute of limitations has not expired, an employee shall not be disciplined for acts which occurred more than ninety (90) calendar days prior to the imposition of the discipline, unless discovered more than ninety (90) days after its occurrence, in which case discipline may be imposed within sixty (60) days of such discovery.

**Section 2 - Procedure**

A. Any disciplinary action imposed upon an employee may be processed as a grievance through the regular grievance procedure, including the arbitration step, if necessary. This procedure shall be exclusive, and the procedure and remedies herein provided shall apply in lieu of all other procedures and remedies, including sections 75 and 76 of the Civil Service Law which shall not apply to employees.

B. If a disciplinary grievance is filed, it shall be initially filed at the step of the grievance procedure corresponding to the level of authority which imposed the discipline.

C. In the event that a grievance is pursued to arbitration, in addition to all other provisions set forth in Article 18 of this Agreement pertaining to arbitration, the following shall apply. Disciplinary arbitrators shall confine themselves to determinations of guilt or innocence and the appropriateness of the imposed penalties. Disciplinary arbitrators shall not add to, subtract from or modify the provisions of this Agreement. The disciplinary arbitrator's decision with respect to guilt or innocence, penalty, or probable cause for suspension pursuant to subdivision D of this section, shall be final and binding upon the parties and the employee, and the disciplinary arbitrator may approve, disapprove or take any other appropriate action warranted under the circumstances, including, but not limited to, ordering reinstatement and back pay for all or part of the period of suspension. If the disciplinary arbitrator, upon review, finds probable cause for the suspension under subdivision D of this section, if any, he may consider such suspension in

determining the penalty to be imposed.

D. Prior to being issued a notice of discipline, an employee may be suspended without pay by his appointing authority only pursuant to paragraphs (1) or (2) below.

(1) The appointing authority or his designee may suspend without pay an employee when the appointing authority or his designee determines that there is probable cause that such employee's continued presence on the job represents a potential danger to persons or property or would interfere with operations. Such determination shall be reviewable by a disciplinary arbitrator. A notice of discipline shall be served no later than seven (7) working days following any such suspension.

(2) The appointing authority or his designee may suspend without pay an employee charged with the commission of a crime which in the opinion of the appointing authority is directly related to the employee's job duties. Such employee shall notify his appointing authority in writing of the disposition of any criminal charge including a certified copy of such disposition within five (5) days thereof. Within thirty (30) calendar days following such suspension under this provision, or within five (5) days from receipt by the appointing authority of notice of disposition of the charge from the employee, whichever occurs first, a notice of discipline shall be served on such employee or he shall be reinstated with back pay. Nothing in this paragraph shall limit the right of the appointing authority or his designee to take disciplinary action during the pendency of criminal proceedings.

E. This Article does not apply to employees with less than six (6) months of service, or probationary employees or any other employees not having seniority.

## **ARTICLE 18 SETTLEMENT OF DISPUTES**

### **Section 1 - Definitions**

For the purposes of this Agreement all disputes shall be subject to the grievance procedure as outlined below:

A. A dispute concerning the application, meaning or interpretation of an express term or provision of this Agreement is subject to all steps of the grievance procedure including arbitration.

B. Any other dispute or grievance concerning a term and condition of employment which is not covered by this Agreement shall be processed up to and including Step 3 of the grievance procedure.

C. A grievance over discipline shall be processed in accordance with the procedures set forth in Article 17 in addition to the procedures set forth in this Article.

### **Section 2 - Grievances**

A. Procedure

Step 1 - The Union Steward, with or without the employee, shall present the grievance

to the employee's immediate supervisor within seven (7) working days of the act or omission giving rise to the grievance, or within three (3) additional working days of the date upon which either any of the employees affected by the situation, condition, or action to be aggrieved becomes aware of such act or omission. If the grievance is not presented by the Union Steward as set forth in this step, the grievance shall be deemed waived. The supervisor shall attempt to adjust the matter and shall respond to the Steward within three (3) working days.

**Step 2** - If the grievance is not settled at Step 1, the grievance shall be presented in writing to the Department Head by the Union Steward or other authorized Union representative within six (6) working days after the Supervisor's response is given or is due. A copy of said grievance shall be provided to the Manager of Labor Relations. The Department Head shall respond to the Union Steward or other authorized Union representative in writing within ten (10) working days. If the grievance is not presented as set forth in this step, the grievance shall be deemed waived.

**Step 3** - If the grievance is not settled at Step 2, the Business Manager of the Union and/or other authorized Union representative will present the grievance in writing to the Manager of Labor Relations within six (6) working days after the response at Step 2 is given or due. The Manager of Labor Relations will discuss the grievance with the Business Manager, if requested, and reply in writing within ten (10) working days of receiving the grievance. If the grievance is not presented as set forth in this step, the grievance shall be deemed waived.

**Step 4** - If a settlement is not reached at Step 3, either the Union or the City may, within four (4) working days, request arbitration. Such notice must be given to the Manager of Labor Relations or the Business Manager of the Union. If arbitration is not requested as set forth in this step, it shall be deemed waived, and the grievance resolved on the basis of the response of the Manager of Labor Relations.

- B. The time limits in the grievance procedure for Step 1, 2, 3 and 4 may be extended by mutual agreement of the Union and the City and shall be confirmed in writing.
- C. Except where inapplicable pursuant to Section 1(B) of this Article, any grievance required to be in writing, and any request for arbitration, shall contain a plain statement of the grievance, the department, the employee or employees involved, the specific provision or provisions of the Agreement in dispute, and the remedy being sought.
- D. An employee shall be entitled to Union representation at each and every step of the grievance procedure set forth herein.
- E. No recording devices of any kind shall be used during the grievance procedure without the written permission of both the Employer and the Union.

### **Section 3 - Arbitration Procedure**

- A. The arbitration proceedings for the grievance shall be conducted by an arbitrator to be selected by the Employer and the Union. Such selection will be made as follows: The New York State Public Employment Relations Board (PERB) shall be requested by either or both parties to provide a panel of the five (5) impartial arbitrators from which both the Employer and the Union shall make a selection in accordance with the Board's rules of procedure.
- B. The decision or award of the arbitrator shall be final and binding on the City, the Union

and the grievant or grievants to the extent permitted by and in accordance with applicable law and this Agreement, and the arbitrator shall be requested to issue his decision or award within fifteen (15) working days after the conclusion of the testimony and arguments.

C. The arbitrator functioning under this step of the grievance procedure shall have no power to amend, modify, nullify, ignore, add to , subtract from or delete any provisions of this Agreement, and shall confine his decision and award solely to the interpretation and application of this Agreement. The arbitrator shall confine himself to the precise issue submitted for arbitration and shall have no authority or power to determine any other issues not so submitted to him. The arbitrator shall have no authority or power to render a decision or award inconsistent with statutory or appellate decisional law or New York State public policy.

D. Expenses for the arbitrator's services and the proceeding shall be borne equally by the Employer and the Union. However, each party shall be responsible for bearing the costs of preparing, and presenting its own case, including, but not limited to, compensating its own witnesses. If either party desires a transcript of the proceeding, it may cause the transcript to be made, provided it pays for the transcript and makes copies available without charge to the arbitrator and to the other party.

## **ARTICLE 19 STRIKES AND LOCKOUTS**

### **Section 1 - Lockouts**

No lockout of employees shall be instituted by the Employer during the term of this Agreement.

### **Section 2 - No Strike - Taylor Law**

No strike or slowdown of any kind shall be caused or sanctioned by the Union during the term of this Agreement. At no time, however, shall employees be required to act as strike breakers.

## **ARTICLE 20 GENERAL PROVISIONS**

### **Section 1 - Savings Clause**

Should any Article, Section or portion of this Agreement be held unlawful and unenforceable by any court of competent jurisdiction, such decision of the court shall only apply to the specific Article, Section or portion thereof directly specified in the decision.

### **Section 2 - Mileage Allowance**

A. The City will pay mileage allowance for those employees entitled thereto, at the rate of \$.24 per mile, not to exceed \$80.00 per month, except for snow control inspectors, from October 15 to April 15 of any year, for whom the maximum will not exceed \$85.00 per month.

B. The use of an employee's private automobile for City purposes shall be governed by an Administrative Regulation promulgated by the Mayor.

C. No employee may use a City vehicle during working hours for any purpose not directly

related to the performance of the employee's function, or to the administration of this Agreement, nor may any employee use a City vehicle during non-working hours for any purpose without the express written consent of his Department Head or the Mayor.

### **Section 3 - Pledge Against Discrimination and Coercion**

A. The provisions of this Agreement shall be applied equally to all employees in the bargaining unit without discrimination as to age, sex, marital status, race, color, creed, national origin or political affiliation.

B. All references to employees in this Agreement designate both sexes, and wherever the male gender is used it shall be construed to include male and female employees.

C. The Employer agrees not to interfere with the rights of employees to become members of the Union, and that there will be no discrimination, interference, restraint, coercion by the Employer or any Employer representative against any employee acting in an official capacity on behalf of the Union.

D. The Union recognizes its responsibility as bargaining agent and agrees to represent all employees in the bargaining unit without discrimination, interference, restraint or coercion.

### **Section 4 - Non-Service Disability**

Employees unable to perform their duties because of a disability not incurred in the line of duty are eligible for all of the benefits set forth in this Agreement for such employees. Employees unable to perform their duties because of a disability resulting from pregnancy are eligible for all such benefits on the same basis as employees disabled for non-work related reasons other than pregnancy. This Section is intended for purposes of clarification only, and shall not be construed as conferring new or additional rights or benefits; the benefits referred to herein are specifically set forth elsewhere in this Agreement.

## **ARTICLE 21 UNION RELEASE TIME**

### **Section 1 - Union Stewards**

A. The Employer agrees that during working hours on the employer's premises, and when necessary at the Local Union Office, and without loss of pay, all Union Stewards who are employees shall be allowed up to one (1) hour each day, not to exceed four (4) hours per week, to:

1. Post Union notices;
2. Distribute Union literature;
3. Solicit Union membership during other employees' non-working time;
4. Transmit communications authorized by the Local Union or its officers to the Employer or his representative;
5. Attend labor-management meetings;
6. Consult with the Employer, his representative, Local Union Officers or other Union representatives, concerning the enforcement of any provisions of this Agreement;

7. Investigate and process grievances;
8. Attend Union meetings.

This privilege shall not be abused. The Union Steward shall request release time from their supervisor in advance.

B. The employee selected by the Union to act as Union representative shall be known as "Steward". The name of the employee selected as Steward and the names of other Union representatives who may represent employees shall be certified in writing to the employer by the Local Union.

C. The Steward shall be released from duty, with pay, for the purpose of attending bilateral negotiations for a successor to this Agreement and for reasonable preparation time. The Steward shall notify his supervisor, in advance, of the release time necessary for this purpose.

### **Section 2 - Labor-Management Committee**

Conferences between representatives of the Employer and no more than two (2) representatives of the Local Union on important matters which may include the discussion of procedures for future grievances and other methods of improving the relationship between the parties will be arranged between the parties upon request of either party. Arrangements for such meetings shall be made in advance and shall be held at reasonable hours as mutually agreed upon by the parties. Employees acting on behalf of the Union shall suffer no loss of time or pay should such meetings fall within their regular work hours.

## **ARTICLE 22 EMPLOYEE SAFETY**

### **Section 1 - Safety Committee**

A. The Employer and the Union agree to establish a joint Safety Committee, to consist of two (2) Union members, two (2) Employer members and the City Safety Coordinator who shall be chairman. The Safety Committee shall advise the City on all safety and health matters.

B. The Safety Committee shall meet upon the request of two or more members, which meetings shall be held during the working hours, without loss of pay, to discuss safety matters, but such meetings shall not be more frequent than once per month.

C. This Committee is not intended as a Review Committee for motor vehicle accidents involving City equipment.

### **Section 2 - Safety Equipment and Protective Clothing**

A. Employees who require safety shoes and prescription safety glasses shall be issued them without charge. This safety equipment shall become the employee's property. Employees shall be responsible for replacing or repairing such safety equipment which is lost, stolen, misused, or willfully destroyed. Safety equipment damaged in the course of duty through no fault of the employee shall be replaced at City expense upon the recommendation of the employee's supervisor and approval of the Safety coordinator. If an employee leaves City employment within one (1) month of his hire date, he shall be charged for the cost of safety equipment which he was issued.

B. The following equipment shall be issued on loan to employees only for use in the performance of duty: rain gear, foul weather gear, rubber footwear, safety helmets, safety goggles or face shields or any other legally required safety equipment or protective clothing. Loaned equipment shall be issued by means of an issue card and shall remain the property of the City of Rochester while on loan to the employee. The employee shall be responsible for the safekeeping of all equipment loaned to him and shall be charged with the cost of said equipment where loss, theft, misuse or willful destruction occurs. Replacement for worn loaned equipment will be upon recommendation of the employee's supervisor and approval of the Safety Coordinator. In order to receive a replacement for loaned equipment, the employee must turn in his original piece of loaned equipment. Where an employee is required to wear safety shoes and must, by documented medical record, wear special medical shoes, the City will pay fifty (50) percent of the cost of a medical safety shoe.

C. The Safety Committee shall have the power to review the decision of the Safety Coordinator provided for in this section.

D. Where protective or safety equipment is not assigned to an individual employee, then the City of Rochester shall be responsible for such equipment to be available for issuance at the job site. The equipment shall be issued on a daily basis whenever the need arises.

E. Where safety equipment, protective equipment and foul weather gear is issued to an individual employee, the City of Rochester shall require that such equipment be used for the proper performance of duty and the protection and health of the employee.

F. If said equipment is not used nor worn by the employee in the performance of his duties as required for the safety and health of the employee, then the following actions shall be taken:

1. Denial of the right to work until such equipment, furnished by the City of Rochester, be worn or used.
2. Disciplinary action to be taken, where warranted, because of a violation of this provision.

## **ARTICLE 23 MANAGEMENT PREROGATIVES**

### **Section 1 - Employer Rights**

Except where expressly limited by a specific provision of this Agreement, the Employer shall have the sole and exclusive rights to make and implement decisions with respect to the management of its operations in all respects. Such rights include but are not limited to the following: to plan, direct, control and determine what work is to be performed, its place of performance, and who is to perform it in all the operations and services of the City of Rochester; to supervise and direct the working forces; to establish the qualifications for hiring and to hire and promote employees; to schedule and assign work; to establish work and productivity standards and, from time to time, to change those standards; to assign and to transfer employees; to determine the methods, means and organization by which operations are conducted; to make, alter and enforce rules, regulations policies and procedures on all matters and subjects; to evaluate employees' to discipline, suspend and discharge employees for just cause (except probationary employees, defined as employees with less than one year of service



with the employer, without cause); to determine whether services are to be provided by employees covered by this agreement or by other employees or persons not covered by this agreement; to change or eliminate existing methods, equipment or facilities; and to carry out the mission of the employer. It is specifically provided however, that the exercise of any of the above rights shall not conflict with any of the express written provisions of this Agreement.

### **Section 2 - Work Rules**

A. When existing work rules are changed, or new work rules established, there shall be prior consultation with the Union President or his designee, and then such work rules shall be posted prominently on all bulletin boards for a period of ten (10) consecutive work days before becoming effective. If, however, after no less than two (2) meetings within a period of ten (10) working days, there is no agreement, the Employer shall have the right to institute the rules, but the dispute may also be submitted to the grievance procedure.

B. Employees shall comply with all work rules. The Employer agrees that all applicable work rules are to be uniformly applied and uniformly enforced. Any complaint involving discrimination in the application of new or existing rules shall be resolved through the grievance procedure of this agreement.

C. The Employer agrees to furnish each employee in the Bargaining unit with a copy of all applicable written work rules. New employees shall be provided with a copy of the applicable work rules at the time of hire.

### **Section 3 - Professional Standards**

The Union and the City recognize the necessity of continuous improvement in efficiency and effectiveness throughout the City operations covered by this collective bargaining agreement. In this connection their representatives and members will be urged to cooperate jointly in accomplishing this result.

### **Section 4 - Americans With Disabilities Act**

The Employer may, notwithstanding any other provisions of this Agreement, take action that is in accord with what is legally permissible under the Americans with Disabilities Act ("ADA") in order to be in compliance with the ADA.

## **ARTICLE 24 TERMINATION OF MODIFICATION**

### **Section 1 - Duration of Agreement**

A. Except as otherwise provided, this Master Agreement shall go into effect on July 1, 1996 and shall remain in full force and effect until June 30, 1999.

B. This Master Agreement shall continue in force and effect from year to year thereafter unless either party shall notify the other party in writing not earlier than the 1st of October and not later than the 30th of October immediately preceding the termination date of its intention to

modify or terminate this agreement.

C. It is understood and agreed that negotiations pursuant to such notice to amend or terminate shall begin on a mutually agreeable date following the giving of such notice.

**Section 2 - Temporary Extension of Agreement**

If at the expiration of this Agreement, no new agreement has been reached and negotiations are continuing, this Agreement shall continue in full force and effect unless terminated by either party giving at least ten (10) work days written notice to the other party of a desire to terminate.

**Section 3 - Modification**

No amendment, alteration or modification of this agreement shall be binding unless it is in writing and signed by the Mayor and/or the Manager of Labor Relations and by a duly authorized representative of the Union.

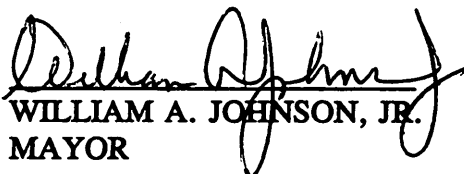
**Section 4 - Termination and Modification - Total Agreement**

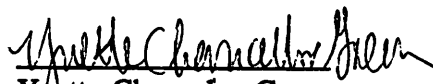
In the event that any personnel rules or regulations are in conflict with this Agreement, the Agreement shall apply. The foregoing shall constitute the entire Agreement between the parties. No verbal statement or other amendments, except an amendment mutually agreed upon between the parties and in writing annexed hereto designated as an amendment to this Agreement, shall supersede or vary the provisions herein.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

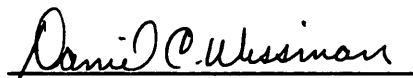
**FOR THE CITY OF ROCHESTER, NEW YORK**

Approved as to Form

  
WILLIAM A. JOHNSON, JR.  
MAYOR

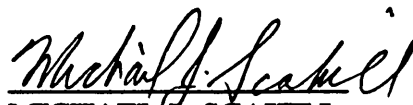
  
Yvette Chancellor Green  
Municipal Attorney

Date: 11-19-91


  
DANIEL C. WISSMAN  
MANAGER OF LABOR RELATIONS

Date: November 15, 1996

**FOR THE INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 71-71A**

  
MICHAEL J. SCAHILL  
BUSINESS MANAGER

date: November 15, 1996

  
THOMAS J. GRAVES  
STEWARD

date: 11/15/96

## APPENDIX A – WAGE SCHEDULE

EFFECTIVE JULY 1, 1996

BRACKET	TITLE	STEP A	STEP B	STEP C
150	ASS'T HVAC ENGINEER	16.23	17.39	17.90
151	HVAC ENGINEER	16.72	17.90	18.47
152	LEAD HVAC ENGINEER	18.18	19.47	20.09

EFFECTIVE JULY 1, 1997

BRACKET	TITLE	STEP A	STEP B	STEP C
150	ASS'T HVAC ENGINEER	16.72	17.91	18.44
151	HVAC ENGINEER	17.22	18.44	19.02
152	LEAD HVAC ENGINEER	18.73	20.05	20.69

EFFECTIVE JULY 1, 1998

BRACKET	TITLE	STEP A	STEP B	STEP C
150	ASS'T HVAC ENGINEER	17.14	18.36	18.90
151	HVAC ENGINEER	17.65	18.90	19.50
152	LEAD HVAC ENGINEER	19.20	20.55	21.21