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9/30/98

LABOR AGREEMENT
BETWEEN
CITY OF NILES, MICHIGAN
AND
UNITED STEELWORKERS OF
AMERICA
THE AFL-CIO-CLC
LOCAL UNION NO. 13729
COVERING THE
CEMETERY DEPARTMENT

Niles, City of

OCTOBER 1, 1994 TO SEPTEMBER 30, 1998

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CEMETERY DEPARTMENT LABOR CONTRACT

AGREEMENT

THIS AGREEMENT made and entered into this _____ day of _____, by and between the City of Niles, hereinafter the "City," its successors and assignees and, United Steelworkers of America, AFL-CIO-CLC on behalf of Local Union 13729, hereinafter the "Union."

WHEREAS, it is the intent and purpose of the parties hereto to provide a means of adjustment of differences that may arise from time to time, and to promote harmony and efficiency to the end that the City of Niles, the Union, its members and the general public may mutually benefit, and to establish a basic understanding relative to rates of pay, hours of work and other conditions of employment:

NOW, THEREFORE, in consideration of the mutual promises and obligations assumed herein, the parties hereto agree as follows:

1. RECOGNITION

1.1 BARGAINING UNIT DEFINED

The City of Niles recognizes the United Steelworkers of America, AFL-CIO-CLC, as the exclusive representative for the purpose of collective bargaining with respect to the rates of pay, wages, hours of employment and other conditions of employment for all the classifications listed below and are those who work for the Cemetery Department and other departments under the direction of the City Engineer:

Laborer

Working Group Leader

1.2 EMPLOYEES EXCEPTED

The provisions of this Agreement shall not apply to vacation employees, part-time employees, temporary employees, employees hired to fill temporary vacancies, or to employees hired for special construction projects or seasonal work.

1.3 CLASSIFICATION CHANGES

Negotiations for additional classifications or deletions of classifications of employees who work under the life of this Agreement, but only if the party desiring to negotiate such deletions or additions of classifications submits its desire for such negotiations on or before the sixtieth (60th) day preceding July 31st of any such calendar year.

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1.4 CONTRACT NEGOTIATIONS

The negotiating team for Local Union 13729, United Steelworkers of America, AFL-CIO-CLC, for the purpose of negotiating contract changes, wages and classification changes, shall consist of a maximum of two (2) employees of the City, who must also be members of the group covered by this Agreement and a maximum of two (2) International Representatives or designees who may not be City employees.

1.5 NONDISCRIMINATION

The provisions of this Agreement shall be applied equally to all employees in the Union. There shall be no discrimination as to age, weight, height, sex, marital status, race, color, disability, creed, national origin, political or union affiliation. The Union shall share equally with the City the responsibility for applying this provision of the Agreement. No action of any kind may be brought against the City by the Union for the occurrence of an alleged violation of this provision six (6) months after the occurrence of the event upon which the claim is based.

1.5.1 ADA COMPLIANCE

The City and the Union mutually recognize their obligations under the Americans With Disabilities Act (ADA) and other applicable federal and state laws to make reasonable accommodations to qualified employees with disabilities. The need for and the nature of such accommodations shall be determined by a Joint Civil Rights Committee which shall have an equal number of City and Union representatives. Such accommodations may include, but only by mutual agreement of the parties, the establishment of special limited duty positions within job classifications, the development of special limited duty classifications, the creation of special limited duty shifts, etc. No actions taken by the Joint Committee to comply with the ADA or other applicable laws shall be used as evidence of precedent or past practice.

In the event that the Joint Committee is unable to reach mutual agreement with respect to the need for or the nature of a requested reasonable accommodation, the City may take such actions as it believes are necessary to comply with the ADA or other applicable laws, but to the extent that the Union believes that such actions violate the provisions of the labor agreement, the Union retains its rights to grieve and arbitrate the alleged violation.

Whether or not the Joint Committee is able to reach mutual agreement with respect to the need for or the nature of a requested reasonable accommodation, and should the City, but not the Union, be named as a defendant in a lawsuit, charge, complaint, or similar action alleging a violation of the ADA or other applicable laws, the Union, at its own expense, shall intervene and assist the other in defending any such action. If any final judgement is obtained against the City (or if a settlement agreed to by the Union is reached by the City), the Union will indemnify and reimburse the City for said judgement or settlement (including

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the City's costs in defending or settling such action), but only to the extent that the Union would have been liable for all or a portion of such judgement, settlement, or costs had the Union been named as a defendant.

Whether or not the Joint Committee is unable to reach mutual agreement with respect to the need for or the nature of a requested reasonable accommodation, and should the Union, but not the City, be named as a defendant in a lawsuit, charge, complaint, or similar action alleging a violation of the ADA or other applicable laws, the City, at its own expense, shall intervene and assist the other in defending any such action. If any final judgement is obtained against the Union (or if a settlement agreed to by the City is reached by the Union), the City will indemnify and reimburse the Union for said judgement or settlement (including the Union's costs in defending or settling such action), but only to the extent that the City would have been liable for all or a portion of such judgment, settlement, or costs had the City been named as a defendant.

This agreement in no way affects the rights, duties, and liabilities of either the Union or the City if both are named as defendants in such an action.

1.6 USE OF MALE PRONOUN

Whenever the male pronoun is used herein it shall also be deemed to include the female pronoun and is not in any way intended to be discriminatory toward female employees.

1.7 MUTUAL RESPONSIBILITIES

The Union agrees that it will do everything within its power to cause the employees, individually and collectively, to perform and render loyal and efficient work and services for the City. The Union agrees that no Union activities except those accepted by this Agreement or those necessary for signing dues check-off authorization, without permission from management, shall take place during working hours.

1.8 UNION SECURITY

The Union agrees that it will from time to time promptly accept as members therein any and all persons who are not members of the Union and whom the City employs to perform for the City the different classifications of work covered by this Agreement. The City shall do its own hiring, and employees of the City covered by this collective bargaining agreement, who, at the date hereof, are members of the Union, shall continue to pay the monthly Union dues uniformly required of all members of the Union or pay a service fee established by the Union in accordance with current Court and Administrative decisions during the life of this Agreement. Employees covered by this Agreement now employed, but not members of the Union shall, as of the thirty-first (31st) day following the effective or execution date of this Agreement, whichever is the later, pay the monthly Union dues or service fee, whichever they elect, as above provided, for the life of this Agreement.

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Employees covered by this Agreement hereafter employed shall, thirty (30) days after the end of their probation period, pay the monthly Union dues or service fee, whichever they elect, as above provided, during the life of this Agreement. Employees who fail to comply with the foregoing provisions will, upon written notice by the Union to the City and to the employee, be placed upon five (5) calendar day notice, and at the end of such notice period, having failed to comply with this provision will be given an opportunity to appear before the Union's Dues and Service Fee Committee to explain why the dues have not been paid and to state what objections the employee has with regard thereto. Thereafter, the employee and the Union shall be free to pursue its rights in accordance with applicable law.

1.9 PAYROLL DEDUCTION OF DUES OR FEE CHECKOFF

The Union will provide dues authorization cards to the City. These cards will then be given to all new hires. Upon receipt of the signed authorization card from the employee, and the employee having completed his probationary period, the City will deduct once a month on either the first payday or second payday the membership dues or service fee of the Union which is established as 1.3% of a member's total earnings during the preceding month. The City agrees to remit such collection monthly to the International Treasurer of the United Steelworkers of America, Five Gateway Center, Pittsburgh, Pennsylvania 15222, who will issue an official Union receipt to the City, therefore, the City shall furnish the International Treasurer of the Union each month a list of all members from whom deductions have or have not been made. A copy of such list shall be furnished to the Financial Secretary of Local Union 13729. The Union agrees to indemnify and save the City harmless against any and all claims, suits, costs and other forms of liability that may arise out of or by reason of action taken in reliance upon such individual authorization cards or by reason of the City's compliance with the provisions of this Article.

2. RIGHT OF MANAGEMENT

2.1 RIGHTS OF MANAGEMENT

Except as otherwise provided in this Agreement, the City in the exercise of its functions of management, shall have the right to decide the policies, methods, safety rules, direction of employees, equipment to be used in the operation of the business, and to determine the hours of work, the right to hire, discharge, suspend, discipline, promote, demote and transfer employees, and to release employees because of lack of work or for other proper or legitimate reasons. The City retains all rights which management may now have which may or may not be enumerated here.

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3. GRIEVANCE PROCEDURE

3.1 GRIEVANCE COMMITTEE

Members of any grievance committee shall not contain more than two (2) employees of the City who must also be members of the Union covered by this Agreement. No overtime pay will be given for time spent in negotiating grievances.

3.2 GRIEVANCE DEFINED

A grievance shall be defined as "any dispute regarding the meaning, interpretation or application of the terms and provisions of the Agreement."

3.3 GRIEVANCE PROCEDURE

None of this Article shall be construed to limit the right of any employee of the City to request on his own a meeting with the Street Superintendent or designee or any representative of the City to settle his own grievance if possible outside of the formal grievance procedure. Such informal meeting shall not impair the right of any member of the Union to the formal grievance procedure.

3.3.1 STEP 1 GRIEVANCE

Any regular employee of the Street Department or other departments under the direction of the City Engineer, who are covered by this Agreement, having a grievance, shall briefly state the grievance in writing and submit the same to the Street Superintendent or Designee within fourteen (14) days of the alleged violation. Within forty-eight (48) hours after receipt of this written grievance, the Street superintendent or Designee shall transmit to the City Engineer the grievance and the City Engineer, within ten (10) days of the receipt of the grievance, shall set up a meeting with the aggrieved employee and the Union Grievance Committee for the purpose of finding the full facts regarding the grievance. The City Engineer will, within fourteen (14) days after the meeting, make a decision on the issue presented by the grievance in writing, and deliver a copy of such transmittal to the employee submitting the grievance and the Grievance Committee. In the event that more than one (1) aggrieved employee is involved in the grievance, one (1) of the aggrieved employees shall be designated as the representative to meet with the Union Grievance Committee and the City Engineer.

3.3.2 STEP 2 GRIEVANCE

In the event that the employee desires further consideration of the grievance, he or the Union, shall, within five (5) days after receipt of the Step 1 decision, submit a written request that another meeting be held. The City Engineer, within ten (10) days of the receipt of the written request, shall set up a meeting. The meeting shall consist of the City

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Engineer, employee, Grievance Committee, and the International Representative of the United Steelworkers or designee. At this meeting any evidence as is deemed necessary by either the City or the Union may be presented. The City Engineer will within ten (10) days after the meeting make a decision on the issue presented by the grievance in writing, and deliver a copy of such transmittal to the employee, Grievance Committee, International Representative and/or designee.

3.3.3 STEP 3 GRIEVANCE

In the event that the Union desires further consideration of the grievance it shall, within ten (10) days after receipt of Step 2 decision, identify the grievance and submit a written request that the grievance be considered to the City Administrator. Upon receipt of the request for further consideration of the grievance as aforesaid, it shall be the duty of the City Administrator, within ten (10) days of the receipt of the written request, to call a meeting with the aggrieved employee or the representative of a group of aggrieved employees and the Union Grievance Committee, International Representative or designee who may not be a City employee not covered by this Agreement before his decision is made. The City Administrator shall then give his decision in writing and the same shall be delivered to the employee, Grievance Committee and International Union not later than ten (10) days from and after the aforesaid meeting.

3.3.4 ARBITRATION

Should the above procedure fail to satisfy the Union, the Union shall notify the City Administrator in writing within ten (10) days of the receipt of the City Administrator's written decision. The grievance may then be appealed to State of Michigan Mediation and Conciliation Service. The Union and the City shall jointly request, in writing, from the State of Michigan Mediation and Conciliation Service a panel of five (5) arbitrators from its service from which each side, beginning with the City, will strike one name, in turn, until one name remains. The arbitrator shall limit his decision strictly to the interpretation, application or enforcement of the Agreement. There shall be no appeal from the arbitrator's decision, if made in accordance with his jurisdiction and authority under this Agreement. The arbitrator's decision shall be final and binding on the City, on the employee or employees, and on the Union. The expenses of the arbitrator shall be shared equally by the parties. The aggrieved, his local representatives and witnesses shall not lose pay for the time off the job while attending arbitration proceeding.

3.4 TIMELINESS

The parties may mutually agree to refer a grievance to a higher step of the procedure for disposition instead of hearing it at a lower step. Any grievance not appealed by the Union in writing within the time limits established in the grievance procedure shall be considered settled on the basis of the City's last answer.

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3.5 WITHDRAWAL OF GRIEVANCE

The Union may withdraw any grievance without prejudice as to that grievance at any step of the Grievance Procedure. The Union will do so in writing. In the event the City does not answer a grievance within the time period provided, the grievance shall be automatically advanced to the next step of the grievance procedure except, no grievance shall automatically be advanced to arbitration.

3.6 MONETARY GRIEVANCE SETTLEMENT

Where the grievance settlement has a monetary adjustment, the employee and the Union Committeeman will be given written notification of such adjustment.

3.7 INVESTIGATING/PROCESSING GRIEVANCE

The employee, Grievance Committee or witnesses shall not lose pay during any step of the grievance procedure as outlined in this Agreement. The Grievance Committeeman shall be allowed a maximum one-half hour of time during working hours to investigate each grievance after receiving permission from the City. Such permission shall not be arbitrarily denied. Both parties agree not to abuse this section.

3.8 DISCIPLINE/DISCHARGES

The City will not take disciplinary action without first warning the employee, unless the facts warrant immediate suspension or discharge. Warnings will be given in writing in the presence of a Union Committeeman. In the event of such warning in writing to the employee, a copy will be given to the Union Committeeman or Steward. Prior to deciding on the discharge of an employee, the City shall first suspend the employee for a period not to exceed five (5) workdays. Within that period and before the City makes its decision, a hearing will be held at which time the Union may present facts or other information which it wishes the City to consider. Attendance at such hearing will be limited to the employee, two grievance committee representatives, and, by agreement, such witnesses who may have personal knowledge of the case. If an employee has been discharged or given a disciplinary layoff and he believes he has been unjustly dealt with, he may file a grievance at Step 1 of the Grievance Procedure within five (5) workdays. This section does not apply to probationary employees.

3.9 NO STRIKES OR LOCKOUTS

Inasmuch as a grievance and arbitration procedure has been agreed upon, there shall be no strikes, stoppages of work, slowdowns, sit-downs, sympathy strikes, or other forms of interference with production or concerted activity on the part of the Union, members or representatives thereof during the life of this Agreement or extension thereof. The City shall not engage in a lockout of its employees during the life of this Agreement or extension thereof. Employees who engage in such proscribed activity shall be subject to discharge in the sole discretion of the Employer. In the event the Union engages in such

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proscribed activity, the Employer shall be free to take whatever action it deems appropriate. The question of fact of whether the employee(s), the Union, or the City engaged in such proscribed activity shall be a proper subject for the grievance procedure commencing at Step 1.

4. SENIORITY

4.1 LAYOFFS

Whenever it becomes necessary to layoff employees, that layoff shall be made in inverse order to their length of service, provided the employee who is retained is able to satisfactorily perform the work. The City, when possible, shall notify the employees and the Union in advance of layoffs. The City will count layoff time towards the 230 days per anniversary year steady employment requirement. The City will count up to 30 calendar days layoff time towards time served in classification. During layoff, the City will pay the life and health insurance premiums for three months beyond the layoff date and then grant the employee the option of continuing coverage by paying the premium himself (herself) for up to nine months. No vacation time shall be reduced for the first ninety calendar days layoff time, thereafter, vacation time shall be prorated (see example below). The employee will be paid for no holidays during the layoff period. No sick leave time shall be reduced for the first ninety calendar days layoff time, thereafter, sick leave time shall be prorated (see example below). Employees who are laid off for reasons beyond their control shall be paid the equivalent of one-half (1/2) of his (her) unused sick leave accumulated after August 1, 1975, to the time of seniority termination (see payment and requirements, etc., as outlined in Section 6.12).

4.1.1 DEFINITION OF SENIORITY

It is understood and agreed that in all cases of promotion or demotion, increase or decrease of forces or vacancies in new or existing classification, seniority shall govern as herein set forth.

- a) It is the intent and purpose of this section to preserve the principle that provided the employee has the ability to perform the work, job security should increase in proportion to length of continuous service without interruptions to efficient operations of the City.
- b) Seniority shall be defined as an employee's length of continuous service with the City since his last date of employment. "Last date of employment" shall mean the date upon which an employee was last hired. No time shall be deducted from an employee's seniority due to absences occasioned by authorized leaves of absence, vacations, sick or accident leaves or for layoffs for lack of work except as hereinafter provided.

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4.2 PRORATING EXAMPLE

Assume 100 calendar day layoff period during the employee's anniversary year.

$$\frac{365}{365} = \frac{(100 - 90)}{365} \text{ times (Normal paid vacation)}$$

and/or
(Yearly accumulated sick leave)
equals prorated time

4.3 RECALLING

When recalling, employees laid off shall be recalled in the reverse order, if available, provided they are physically qualified to return to work. Employees laid off for a period exceeding one (1) calendar year will not be recalled under this Article, but may be rehired as new employees.

4.4 TRIAL SERVICE PERIOD

All newly hired employees shall be probationary employees and shall have no seniority until they have actually worked one thousand forty (1040) hours for the Employer. At any time during the probationary period the employee may be terminated from employment at the sole discretion of the Employer with or without cause, without regard to his/her relative length of service and such termination shall not be subject to the grievance procedure. After successfully completing his/her probationary period, the employee's name shall be added to the seniority list as his/her last hiring date. The Employer shall provide at least two (2) progress reviews during the probationary period for each probationary employee. The first progress review shall occur approximately 400 hours after employment and the second progress review shall occur approximately 800 hours after employment. It is understood and agreed that probationary employees may be terminated without receiving any or all progress reviews. After a probationary employee has actually worked 520 hours said employee shall be eligible for holiday pay and insurance coverage as though they were regular employees under the terms of this labor agreement.

4.5 LIMITATIONS

An employee will lose all seniority if he voluntarily quits, is justifiably discharged, or is away from his work three (3) days without notifying the Street Superintendent or Designee; or if he works for another Employer or for financial gain while on sick leave; or if he works for another Employer for financial gain while on leave of absence, unless this was agreed to in writing at the time the leave was granted. Employees who have been laid off for reasons beyond their control, who are recalled within one (1) calendar year from the date of layoff, shall retain seniority and other rights as if their employment had been continuous. Upon failure to return to work or to show intent thereof within two (2) weeks after having been given three (3) days notice by the City, the seniority of such employee shall be deemed terminated. It shall be the responsibility of the employee to keep the City informed of his

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correct address at all times. Three (3) days notice is defined to mean three (3) days after postmarking of a certified letter. The City agrees that, for a period of one (1) year, it will not replace a laid off employee with new hires until such time as those laid off employees have been notified as outline above.

4.6 ARMED SERVICES

When a regular employee enters any branch of the Armed Forces of the United States, upon his return to work the benefits which accrue to him shall be determined by the applicable federal statutes in effect at the time.

4.7 TEMPORARY POSITIONS

Whenever a regular employee is on leave of absence or on sick leave, it shall be understood that any person filling his position fills it for the duration of the leave of absence or sick leave and shall relinquish the position on return to work of the employee for whom such leave was granted. Employees temporarily transferred to replace a temporary absent employee with a high rated classification for a period of five (5) consecutive days or more shall receive the rate of the higher classification effective as of the first day of the temporary transfer period. Employees temporarily transferred to a lower rated classification shall retain their regular rate of pay.

4.8 PROMOTIONS

Promotions to positions other than salaried supervision shall be made according to seniority and qualifications. Employees who are promoted from nonsupervisory positions to salaried supervisory positions shall retain their seniority in the old position for one (1) year after the date of promotion. After one (1) year of service in the salaried supervisory position all seniority rights in the old position shall be forfeited. Employees shall be permitted to down-bid if they have the necessary seniority and qualifications.

4.8.1 JOB POSITIONS/VACANCIES

Job vacancies shall be posted for a period of not less than three (3) working days. Employees bidding on any posted vacancy shall be notified within one (1) week from the date such posting time limits expire, as to the award of the job bid. The most senior employee possessing the necessary qualifications shall be selected to fill such vacancy. Whenever there are no bargaining unit employees who have submitted an application for the vacancy involved or who do not qualify for the vacancy in accordance with this Section, the City may fill such vacancy from outside the bargaining unit.

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4.8.2 JOB VACANCY TRIAL PERIOD

An employee selected to fill a vacancy will be given up to a sixty (60) day working day trial period to satisfactorily perform the work required. At any time during this period, an employee may, on his own volition, request in writing to be relieved of the new classification and be returned to his former classification and former rate of pay without loss of seniority. If an employee returns to his prior classification at his own request, he shall be ineligible to bid any other vacancy by means of this procedure for a period of six (6) months. At any time during the trial period, if the City determines that the employee is unsatisfactory in the new classification, the City shall have the right to return the employee to the former classification from which he was promoted.

4.8.3 TRIAL PERIOD STIPULATION

No employee will be permitted to seek another position through this procedure if he is currently in a sixty (60) day trial period as the result of an earlier award for a position under this procedure.

4.9 TERMINATION OF EMPLOYMENT

The last day of work terminates employment. Accrued benefits such as vacation paid after the last day of work does not constitute employment.

4.10 SENIORITY LIST

The names of all employees in the bargaining unit who have seniority shall be listed in order of their last hiring dates, starting with the senior employee at the top of the list. If two (2) or more employees are hired on the same day, their names shall appear on the seniority list alphabetically by the first letter or letters of their last name. If two (2) or more of such employees have the same last name, the same procedure shall be followed with respect to their first name.

4.11 RECALLED EMPLOYEE BENEFITS

Upon recall from layoff an employee is eligible for all benefits enumerated in this Agreement. Coverage for the health and life insurance shall become effective the next business (work) day following the completion of all necessary forms and applications. If the employee had completed the forms prior to returning to work, the coverage shall be effective the day of return so long as the minimum waiting period is met.

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5. VACATION

5.1 AMOUNT OF VACATION

Employees employed in this bargaining unit as of 30 September, 1985 shall be entitled to no vacation with pay during the first year of employment. Employees employed in this bargaining unit as of 30 September, 1985, shall be entitled to one (1) week of vacation with pay after one (1) year of steady employment, two (2) weeks of vacation with pay after two (2) years of steady employment, three (3) weeks of vacation with pay after eight (8) years of steady employment, four (4) weeks of vacation with pay after (14) years of steady employment, and five (5) weeks of vacation with pay after nineteen (19) years of steady employment, dating back to the last date of hire by the City. Employees starting employment in this bargaining unit on or after 1 October, 1985, shall be entitled to no vacation with pay during the first year of employment.

Employees starting employment in this bargaining unit on or after 1 October, 1985, shall be entitled to one (1) week of vacation with pay after one (1) year of steady employment, two (2) weeks of vacation with pay after two (2) years of steady employment, three (3) weeks of vacation with pay after eight (8) years of steady employment, four (4) weeks of paid vacation after eighteen (18) years of steady employment, and five (5) weeks of vacation with pay after twenty-five (25) years of steady employment, dating back to the last date of hire by the City. Steady employment is 230 days worked including paid vacation, paid holidays, paid jury duty, paid funeral leave, paid maternity leave, paid sick leave, FMLA leave, and time off for compensable injury leave in the employee's twelve (12) months period between anniversary dates. Vacations shall not be allowed to accumulate from year to year and at least thirty (30) days must elapse between the vacation periods of any two (2) consecutive years with the exception that one (1) week may be taken immediately after the employee's anniversary date.

5.2 VACATION EARNED

All vacations are earned previous to the anniversary date of employment and are taken during the year following the anniversary date. A year for the purpose of taking vacations is defined as "the period between consecutive anniversary dates." Earned vacations are based on full years of service and are accrued on each anniversary date only.

5.3 DIVIDING VACATIONS

Vacation normally cannot be divided into periods of less than one week. However, single days may be taken if previous agreement is made with the City Engineer or Designee, provided the employee desiring to take single days has more than one week of accrued vacation and will take at least one week of continuous vacation.

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5.4 ACCUMULATING VACATIONS

Vacations are not cumulative. After the employee has completed five (5) years, an exception can be made and vacations can be accumulated at intervals of not less than five (5) years. Upon written request and approval by the City Engineer, an employee can forego all or part of his vacation in one (1) anniversary year with the understanding that such unused portion shall be taken the following year consecutively with his vacation that following year. The required approval by the City Engineer will be given only with the understanding that the employee will not work for either himself or others for monetary gain during this accumulated type vacation. The intent of this accumulated vacation clause is to give employees time to make extended trips.

5.5 VACATION PRORATION

An employee whose employment is terminated will be paid any unused vacation and will be paid accrued vacation on a prorated basis.

5.6 VACATION SCHEDULING

Vacation will, so far as practicable, be granted at times most desired by employees (longer service employees being given preference as to choice), but the final right to allot vacation periods and to change such allotments is exclusively reserved to the City in order to insure the orderly operation of services. Once an employee's vacation has been scheduled by the City, it shall not be postponed in the thirty (30) day period immediately preceding the date the employee is scheduled to commence his vacation; except for emergency conditions clearly beyond the control of the City. Notwithstanding the above, an employee's vacation can be postponed at anytime by mutual agreement. The City may limit the number of employees that are on vacation at the same time to two (2).

6. SICK LEAVE

6.1 AMOUNT OF SICK LEAVE

Three (3) weeks sick leave per year after one (1) year's employment, cumulative to twenty-nine (29) weeks. A week is defined as five (5) working days. Termination of employment or death cancels any accumulated sick leave except as specified in Section 6.12.

Example: A man's employment anniversary is November 15th. He has twelve (12) weeks of accumulated sick leave. In May and June he is sick for five (5) weeks. This reduces his accumulated sick leave to seven (7) weeks. The next November 15th he is credited with an additional three (3) weeks for the year just completed and his total accumulated sick leave is then ten (10) weeks.

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6.2 DISABILITY

In the event that an employee suffers a disability rendering him incapable of performing his regularly required duties, the City Administrator shall immediately request of the Pension Board that the medical director of the Pension Board appoint three (3) physicians who shall examine the employee. One of the three appointed physicians must be the family physician of the employee if he has one. Each appointed physician will issue a written report as follows:

- (a) The disabled employee is or is not mentally or physically incapacitated for duty in his regular position.
- (b) The incapacity will probably be permanent or the incapacity will probably not be permanent.
- (c) The disabled employee should or should not be retired.

6.3 PHYSICIAN REPORTS

The reports from the physicians must be submitted to the Pension Board before the last regular meeting of the Pension Board before the expiration of the sick leave of the disabled employee. In the case where the sick leave of the disabled employee expires before the next scheduled meeting of the Pension Board, the examining physicians must submit their reports and the Pension Board must hold a special meeting within ten (10) days of the request of the City Administrator. They shall submit their recommendation to the City Administrator for a final determination.

6.4 DISABILITY RETIREMENT

If the reports of the examining physicians indicate that the disabled employee is mentally or physically incapacitated for duty in his regular position and that the incapacity will probably be permanent, the disabled employee will be retired and pensioned in accordance with the City's ordinance or ordinances providing for retirement allowances and death benefits. However, if a full-time position is available in the City which, in the opinion of the examining physicians, the Pension Board, and the City Administrator, the employee is capable of performing in his incapacitated condition, the full-time position will be given to the disabled employee and he will not be retired. If a position in the City becomes available which in the opinion the examining physician, the Pension Board, and the City Administrator that the retired and pensioned employee is capable of performing in his incapacitated condition, the full-time position will be given to the employee and he will be removed from retirement.

6.5 ACTIVE SERVICE AFTER DISABILITY

When an employee who has been retired due to a duty disability is returned to active service and removed from retirement, he shall receive full seniority rights from his last date of employment before the disability occurred including the time spent on disability retirement. When an employee who has been retired due to a nonduty disability is returned

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to active service and removed from retirement, he shall receive full seniority rights from the date of his date of employment before the disability occurred, excluding the time spent on disability retirement.

6.6 SICK LEAVE PROCEDURE

A written report by a licensed doctor of Medicine (M.D.) or licensed Osteopathic Doctor (D.O.) is required not later than the fifth day of any illness. During any illness where sick leave pay is involved, the employee or someone in the employee's household must call the Street Superintendent or Designee reporting on the employee's condition each day of absence. When sick leave or a leave of absence due to illness is being taken outside the City, a physician's report will be required monthly. Such report must state the employee's physical condition with respect to his ability to return to his regular, required duties. When an employee is temporarily residing outside of the City and sick leave credits are about to expire and when the employee may wish to take a leave of absence, the request for such leaves of absence must be in writing and must be approved by the City Administrator before the sick leave expires.

6.7 SICK LEAVE ELIGIBILITY

In order to be eligible for sick or injury pay, an employee must see that a written report signed by a licensed Doctor of Medicine (M.D.) or licensed Osteopathic Doctor (D.O.) indicating that the employee is unable to work is delivered to the Street Superintendent or his Designee. The report must not be delivered directly to City Hall. The written report must be on a City form. (A written report on the Doctor's stationary will be accepted providing that the Doctor signs the report and it answers all the questions on the City form). The Street Superintendent or Designee must receive the written report by 8:00 a.m. Monday in order for the eligible sick or injury pay to be included in the next Friday's payroll check. An employee may take up to three (3) days of accumulated sick leave per anniversary year without submitting the Doctor's written report described above, except as provided in Section 6.10.

6.8 REQUIRED DOCTOR EXAMINATIONS

The City may require a medical or psychological examination for any employee by a doctor selected and paid for by the City at such time as the City shall deem necessary for the safety and welfare of the residents of the City and the maintenance of standards within the Street Department. If the results of the examination would affect the employee's ability to work, then the employee can have a second opinion at his expense by a physician of his choice. If there is a difference of opinion by the first two physicians, the employee may be examined by a physician mutually agreeable to the City and the Union.

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6.9 SICK LEAVE ON VACATION

Sick leave will not be granted for illness during vacation unless it happens on the first day and unless the employee is still in town and calls the Street Superintendent or Designee on the first morning of what normally would have been vacation.

6.10 SICK LEAVE ABUSE

The Union agrees that it will aid the City in every way possible to eliminate abuses of the sick leave provisions as listed in Article 6. If it appears that an employee is abusing sick leave, the employee will be counseled that continued abuse of sick leave may result in a requirement to furnish a medical certificate for each subsequent absence on sick leave regardless of duration. If the abuse of sick leave continues, the employee may be notified in writing that for a period not to exceed three months that all future requests for sick leave must be supported by a medical certificate verifying the incapacitation from duty and the duration of the incapacitation prior to the sick leave being granted. Employees will be required to furnish a medical certificate for each absence on sick leave which occurs on the regular work day before or after a holiday, vacation period or on a pay day.

6.11 SICK LEAVE TERMINATION

An employee's seniority shall terminate at a definite time after his paid injury leave or accumulated paid sick leave is depleted according to the following schedule if the employee has not been granted a disability pension or a longer leave of absence and cannot return to work. The City shall pay the employee's monthly insurance premium for the first two months after the start of the leave.

Table 6-1: SENIORITY TERMINATION TABLE

Up to ten year service-----	Six Months
Ten years and up to fifteen years of service-----	Nine Months
Fifteen years service and over ---	One Year

6.12 SICK LEAVE PAY OFF UPON RETIREMENT OR DEATH

An employee whose employment with the City is terminated by death or by normal retirement, immediate early retirement, or deferred early retirement under the City of Niles Retirement Plan A, as amended, shall be paid the equivalent of one-half (1/2) of his (her) unused sick leave accumulated after August 1, 1975, to the time of death or retirement. Sick leave used after August 1, 1975 shall be considered to be charged against the oldest accumulated sick leave first. Payment shall be at the employee's regular straight time hourly rate of pay. Payment shall not exceed that for one-half (1/2) of a maximum sick leave accumulation of twenty-nine weeks.

Employees reaching the maximum accumulated sick leave prior to death or retirement shall be deemed to accumulate sick leave after August 1, 1975, and lose an equal amount

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accumulated prior to August 1, 1975. Termination pay shall not be included in the employee's earnings when computing "average monthly compensation" for pension benefit purposes. For purposes of this Article, "Termination Pay" is limited to that portion of accumulated sick leave payable hereunder." It shall not be subject to the employee's three percent (3%) contribution to the pension fund. Employees electing to take a Deferred Withdrawal under the terms of City of Niles Retirement Plan A, Ordinance No. 205A as amended, shall not be eligible for Termination Pay.

6.13 FAMILY MEDICAL LEAVE

In accordance with federal law, eligible employees will be entitled to 12 weeks (consecutive or nonconsecutive) of family and medical leave (hereafter "leave") in any 12-month period, beginning with the first day of leave. The following conditions and guideline must be met:

6.13.1 EMPLOYEE ELIGIBILITY

An employee will be eligible for leave if the employee:

- a) Has been employed by the City of Niles (the "City") for at least 12 months.
- b) Has worked at least 1,250 hours during the previous 12 months.
- c) Is employed at a location at which (by itself or considered together with other facilities within 75 miles of that location) the City employs 50 or more employees.

6.13.2 ENTITLEMENT TO LEAVE

a) Leave can be taken for the following reasons:

- 1) The birth of a child to the employee
- 2) the placement of a child with the employee for adoption or foster care.
- 3) To care for an immediate family member (spouse, child or parent of employee) with a serious health condition (a serious health condition is an illness, injury, impairment, or physical or mental condition that involves care or continuing care by a health care provider.
- 4) To take medical leave when the employee's own serious health condition renders the employee unable to perform the regular functions of the employee's position.

b) If both spouses are employed by the City, the aggregate number of leave weeks to which both employees are entitled for birth, placement for adoption or foster care, or illness of a parent (not a parent-in-law) is limited to 12 weeks during any 12-month period.

c) Leave on an intermittent or reduced schedule basis:

- 1) Leave taken because of a serious condition of the employee, or of the employee's child, spouse, or parent, may be taken on a reduced or intermittent schedule when medically necessary. The city may require the employee taking the leave for these reasons to transfer temporarily to an alternative available

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position with equivalent pay and benefits that better accommodates recurring periods of leave.

- 2) Leave taken for birth or for placement for adoption or foster care of a child cannot be taken on an intermittent or reduced leave schedule (unless the child also has a serious health condition within the meaning of this policy).
- d) Leave taken for the birth or placement for adoption or foster care of a child must be taken within 12 months of the date of the birth or placement.

6.13.3 COMPENSATION AND BENEFITS DURING FAMILY MEDICAL LEAVE

- a) All earned vacation days, sick days leave, and other forms of City-paid or permitted leave to which an employee requesting leave is entitled must be used first. Any remaining leave time under this policy will be unpaid leave.
- b) While on leave, an employee's health insurance benefits will continue under the same terms and conditions as prior to the leave, including continuing responsibility for any applicable employee premiums.
- c) If an employee fails to return from leave, the employee must repay the City for health insurance premiums which the City paid to maintain the employee's coverage while the employee was on leave, unless the failure to return from leave is due to the continuation, recurrence or onset of a serious health condition or other circumstances beyond the employee's control. The City may require the employee to provide certification of the foregoing circumstances.

6.13.4 NOTICE AND CERTIFICATION REQUIREMENTS

- a) If the reason for the leave is foreseeable, the employee shall provide not less than 30 days notice. If an employee fails to give 30 days notice for foreseeable leave and has no reasonable excuse for the delay, the start of the leave may be delayed until 30 days after the date of the employee notification.
- b) If the reason for leave is not foreseeable, the employee shall notify the City as soon as practical, which will ordinarily be no more than one to two business days of when the employee learns of the need for the leave.
- c) Leave taken due to a serious health condition of a son, daughter, spouse, parent, or employee must be supported by a certificate from a health care provider. The City reserves the right to require additional certification and periodic reissuance of certifications as permitted under the Family Medical Leave Act.
- d) Any falsification of a request for leave of absence or of any certifications required pursuant to this policy will be considered grounds for discharge.

6.13.5 RESTORATION FROM LEAVE/ADDITIONAL LEAVE

- a) When returning from leave, an employee will be returned to the same or an equivalent position with equivalent pay, benefits and other provisions of this policy.

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- b) The granting of a leave of absence under this policy does not entitle the employee to any additional right, benefit, or position of employment, other than those to which the employee would have been entitled had the employee not taken leave. If a reduction in force, department closing, or other similar event occurs while the employee is on leave, the employee's right to reinstatement and to continuing benefit coverage will be the same as it would have been if the employee had not been on leave at the time of the event.
- c) Before an employee may return from a leave taken because of the employee's own serious health condition, the employee must furnish the City with a certification from the employee's health care provider stating the employee is able to resume work.
- d) Failure to return to work at the expiration of an approved leave of absence will result in immediate termination, unless a properly authorized extension has either been granted or has been sought and not yet acted upon.
- e) Any employee who has exhausted accumulated paid sick days or paid vacation through the use of leave under the FMLA may request his/her supervisor for additional time off without pay which time off does not qualify as FMLA leave. Any such request shall specify the dates of such leave and shall require the prior approval of the City Administrator, who may or may not approve it and may or may not attach certain conditions for approval.

6.13.6 EFFECT OF OTHER LEGAL OBLIGATIONS

- a) It is the intent of the City to comply with all applicable Federal, State and Local laws pertaining to leave, disability and reinstatement rights, including but not limited to the Americans with Disabilities Act. If any aspect of this policy offers lesser benefits of protection than any other law governing such rights, it is the intent of the City to comply with such laws.

7. ACCIDENT CASES RECEIVING WORKER'S COMPENSATION

7.1 TERMS OF PAYMENT

All employees receiving Workman's Compensation insurance for injuries sustained in the course of regular employment will be given the difference between such compensation and the regular pay for a period not to exceed six (6) months. Death shall terminate this clause. In order to be eligible for full "on the job" injury pay, employees must endorse and deliver their Worker's Compensation check to the Finance Department immediately upon receipt.

7.2 INJURY PAY FORM

In order to be eligible for "on the job" injury pay, an employee must fill out and sign an "Application for Injury Pay" form.

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7.3 REPORTING INJURIES

Employees shall report "on the job" injuries immediately to the Street Superintendent or his designee and have an accident report card made out, even if the injury appears to be minor. Failure to do so may jeopardize the collection of insurance benefits and sick or injury pay. The Street Superintendent or his Designee shall be notified immediately if it is necessary to go to a doctor or the hospital.

8. FUNERAL LEAVES

8.1 FUNERAL LEAVES

Pay will be given for time off for funerals as follows, providing the employee attends the funeral:

- a) Three (3) days for the funeral of spouse, child, stepchild, father, step-father, mother, step-mother, father-in-law, mother-in-law, brother, sister, employee's grandparents and grandchild.
- b) One (1) day for the funeral of a brother-in-law, sister-in-law, grandparents of spouse, step-brother, step-sister, son-in-law and daughter-in-law.

8.2 BARGAINING CHAIRMAN OR DESIGNEE

The Bargaining Unit Chairman for the Street Department or Designee (who must be a member of the group covered by the agreement), shall be allowed to attend the funeral of any employee covered by this Agreement without loss of pay not to exceed eight (8) consecutive hours.

8.3 BEREAVEMENT PAY

In order to be paid for funeral leave, an employee must fill out and sign an "Application for Bereavement Pay" form.

9. WAGES

9.1 FIRST YEAR OF AGREEMENT

Retroactive to October 1, 1994 the rates shown below shall be the rate paid for each classification. Subsequent increases shall be as outlined below in Section 9.2 through 9.4.

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SATISFACTORY COMPLETION OF

CLASSIFICATION	START	6 MONTHS	1 YEAR	2 YEARS
Laborer	\$10.52	\$10.78	\$10.98	\$11.42
Work. Group Leader	\$14.21	\$14.57	---	---

9.2 SECOND YEAR OF AGREEMENT (October 1, 1995 through September 30, 1996) SATISFACTORY COMPLETION OF

CLASSIFICATION	START	6 MONTHS	1 YEAR	2 YEARS
Laborer	\$10.87	\$11.13	\$11.33	\$11.77
Work. Group Leader	\$14.56	\$14.92	---	---

9.3 THIRD YEAR OF AGREEMENT (October 1, 1996 through September 30, 1997) SATISFACTORY COMPLETION OF

CLASSIFICATION	START	6 MONTHS	1 YEAR	2 YEARS
Laborer	\$11.27	\$11.53	\$11.73	\$12.27
Work. Group Leader	\$14.96	\$15.32	---	---

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9.4 FOURTH YEAR OF AGREEMENT (October 1, 1997 through September 30, 1998)

SATISFACTORY COMPLETION OF

CLASSIFICATION	START	6 MONTHS	1 YEAR	2 YEARS
Laborer	\$11.72	\$11.98	\$12.18	\$12.62
Work. Group Leader	\$15.41	\$15.77	---	---

10. HOURS OF WORK

10.1 REGULAR SCHEDULE

The payroll week shall begin at 12:00 midnight on Sunday night and continue until midnight the following Sunday. The regular work week shall be from Monday through Friday with the work day hours scheduled to conform to the daytime schedule of the Niles business and industrial community. The regular work week shall be forty (40) hours commencing with the employees' starting time and shall consist of eight (8) hours per day and five (5) days per week. As the need may arise, positions with working hours outside of this schedule may be posted and if filled shall be considered legitimate working schedules under this Agreement. Wage rates for such positions with working hours outside of this schedule shall be mutually agreeable. A ten (10) minute wash-up time will be allowed prior to quitting time. At the end of the work shift, employees shall not return to the City Street Department garage more than fifteen (15) minutes before lunch break or end of shift, unless their assigned job has been completed.

10.2 OVERTIME WORK

The regular work week is forty (40) hours. All hours worked outside of the scheduled forty (40) hours during any one (1) week will be compensated at time and one-half. All hours worked in excess of eight (8) hours in any one (1) day will be compensated at time and one-half. All hours worked before or after the normal work day hours will be compensated for at the rate of time and one-half, provided the regular eight (8) hour shift is worked. Where a holiday, vacation, jury duty, funeral or other approved leave falls in a regular work week, the time which would ordinarily have been worked on such day(s) will be included in

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computing the eight (8) hours straight time and counted as "hours worked." Double time will be paid for work on Sundays, provided the previous forty (40) hours have been counted as "time worked." Overtime work shall be distributed as equally as possible among employees performing the same work or service.

10.2.1 NONDUPLICATION

The allowance for an overtime premium pay on any hour excludes that hour from any consideration for overtime premium pay on any other basis, thus eliminating duplication or pyramiding of overtime premium pay.

10.3 REPORT-IN TIME

An employee reporting for scheduled or prearranged work, other than scheduled hours, who has not been notified not to report to work because of inclement weather or other reasons, shall be given two (2) hours of work at the applicable overtime rate, provided the employee has a telephone which is listed under his name in the directory or has given his telephone number to the Street Superintendent or Designee.

10.4 EMERGENCIES OUTSIDE OF SCHEDULED WORKING HOURS

A minimum of three (3) hours straight time per Call Out will apply for all overtime emergency work. Refusal to comply with a Call Out for emergency work will be grounds for disciplinary action and repeated refusal will be grounds for discharge. Employees shall have a telephone number on file with the Street Superintendent where he can be contacted and notified to report for emergency work, such as fighting snow storms, cleaning blocked sewers, etc. Employees must comply with a call for emergency work.

10.4.1 CALL OUT DEFINED

This is when an employee is called out, without prior notice, at a time other than his regular work period to take care of a problem or job task and leaves WITHOUT working to and through his regular scheduled work period. The employee is paid either three (3) hours straight time or at the regular overtime rate, whichever is greatest.

10.4.2 CALL IN DEFINED

This is when an employee is called in early, without prior notice, before the beginning time of his regular work period to perform some task and works to and through his regular scheduled work period. The employee is paid at the regular overtime rate for the period of time that he came early.

10.4.3 PREARRANGED WORK DEFINED

This is when an employee is notified before he punches out on a regular work day and leaves work to report for some scheduled work at a time other than regular scheduled work hours. The work may be emergency work. The employee is paid the regular overtime rate

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if he works to and through his regular scheduled work period, however, if he punches out and leaves after completing the task and returns later to begin his regular scheduled work period, he is paid either three (3) hours straight time or at the regular overtime rate, whichever is greatest.

10.5 MEALS DURING WORKTIME

If the employee continues to work overtime he shall be allowed to eat a suitable meal. If the employee continues to work overtime he shall be allowed to eat at four (4) hours intervals. Such employee shall continue at the same rate of pay then in effect during such meal times. Time limit for meal periods shall be limited to thirty (30) minutes.

10.6 HOLIDAY WORK

Under normal conditions work will not be required and straight time will be paid for the following days:

- | | |
|--|-----------------------|
| * NEW YEAR'S DAY | * GOOD FRIDAY |
| * MEMORIAL DAY | * FOURTH OF JULY |
| * LABOR DAY | * VETERANS' DAY |
| * THANKSGIVING DAY | * FRIDAY FOLLOWING |
| * CHRISTMAS EVE DAY | * THANKSGIVING DAY |
| * CHRISTMAS DAY | * EMPLOYEE'S BIRTHDAY |
| * EMPLOYEE'S ANNIVERSARY
(DATE OF HIRE) | |

When any holiday falls on Saturday, it will be taken on Friday. When Christmas Eve falls on Friday, time will be given off on Thursday. When any holiday falls on Sunday, time will be given off on Monday. When Christmas Eve falls on Sunday, time will be given off on Friday. In order to receive pay for a holiday, any employee not on sick leave, funeral leave or a vacation must work the last scheduled working day before and the first scheduled working day after the holiday, unless excused in advance by the Street Superintendent or Designee. Employees will be paid for required holiday work an additional double time on Sunday or time and one-half on any other day in the week, with a minimum of three (3) hours straight time per call for all emergency work. When an employee's birthday or anniversary date falls on Tuesday, Wednesday or Thursday, he shall be permitted to take Monday or Friday off of that week in which his birthday or anniversary date falls, limited to one person on that Monday or Friday in accordance to seniority. Any other requests for use of the holiday must be approved by the Street Superintendent or Designee.

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11. GENERAL PROVISIONS

11.1 MANAGEMENT WORK RESPONSIBILITY

The Superintendent, Assistant Superintendents, Engineers and salaried Technicians shall do no physical work, except as may be required to correct a safety hazard, or for purposes of training, or teaching.

11.2 BREAKS

Reasonable breaks will be granted employees during working hours and the breaks shall not be in excess of fifteen (15) minutes in the morning and fifteen (15) minutes in the afternoon. It is expected that employees will normally take breaks during the period of 10:00 A.M. to 10:15 A.M. in the morning and 3:00 P.M. to 3:15 P.M. in the afternoon. Similar breaks will also be extended to employees on other shifts.

11.3 EMPLOYEE ADDRESSES

Employees shall keep their current address and their current phone number on file with the Street Superintendent.

11.4 UNION BUSINESS

From time to time should it become necessary for the Union Committeeman or his steward to conduct Union business during working hours, he shall notify the Street Superintendent or designee in advance of the time and date necessary to complete the Union business and any lost time by the employee shall not be charged to the City.

11.5 TRAINING AND SCHOOLING

The City will endeavor whenever practicable to train and school employees in the operation of various types of equipment in order to assist employees in various classification in advancement through the bidding procedures to higher rated classifications. Selection of employees for this training or schooling may be at the request of the employee subject to City approval. If two or more employees should request such training or schooling, selection will be made on the basis of seniority, qualifications, and number of hours previously spent in this training or schooling so as to equalize training and schooling hours for those employees who so choose to participate.

- a) When training or schooling of personnel is required, all expenses will be paid by the City including hotel, meals, travel, current City mileage rate for use of personal car, and all regular wages, such that the time spent by an employee in traveling to and from the training site and in the training session, excluding lunch time will be paid as straight time in the 40 hour work week. All hours worked after the 40 hour work week will be paid at the applicable overtime rates. Each training session will

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be evaluated individually due to the variation in training programs. Overtime will be applicable after the 40 hours minimum has been met and not based on the eight hours per work day.

11.6 CLASSIFICATION ASSIGNMENT

Except for emergencies, an employee shall not be assigned work in a lower classification if another employee with a lower classification is assigned work in his classification or a higher classification, providing that the employee is qualified to perform the work available in his or the higher classification.

11.7 COPIES OF AGREEMENT AND BOOKLETS

The City shall provide one copy each of the Labor Agreement, Pension and Insurance Coverage to each employee at no cost when requested after copies of the Labor Agreement, Pension and Insurance Coverage are received by the City.

11.8 LOCAL CUSTOMS AND PRACTICES

The City shall recognize customs and practices which have been consistent in their application whether or not enumerated herein and which are known and approved by the City.

11.9 JURY DUTY AND WITNESS DUTY

Employees shall be granted a leave of absence with pay any time they are required to report for jury duty or witness duty. Employees shall be paid the difference between any jury service compensation they receive and their regular wages for each day of jury service. Proof must be submitted showing time involved from County, State or Federal Court Systems.

11.10 JOINT CIVIL RIGHTS COMMITTEE

The Union and the City shall establish a Joint Civil Rights Committee consisting of two (2) members of the Union and two (2) representatives of the City. This Committee shall meet to discuss issues as they arise. These meetings shall be held during working hours and the Union members shall be paid by the City for the time spent attending these meetings.

12. JOINT SAFETY COMMITTEE

12.1 JOINT SAFETY COMMITTEE ESTABLISHMENT

The Union and the City shall establish a Joint Safety Committee. The Committee shall consist of two (2) representatives of the City and two (2) members of the Union. The Joint Committee shall meet monthly during working hours. The Union members shall be paid by the City for time spent attending these meetings. The Safety Committee shall act in an advisory capacity. The City shall take minutes and provide a copy to the Union.

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12.2 SAFETY PROTECTION

The City shall make reasonable provisions for the safety and health of its employees during the hours of their employment. The City shall furnish such protective devices and equipment as necessary to properly safeguard the health of the employees and protect them from injury. Employees shall be required to wear/use such safety equipment.

12.3 SAFETY MEETINGS

The City may conduct quarterly safety meetings with all the employees of the City covered by this Agreement during the working hours. These meetings may be canceled by the Union and the City by mutual agreement.

13. LEAVES OF ABSENCES

13.1 ELIGIBILITY REQUIREMENTS

Employees shall be eligible for leaves of absence after their probationary period is completed. Any request for a leave of absence shall be submitted in writing by the employee to the City Administrator. The request shall state the reason for the leave of absence and the length of time of same.

13.2 LEAVE OF ABSENCE WITHOUT PAY

Leaves of absence may be granted to employees without pay, not to exceed six (6) months, except as otherwise provided herein. Employees may accrue seniority toward vacation and sick leave; and such time may count toward steady employment hours and qualifications for overtime payments.

13.3 LEAVE OF ABSENCE DEFINED

A "leave of absence" is a thirty-day period or more absent from work with no pay that has been approved in advance by the City. In the case of Street Department employees, application for a "leave of absence" is made directly to the City Administrator, who may or may not approve it and may or may not attach certain conditions for approval.

13.4 EXCUSED ABSENCE DEFINED

An "Excused Absence" is a period of less than thirty days absent from work with no pay that has been specifically approved in advance by the Street Superintendent or Designee.

13.5 UNEXCUSED ABSENCE DEFINED

An "Unexcused Absence" is any period absent from work with no pay that has not been approved by the Street Superintendent or Designee.

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14. INSURANCE AND PENSION

14.1 PENSION PLAN

The City agrees to continue the pension plan (Plan A) covering the City employees as it exists as of the date of execution of this Agreement, in accordance with the City of Niles Ordinances and the terms and conditions of the plan with the following change:

The first paragraph of Section 4.5 (DEFERRED WITHDRAWAL BENEFIT) of the pension ordinance shall be changed to read ten (10) or more years of credited service instead of fifteen (15) or more years of credited service.

14.2 HEALTH, DENTAL, DRUG AND LIFE INSURANCE

The City agrees to provide health, dental, drug and life insurance comparable to that in existence as of the date of execution of this Agreement with the following changes:

- 1) The prescription drug program will offer "mail order" prescriptions for \$0 (no cost). The \$3.00 per prescription copayment will remain in effect for all other prescriptions.
- 2) Precertification will be required for all nonemergency surgery and hospital admissions. Beginning June 1, 1995, a forty-eight (48) hour call-in will be required with a \$100 penalty. Beginning June 1, 1996, the call-in period will be twenty-four (24) hours and the penalty will be one day's stay for inpatient care and 20% reduction for outpatient care costs.
- 3) Effective June 1, 1995, the current hospital and physician benefits will be included under Major Medical, thereby subject to deductibles and co-pays.
- 4) Effective June 1, 1995, deductibles will increase to \$200 per person and \$600 per family with an out-of-pocket maximum of \$750 and \$2,250 respectively (excluding deductibles). Effective June 1, 1996, deductibles will increase to \$250 per person and \$750 per family with out-of-pocket maximum of \$1,000 and \$3,000 respectively (excluding deductibles).
- 5) Active employees have life insurance coverage equal to \$20,000 per person.

14.3 RETIREE INSURANCE

Effective June 1, 1995, all retirees will be offered health insurance under a separate plan with the same benefits as the Union negotiates for all active members. Employees that retire on or after age 62, pursuant to the City's retirement program, before June 1, 1996

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will have only 50% of their health insurance paid by the City until they are eligible for Medicare. If an employee is employed elsewhere and has coverage provided through the other employer, said employee shall not be eligible for City paid insurance.

A person retired from employment with the City may purchase, through the City at the retired employee's expense, insurance to cover the retired employee and the retired employee's dependents, providing that the City is able in good faith to make such insurance available.

This Section of the Agreement excludes deferred retirement individuals.

14.4 RETIREE DEATH BENEFIT

This \$5,000 benefit will be eliminated for all new retirees effective with the ratification of this Agreement. Existing retirees will continue to receive this benefit.

15. RESIDENCY REQUIREMENTS

15.1 NEW EMPLOYEES

All employees hired after 30 September, 1988 shall within 120 days after their probationary period expires, reside within the area described as follows:

"Beginning at the northeast corner of Section 19, R.16W., T.7S., Howard Township, Cass County, Michigan (the intersection of Terminal Road and Thompson Road); thence west to the northwest corner of Section 22, R.17W., T.7S., Niles Township, Berrien County, Michigan; thence south along the centerline of Philip and Weaver Roads to the centerline of U.S. 12; thence east and northeasterly along the centerline of U.S. 12 to Carberry Road; thence north along the centerline of Carberry Road to the centerline of Lake Street; thence east along the centerline of Lake Street to the southeast corner of Section 19, R.16W., T7S., Howard Township, Cass County, Michigan; thence north to the place of beginning."

15.2 RESIDENT EMPLOYEES

Employees hired before 30 September, 1988 who as of 30 September, 1988 reside within the City limits shall continue to reside within the City limits or within the area described in Section 15.1.

15.3 NONRESIDENT EMPLOYEES

Employees hired before 30 September, 1988, who as of 30 September, 1988, reside outside of the City limits may continue to do so providing that they do not move their residence to a location further away from the City limits existing on 30 September, 1988, than the location at which they reside as of 30 September, 1988, or to a location further away from the City Limits than the area described above in Section 15.1, whichever is further.

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15.4 TERMINATION OF EMPLOYMENT

Any employee who violates the provisions of this article shall be deemed to have terminated his or her employment with the City voluntarily.

16. REGULAR AND ALTERNATE SHIFTS

16.1 REGULAR SHIFT SCHEDULE

The day shift shall normally be 8:00 a.m. to 4:30 p.m. with an unpaid lunch break to be taken between 12:00 noon and 12:30 p.m. Paid work breaks will normally be taken during the periods of 10:00 a.m. to 10:15 a.m. and 2:30 p.m. to 2:45 p.m.

16.2 REGULAR SHIFT SUMMER SCHEDULE

The City shall establish different daytime work hours for the period of the first Monday in June through the first Friday in September ("Summer Schedule"). The hours of such Summer Schedule shall be 7:00 a.m. to 3:30 p.m. with an unpaid lunch break to be taken between 11:00 a.m. and 11:30 a.m. Paid work breaks will normally be taken during the periods of 9:00 a.m. to 9:15 a.m. and 1:30 p.m. to 1:45 p.m.

16.3 ALTERNATE SHIFTS

The City may also establish additional or different work schedules and shifts. The City will give advance notice of such alternate shift schedules by the Friday before the Monday next following. Shifts shall be selected by seniority by classification. If more employees bid on an alternate schedule than there are openings, the most senior qualified employee will be awarded such shift. If fewer employees bid than is required, the least senior qualified employee will be assigned to such shift. Such alternate shifts shall be of at least one week in duration, and hours of such shift shall be consecutive hours, not split.

16.4 ALTERNATE SHIFT SUMMER SCHEDULE

In the event such alternate shift schedules be established during the monthly period specified in Section 16.2 above, it is understood and agreed that the majority of employees in each classification affected shall remain on the Summer Schedule, unless employees voluntarily bid and are accepted on such alternate shift schedules.

16.5 ALTERNATE SHIFT NONSUMMER SCHEDULE

In the event alternate shift schedules be established outside the monthly period specified in Section 16.2 above, it is understood and agreed that at least one-half of the employees in each classification affected shall remain on the normal day shift hours specified in Section 16.1 above, unless employees voluntarily bid and are accepted on such alternate shift schedules.

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16.6 REGULAR/ALTERNATE SHIFT PREMIUM PAY

Premium pay will apply and be paid on certain hours worked, regardless of shift schedules. During the monthly period specified in Section 16.2 above, such premiums will be applicable as follows:

7:00 a.m. to 3:30 p.m. = BASE HOURLY RATE ONLY
3:30 p.m. to 12:00 a.m. = BASE HOURLY RATE + 2.0 % premium
12:00 a.m. to 7:00 a.m. = BASE HOURLY RATE + 3.0 % premium

During the monthly period outside that specified in Section 16.1 above, such premiums will be applicable as follows:

8:00 a.m. to 4:30 p.m. = BASE HOURLY RATE ONLY
4:30 p.m. to 12:00 a.m. = BASE HOURLY RATE + 2.0 % premium
12:00 a.m. to 8:00 a.m. = BASE HOURLY RATE + 3.0 % premium

Applicable premiums will be included in the computation of any overtime or callout hours.

16.7 TRADING OF SHIFTS

Employees will be allowed to trade shifts for short periods with the Street Superintendent's or Designee's approval.

17. CEMETERY WORK AGREEMENT

17.1 CEMETERY ADDITIONAL HELP

When the Cemetery Department has a need for additional help, Street Department employees may be assigned work at the Cemetery.

17.2 STREET DEPARTMENT ADDITIONAL HELP

When the Street Department has a need for additional help during normal working hours, Cemetery employees may be assigned work at the Street Department if they are not needed at the Cemetery. When the Street Department has a need for additional help at times other than normal working hours, Cemetery employees may be assigned work at the Street Department with the provision that all available Street Department employees must be offered the overtime work first.

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18. DRIVERS LICENSE REQUIREMENT

18.1 DRIVERS LICENSE REQUIREMENT

It is understood and agreed that certain employees are required to operate vehicles upon the street and highways of the State of Michigan and the United States. For those employees who are required by the Employer to operate vehicles or to stand ready to operate vehicles on the public roads, it shall be a condition of continued employment that said employees obtain and maintain proper licenses necessary to operate the required equipment. Employees shall have the total responsibility for obtaining and maintaining a valid Michigan drivers license at a level and of a nature and with all the endorsements necessary to perform all aspects of their job. This responsibility includes compliance with all requirements of state and federal laws including but not limited to Act 339 of the Public Acts of 1990. The Employer shall pay the difference in cost between the regular drivers license required of all persons who operate a vehicle on the streets and highways of the State and the cost of the Commercial Driver's License (CDL) which the Employer requires certain employees to possess.

In addition, the Employer may require an employee, who was employed at the execution of this agreement or a newly hired employee after the execution of this agreement, to obtain a CDL and said employee does not qualify for the grandfather exemption to the testing requirement, the Employer shall pay (1) the fee charged by the State for necessary skills testing, (2) all employees lost time which may be incurred in obtaining the CDL, (3) physical examinations required for said CDL, and (4) Employee Training, if required by the Employer.

Each employee shall be responsible for obtaining renewal of the CDL. The Employer shall not pay the cost of drivers license testing necessitated by driver misconduct, such as tickets or allowing a license to expire.

Any bargaining unit employee who cannot obtain or maintain a valid Michigan drivers license at a level and of a nature and with all endorsements necessary to perform all aspects of this job due to his/her inability to meet the physical requirements imposed by the State shall be given a leave of absence without pay or benefits while said employee process his/her application for a waiver of said defect through the procedures provided under State law.

If the employee desires, he/she may use any accumulated paid sick leave they may have during the appeal process.

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If the employees appeal is denied and the physical defect is one that is recognized as a disability under the Americans with Disabilities Act then the employee may follow the procedure of said Act to apply for a reasonable accommodation from the City.

A positive reading on the drug or alcohol screen portion of the physical examination shall not be considered a physical defect allowing an employee to avail himself to the above specified procedures but rather shall subject the employee to immediate discharge.

19. DRUG AND ALCOHOL POLICY

19.1 PURPOSE OF POLICY

The City is charged with responsibility of providing for the safety and well being of all employees and the public. In fulfillment of their responsibility the City is committed to the maintenance of a drug and alcohol free work place. In furtherance of their commitment, the City has adopted the following drug and alcohol policy:

19.2 POLICY CONTENT

- 1) All approved applicants for employment with the City must, prior to being hired, submit to appropriate body fluid test, administered by a medical doctor, or medical clinic, selected by the City. The City shall pay the cost of said testing and the applicant must sign the appropriate release forms allowing the Doctor or Medical Clinic to release the results of said testing to the City.
- 2) Drinking, possessing, ingesting, reporting for work while under any influence of alcohol, drugs or other controlled substances without a current valid prescription is strictly prohibited on City time, premises or equipment.
- 3) If an employee is using drugs or controlled substances, the use of which is legal and dispensed to said employee via a valid medical prescription in the employee's name; then at the beginning of the work day on the first work day the employee is taking the prescribed drug the employee must notify his/her supervisor that they are taking the drug and must provide the supervisor with correspondence from the prescribing doctor or pharmacist which shall list any and all known side effects which might be caused by the drug.
- 4) If City management has reasonable cause to believe, based upon observation, or information, that an employee while present on the City's property and/or while working for the City is influenced by the use of illegal/controlled drugs or alcohol the following procedure will be followed:

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- a) The employee under suspicion will be given an immediate hearing with the following persons present:
- (1) Employee
 - (2) The employee may request his/her Union representative
 - (3) Employee's Supervisor.
 - (4) Other management representatives deemed necessary.
- b) If management has reason to believe the employee may be under the influence of drugs or alcohol they may request the employee to undergo drug and/or alcohol testing in accordance with the procedures contained herein. Should the employee refuse to undergo testing said employee will be presumed to have violated this policy and thus subject to discipline up to and including discharge. Should the employee agree to testing, he/she must agree to release the test results to the City. The City shall arrange for the testing and shall transport the employee to the test. The employee shall be suspended with pay during the testing procedures and while waiting for the test result. If the test result is a positive result indicating drugs or alcohol, the Employer shall deduct the time paid while on suspension from the employees final paycheck.

19.3 VIOLATION OF THIS POLICY

Violation of any of the provisions of this policy shall subject said violating employee to immediate discipline up to and including discharge.

19.4 TESTING PROCEDURES AND PROTOCOLS

All drug and alcohol testing shall be conducted by a laboratory or testing facility which has been approved by the Department of Public Health of Michigan, or which meets the standards set out in 49 CFR sub part C, and shall be paid for by the Employer.

Preliminary urine testing may be done by Immunoassay procedures, but samples testing positive from such preliminary screening tests shall be subjected to an additional confirmatory gas chromatography/mass spectrometry (GC/MS) test. No urine test shall be reported positive until confirmation by such GC/MS) testing. In addition, the laboratory shall retain a portion of the initial sample to be made available on request to the employee for independent confirmatory tests at the employee's expense at a laboratory of the employee's choice.

Collection and processing procedures for the types of test covered by this policy shall be done substantially in accordance with those procedures in 49 CFR Part 40, including Sub part A, B, and C to insure that samples are not tampered with during, or after collection.

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The confirmatory positive test result "cut-off" levels shall be as provided in 49 CFR 40.29 (f) as set out in the following table:

GC/MS Confirmation Test

Marijuana Metabolite	15 ng/ml
Cocaine Metabolite	150 ng/ml
Opiates:	
Morphine	300 ng/ml
Codeine	300 ng/ml
Phencyclidine (PCP)	25 ng/ml
Amphetamines:	
Amphetamine	500 ng/ml
Methamphetamine	500 ng/ml

Only specimens confirmed as positive by the GC/MS test procedure shall be reported as positive for controlled substances by the testing laboratory. Test results shall be reported to the Medical Review Officer substantially in accordance with the procedures set out in 49 CFR 40.29. The Medical Review Officer shall review the results reported from the laboratory substantially in accordance with the procedures set out in 49 CFR 40.23.

Test for alcohol levels shall be considered to verify intoxication or impairment when the blood/alcohol level is .015 per cent.

The City and Union agree that this Article may, from time to time, be modified in order to maintain compliance with all current requirements of the applicable State and Federal laws.

20. DURATION AND EFFECTIVE DATES

20.1 EFFECTIVE DATE

Except as herein otherwise expressly provided, all of the provisions of the Agreement between the City of Niles and the United Steelworkers of America, AFL-CIO-CLC shall be in full force and effect beginning 1 October, 1994, and shall continue in full force and effect until midnight 30 September, 1998, and thereafter for successive one (1) year periods unless one of the parties hereto on or before the sixtieth (60th) day preceding July 31, 1994 or July 31st of any successive year shall notify the other party hereto in writing of its desire to modify or terminate the same.

20.2 ORDINANCES

No part of any ordinance relating to the Working Schedule of City employees is to apply to this Agreement except for those established by negotiation between the City of Niles and the United Steel Workers of America, AFL-CIO-CLC.

20.3 EXECUTION

As a result of the execution of this contract, no employee shall suffer the loss of any benefit established or enjoyed prior to these negotiations and not otherwise dealt with in this contract, which is known and approved by the City.

20.4 APPROVALS

The parties hereto, through their duly authorized officers or representatives, intending to be legally bond hereby, have hereunder set their hand and seals this 15th day of June, 1995.

FOR THE:
UNITED STEELWORKERS OF
AMERICA, AFL-CIO-CLC

Theodore J. Lesauskis
THEODORE J. LESAUSKIS, STAFF
REPRESENTATIVE DISTRICT 29

James Crocker
JAMES CROCKER, LOCAL UNION
NO. 13729 PRESIDENT

Kenneth E. King
KENNETH KING, NEGOTIATING COMMITTEE
DISTRICT 29

Timothy Vella
TIMOTHY VELLA, NEGOTIATING COMMITTEE
DISTRICT 29

EXECUTIVE BOARD:

George F. Becker
GEORGE F. BECKER, INT'L. PRESIDENT

Leo W. Gerard
LEO W. GERARD, INT'L. SEC./TREAS.

Richard H. Davis
RICHARD H. DAVIS, INT'L. V-P (ADMIN.)

Leon Lynch
LEON LYNCH, INT'L V-P (HUMAN AFFAIRS)

Harry E. Lester
HARRY E. LESTER, DIRECTOR, DIST. 29/2

FOR THE:
CITY OF NILES

Daniel D. Eycleshymer
DANIEL D. EYLESHYMER, MAYOR

Ruth Harté
RUTH HARTÉ, CITY CLERK

Bernard Van Osdale
BERNARD VAN OSDALE,
CITY ADMINISTRATOR

Roland A. Klockow
ROLAND A. KLOCKOW, CITY ENGINEER

Neil C. Coulston
NEIL C. COULSTON, ASST. CITY ENGR.

Thomas Lee Traverse
THOMAS LEE TRAVERSE,
STREET SUPERINTENDENT