6-7-19

MEMORANDUM OF UNDERSTANDING
BETWEEN THE MASSACHUSETTS DEPARTMENT OF TRANSPORTATION
AND THE
COALITION OF MASSDOT UNIONS
FOR A
SUCCESSOR AGEEMENT COVERING EMPLOYEES IN
BARGAINING UNIT D

July 1, 2017 through June 30, 2020

This Memorandum of Understanding is entered between the Massachusetts Department of Transportation ("MassDOT or Employer") and the Coalition of MassDOT Unions as the collective bargaining representative for employees in Bargaining Unit D. (the "Union") Except as modified herein, the terms of the current agreement, including all previous memoranda of understanding, supplemental and side agreements, shall continue in effect. It is understood that the agreement reflected in this document is the result of mutual compromise. The withdrawal by either party of any proposal advanced during negotiations shall not be admitted in any proceeding to prejudice the position of the party who withdrew the proposal. The parties agree to use their best efforts to agree on a single integrated collective bargaining agreement that incorporates the modifications to the July 1, 2009 – June 30, 2012 collective bargaining between the Commonwealth and the Union as set forth in the Memorandum of Understanding for Successor Collective Bargaining Agreement for the period of July 1, 2012 to June 30, 2015 and the Memorandum of Understanding for Successor Collective Bargaining Agreement for the period of July 1, 2014 to June 30, 2017.

Any modifications to the Master Labor Integration Agreement negotiated after December 28, 2010 shall be incorporated into the collective bargaining agreement and control over earlier versions notwithstanding any provision of the Master Labor Integration Agreement to the contrary.

ARTICLE 1
RECOGNITION

Section 1.1

(a.) The Employer recognizes the Union as the exclusive collective bargaining representative of employees ~~of MassDOT~~ in the job titles, **assigned to Bargaining Unit D** as set forth in the attached Addendum A. The parties acknowledge that any job title that was in existence on the effective date of this Agreement not appearing on Addendum A has been intentionally excluded.

(b.) In order to establish and maintain clear and concise employee/labor relations policy, the parties agree that the Office of Labor Relations and Employment Law, on behalf of the Secretary of Transportation, **or other department or person designated by the Secretary,** is solely responsible for the development and implementation of all labor and employee relations policies. Only ~~the Office of Labor Relations and Employment Law~~ **such designee** has the authority to make commitments or agreements with respect to wages, hours, standards of productivity, performance and any other terms and conditions of employment with the Union as the exclusive union representative for Bargaining Unit D.

(c) To effectuate clear labor management communications and to further the stability of labor relations, when any settlement agreement directly or indirectly affects the interests of employees represented by more than one of the component unions, the Employer may in its reasonable discretion require that the Chairperson of the CMU also be a signatory to any such settlement agreement. The execution by the Chairperson shall bind the CMU and each of the component unions individually to the terms of the agreement. Each such agreement shall contain the following representations:

i.) The persons executing the agreement are authorized to enter the agreement on behalf of the CMU and to bind the CMU and each of the component unions to the terms of the agreement;

ii) All required approvals, votes, consents, or other actions required to be taken under any agreement, by-law or other applicable governance document have been obtained in advance of execution of the agreement;

iii) The CMU and each of the component unions individually shall refrain from filing any grievance or other action in any forum against the Employer challenging the settlement agreement or the implementation of the settlement agreement, except for actions alleging that the Employer has failed to comply with terms of the settlement agreement.

(d) If any of the above representations are proven materially false or if the CMU or any component Union makes any demand to bargain, files any action challenging the agreement or the implementation of the agreement, or takes any other action to impede the agreement, the Employer may void the agreement in part or in its entirety and recoup any payments made pursuant to such agreement.

(e) Upon the Employer's request, the CMU agrees to fully support and defend the agreement in any action, dispute or other proceeding brought by a component union arising directly or indirectly out of the agreement or the implementation of the agreement all at its own expense.

Component unions shall continue to have the right to settle grievances or resolve other matters affecting the individual interests of bargaining unit members they represent.

Section 1.2

A. As used in this contract the term "employee" or "employees" shall include full-time and regular part-time **and temporary** persons employed by the ~~Commonwealth~~ **Employer** in job titles in the bargaining unit included in Section 1 above, and seasonal employees whose employment is for a period of ninety (90) consecutive days or more.

B. Exclusion:
1. all managerial and confidential employees;
2. all employees employed in short term jobs established by special federal or state programs such as summer jobs for underprivileged youths and;
3. all intermittent employees (except as defined by HRD Regulations); and
4. all "03" or "07" consultants in accordance with past practice and the understanding of the parties.

C. A full-time employee is defined as an employee who normally works a full workweek and whose employment is expected to continue for twelve (12) months or more, or an employee who normally works a full workweek and has been employed for twelve (12) consecutive months or more.

A regular part-time employee is defined as an employee who is expected to work fifty percent (50%) or more of the hours in a workweek of a regular full-time employee in the same title.

An intermittent employee is defined as an employee who is neither a full-time nor a regular part-time employee whose position has been designated as an intermittent position by **the Employer**.
~~his/her Appointing Authority~~

A temporary employee is a full-time or regular part-time employee hired to work for the duration of a temporary vacancy or for a defined period of up to one year but not including persons employed as "03" or "07" consultants as provided in

Section 1.2 B (4) above. Temporary employees shall serve a probationary period of nine (9) months. Upon expiration or earlier termination of their appointments, temporary employees shall be laid off without recourse to the layoff, bumping and recall provisions of the agreement. The employer recognizes the benefit of maintaining a career workforce and understands that temporary employees are intended to supplement the regular workforce and handle temporary or seasonal increases in bargaining unit work. No person may have their temporary employment extended beyond one year without the consent of the Union. Except as provided above, any temporary position that is not vacated at the expiration of one year shall be posted within 14 business days as a regular position in accordance with Article 14. Incumbents in temporary positions shall be considered for such positions before external applicants. A temporary employee who is selected to fill the position on a permanent basis shall not be required to serve a new probationary period. The number of temporary FTE employees shall not at any time exceed ten (10%) of the total number of filled FTE positions in the bargaining unit

D. **In addition to the use of other seasonal employees as provided in this agreement or by practice, t**~~T~~he Employer may engage intermittent seasonal employees on a per diem basis from November 1 to April 15 each year to supplement staffing levels during snow and ice operations. Such employees shall be used for manual labor and for operating plowing, sanding or other equipment during snow and ice operations or weather related events and shall not be used as substitutes for any MassDOT bargaining unit employees, except in instances where all qualified employees who are willing to work the event have first been offered the opportunity. Intermittent seasonal employees will not be covered by any term or condition of the collective bargaining agreement but may be required to pay an administrative fee to the Union **to the extent permitted by law.**

ARTICLE 3
UNION SECURITY

Section 3.2
An employee may consent in writing to the authorization of the deduction of union dues from his/her wages and to the designation of the union as the recipient thereof. Such consent shall be in a form acceptable to the Employer and shall bear the signature of the employee. **The form may be completed on-line as an electronic form or completed, printed, and sent to the designated human resources officer.** An employee may withdraw his/her agency fee authorization by giving **the Employer** at least sixty (60) days **written** notice**, or lesser notice as may otherwise be required by law. The Employer will promptly notify the Union of any request to withdraw union dues authorization.**

Section 3.3
An employee may consent in writing to the authorization of the deductions of an agency fee from his/her wages and to the designation of the Union as the recipient thereof. Such

consent shall be in a form, acceptable to the Employer, and shall bear the signature of the employee. **The form may be completed on-line as an electronic form or completed, printed, and sent to the designated human resources officer.** An employee may withdraw his/her agency fee authorization by giving **the Employer ~~at least sixty (60) days~~ written** notice ~~in writing to his/her department head~~.

ARTICLE 4 - AGENCY FEE

Deleted in its entirety

ARTICLE 5
UNION BUSINESS

Section 5.3 Paid Leave of Absence for Union Business.

Last paragraph amended as follows:

All leave granted under this section shall require prior approval of the Office of Labor Relations and Employment Law. Requests for ~~release time for the purpose of attending Union conventions~~ **all paid release time** must be made at least seven (7) calendar days in advance ~~of such convention.~~ **unless agreed to by the parties.**

Section 5.4 Unpaid Union Leaves of Absence

First paragraph amended as follows:

Upon request by the Union, an employee shall be granted a leave of absence without pay to
perform full-time official duties on behalf of the Union. Such leave of absence shall be for a period of up to one (1) year and may be extended for one (1) or more additional periods of one (1) year or less at the request of the Union. Approved requests will be granted by the **Employer** ~~Department/Agency~~ ~~head~~ not to exceed one per each 1,000 employees in the bargaining unit provided no adverse effect on the operations of the ~~Department/Agency~~ **Employer** results.

Last paragraph amended as follows:

All leaves granted under this Section shall require prior approval of the Director of the Office of Labor Relations and Employment Law. ~~Requests for unpaid leaves of absence for the purpose of attending Union conventions must be made at least seven (7) days in advance of such conventions.~~ **Requests for all unpaid release time must be made at least seven (7) calendar days in advance unless agreed to by the parties.**

Section 5.5 Union Uses of Premises

First paragraph amended as follows:

The Union shall be permitted to use facilities of the Employer for the transaction of Union business during working hours and to have reasonable use of the Employer's facilities during off duty hours for Union meetings subject to appropriate compensation if required by law. **Where practicable, Union officials shall provide the Employer with at least one (1) day advanced notice of such use.** This Section shall not be interpreted to grant an employee the right to carry on Union business during his/her own working hours, not granted elsewhere in the contract.

ARTICLE 6A
MUTUAL RESPECT

The ~~Commonwealth~~ **Employer** and the Union agree that mutual respect between and among managers, employees, co-workers and supervisors is integral to the efficient conduct of the ~~Commonwealth's~~ **Employer's** business. Behaviors that contribute to a hostile, humiliating and/or intimidating work environment, including abusive language or behavior, are unacceptable and will not be tolerated. Employees who believe they are subject to such behavior, ~~and who want to pursue the matter~~, shall raise their concerns with an appropriate manager or supervisor as soon as possible, but no later than ninety (90) days from the most recent **occurrence(s)** ~~incidents(s)~~. **Employees who want to formally pursue the matter must file a written complaint which identifies the behaviors including specific examples believed to cause the hostile, humiliating and/or intimidating work environment.**

The written complaint shall be investigated by the Employee Relations Unit or other Employer designated body which shall make recommendations to the Employer for correcting any unacceptable and/or unprofessional behaviors identified by the investigation. The Complainant shall be notified of the steps taken to address the Complainant's concerns.

In the event the employee(s) **written complaint** ~~concerns have been formally raised at the agency level and are~~ is not addressed within a reasonable period of time, the employee and/or the Union may file a grievance at step ~~III~~ **II** of the grievance procedure as set forth in Article 23 ~~(notice shall be sent concurrently to the Agency Head or designee)~~. If the employee, (or the Union) requests a hearing at Step ~~III~~ **II** such hearing shall be granted. Grievances filed under this section shall not be subject to the arbitration provisions set forth in Article 23. No employee shall be subject to ~~discrimination~~ **retaliation** for filing a complaint, giving a statement, or otherwise participating in the administration of this process.

ARTICLE 6
ANTI-DISCRIMINATION AND AFFIRMATIVE ACTION

Section 6.1
The Employer and the Union agree not to discriminate in any way against employees covered by this Agreement on account of race, religion, creed, color, national origin, sex, sexual orientation, age, ethnicity, mental or physical handicap, union activity, gender identity, gender expression, military or veteran status.

Section 6.2
The Union and the Employer agree that when the effects of employment practices, regardless of their intent, discriminate against any group of people on the basis of race, religion, creed, color, age, sex, national origin, or mental or physical disability, or being a Vietnam Era Veteran, specific positive and aggressive measures must be taken to redress the effects of past discrimination, to eliminate present and future discrimination, to ensure equal opportunity in the areas of hiring, upgrading, demotion or transfer, recruitment, layoff or termination, rate of compensation and in-service or apprenticeship training programs. Therefore the parties acknowledge the need for positive and aggressive affirmative action.

Section 6.3
The Statewide Labor/Management Committee established pursuant to ARTICLE 26 shall give priority to the area of affirmative action and **reasonable accommodation.** The Committee shall review affirmative action programs and shall devote its best efforts to alleviating any obstacles that are found to exist to the implementation of the policy and commitments contained in the Governor's Executive Order No. 116 dated May 1, 1975 or as subsequently amended or in Governor's Executive Order #253 (1988) or as subsequently amended.

Section 6.4
The provisions contained in Article 14 and Article 18 shall not be construed to impede the implementation of affirmative action programs developed by the **Employer** ~~department/agencies~~ in accordance with goals set forth in this Article.

Section 6.5
The Employer and the Union acknowledge that sexual harassment is a form of unlawful sex discrimination, and the parties mutually agree that no employee should be subjected to such harassment. The term sexual harassment as used herein is conduct such as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which constitutes sexual harassment when:

A. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

B. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

C. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Section 6.6

The Employer and Union agree that individuals with disabilities should enjoy equal access to all employment opportunities. During the process to identify a reasonable accommodation the employee may elect to have union representation present.

ARTICLE 7
WORKWEEK AND WORK SCHEDULES

Section 7.1 Scheduled Hours, Workweek, Workday

A. Except as otherwise specified in this Agreement, the regular hours of work for full-time employees shall be thirty-seven and one-half (37.5) hours per week excluding duty free meal periods or forty (40) hours per week excluding duty free meal periods, as has been established for that job title at the particular job location. Any employee whose regular workweek has averaged more than forty (40) hours excluding meal periods in the past shall have a forty (40) hour workweek.

B. The work schedule, both starting times and quitting times, of employees shall be posted on a bulletin board at each work location or otherwise made available to employees and Union stewards.

C. When the Employer desires to change the shift or day off of an employee, the Employer shall, whenever practicable, give the affected employee ten (10) days written notice.

D. To the extent practicable, the normal work week shall consist of **no more than** five (5) consecutive days, ~~**Monday through Friday,**~~ with the regular hours of work each day to be consecutive except for duty free meal periods. Similarly, to the extent practicable, employees in continuous operations shall receive two (2) consecutive days off in each seven (7) day period. This subsection shall not apply to employees in authorized flexible hours programs **or those working a Compressed Workweek as defined in paragraph E below. A workweek other than Monday through Friday may be established where the Employer reasonably determines the need for such schedule.**

E. (1) The Employer may establish a work week of less than five consecutive days, including three (3) or (4) four day workweeks, provided that the work day shall not exceed 13.34 hours excluding meal periods ("Compressed Workweek").

The Employer shall attempt to fill Compressed Workweek schedules by first soliciting volunteers and shall select from among qualified volunteers in order of seniority. If there are an insufficient number of qualified volunteers, the Employer may upon 14 days' notice reassign qualified employees in inverse order of seniority within the district or other administrative work unit selecting first from among temporary employees and then regular employees.

(2) The Employer shall not involuntarily reassign any employee to a Compressed Workweek schedule prior to April 15, 2020, except that temporary employees and new hires may be assigned to such schedules. Prior to extending an offer of employment to any person hired after this agreement is ratified the Employer shall provide written notice that they may be required to work a Compressed Workweek. Prior to extending an offer of employment to any person hired after this agreement is ratified the Employer shall provide written notice that they may be required to work a Compressed Workweek.

(3) No involuntary reassignment shall extend beyond 12 consecutive weeks and no employee shall be involuntarily reassigned more than twice during any rolling 52 week period or be required to work more than 24 weeks in the aggregate during any rolling 52 week period.

(4) Annually, beginning on April 1, 2020 up to twenty percent (20%) of the total number of bargaining unit employees in Bargaining Units D may elect to be excluded from assignment to a Compressed Workweek schedule. Employees shall be given an opportunity to make this election within a District or other administrative work unit within a Division in order of their MassDOT seniority. Employees who make this election shall not be required or permitted to work a Compressed Workweek schedule through April 15th of the following year. Such election must be made in writing to the District Highway Director or other Department head on or before April 1st of each year.

F. When a holiday falls on a day that an employee assigned to a Compressed Workweek schedule is scheduled to work i.) if the employee is not required to work the holiday, the employee shall be paid their regular hourly rate for all hours they are normally scheduled to work that day and ii.) if the employee is required to work the holiday, in addition to the employee's regular pay, s/he may elect to receive either 7.5 or 8 hours of holiday pay at their regular hourly rate or 7.5 or 8 hours of compensatory time based on the number of hours in their normal workweek. When a holiday falls on a day that an employee assigned to a Compressed Workweek schedule is not scheduled to work, the employee shall be paid 7.5 or 8 hours of vacation pay at their regular hourly rate based on the number of hours in their normal workweek.

G. (1)When a holiday falls on a day that an employee assigned to a Compressed Workweek schedule is scheduled to work but is not required to work, the employee shall be paid at their regular hourly rate for all of their regularly scheduled hours

that day. If the employee is required to work the holiday, in addition to the employee's regular pay, s/he may elect to receive either 7.5 or 8 hours of pay at their regular hourly rate or 7.5 or 8 hours of compensatory time based on the number of hours in their normal workweek.

(2) When a holiday falls on a day that an employee assigned to a Compressed Workweek schedule is not scheduled to work, the employee shall be paid 7.5 or 8 hours of holiday pay at their regular hourly rate based on the number of hours in their normal workweek. If the employee works the holiday, in addition to the employee's regular pay, s/he may elect to receive either 7.5 or 8 hours of pay at their regular hourly rate or 7.5 or 8 hours of compensatory time based on the number of hours in their normal workweek.

Section 7.2 Overtime

A. An employee shall be compensated at the rate of time and one-half his/her regular rate of pay for authorized overtime work performed in excess of forty (40) hours per week.

B. An employee whose regularly scheduled workweek is less than forty (40) hours shall be compensated at his/her regular rate for authorized overtime work performed up to forty (40) hours per week that is in excess of his/her regular workweek.

C. Compensatory time off in lieu of pay for overtime shall not be granted to employees except as provided in Section 7.2.G. The Employer shall not, for the purpose of avoiding the payment of overtime, curtail the scheduled hours of an employee during the remainder of a workweek in which the employee has previously worked hours beyond his/her normally scheduled workday. This Paragraph shall not apply to employees who, because of the nature of the duties of their positions, work an irregular workday, nor shall it apply to employees who have been permitted by the Employer to participate in an approved voluntary flexible hours program that has been duly authorized by the Division Administrator and the Director of Human Resources.

D. 1. With the exception of paid sick leave, all time for which an employee is on full paid leave status shall be considered time worked for the purpose of calculating overtime compensation.

2. An employee who uses sick time during the same workweek in which s/he works either emergency or mandatory overtime shall be permitted to use up to three (3) such days each fiscal year for purposes of calculating overtime compensation provided the sick time is used prior to the notification to report for the overtime.

~~2~~**3.** However, an employee who uses sick leave during the same work week in which he/she works mandatory overtime shall have the opportunity to

replace up to three (3) shifts per fiscal year of sick leave with his/her available personal leave, vacation leave, accrued compensatory time or holiday compensatory time.

E. There shall be no duplication or pyramiding of the premium pay for overtime work provided for in this Agreement.

F. Employees who are engaged in special kinds of activities where scheduling of such work during regularly scheduled hours is not feasible, shall not be paid overtime on a weekly basis but may be given compensatory time off for such overtime work.

G. Notwithstanding the provisions of paragraph C of this Section 7.2, upon the request of an employee ~~an Appointing Authority~~ **the Employer** ~~shall~~ **may** grant **at its discretion** compensatory time in lieu of payment for overtime at a rate of not less than one and a half hours for each hour of employment for which overtime compensation would be required under this Article. This shall be designated on the overtime form supplied by the Employer.

Such compensatory time shall not be accumulated in excess of one hundred ~~twenty~~ (~~120~~ **90**) hours and may be utilized in half hour increments.

~~An Appointing Authority~~ **The Employer** shall permit the use of compensatory time at the employee's request, provided the use of compensatory time does not unduly disrupt the operation of a department or agency. Upon termination an employee shall be paid for all unused compensatory time at the final regular rate of pay.

H. The Employer shall make every effort to send out checks for overtime no later than the second payroll period following the payroll period of the overtime worked.

I. Overtime shall be distributed as equitably and impartially as practicable among persons in each work location who ordinarily perform such related work in the normal course of their workweek. Department heads and union representatives at each location shall work out procedures for implementing this policy of distributing overtime work.

J. The provisions of this Section shall not apply to employees on full travel status.

Section 7.3 Regular Meal Periods

A meal period shall be scheduled as close to the middle of the shift as possible considering the needs of the Employer and the needs of the employee. **Employees shall not reduce the length of the work day by working through a meal break without the prior approval of the employee's supervisor.**

Section 7.4 Rest Periods

Employees shall be allowed two (2) rest periods of up to fifteen **(15)** minutes per workday. **Rest periods may not be used to either extend the meal break or reduce the length of the work day without prior approval of the employee's supervisor. Employees who work less than a five day workweek shall be allowed rest periods not to exceed a total of two and a half hours per workweek. The rest periods shall be of equal length and scheduled at equal intervals throughout each workday.**

Section 7.5 Time Keeping

Employees may be required to record their daily arrival and departure times as well as the start and end time of all breaks and meal periods in a form and manner, **including by mechanical or electronic means**, as determined by the Employer which shall, to the extent reasonably practicable, be uniform. **Employees shall not be required to record their arrival, departure and break times using more than a single method of timekeeping.**

Section 7.6 Call Back Pay

B. An employee who is called back to work as outlined above but is not called back to a work place shall receive a minimum of two (2) hours pay at his/her regular overtime rate. In situations where an employee fulfills his/her call back assignment through the use of an electronic communication device such as a telephone, or "networked" computer or **mobile device**, the employee shall receive a minimum of one hour (1) for assignments received before 11:00 p.m. and two (2) hours for such assignments received on or after 11:00 p.m., **provided that no employee shall receive additional pay for a second or subsequent assignment received within the original call back period unless fulfillment of any assignment extends beyond the original call back period in such case the employee will be paid for the actual time worked.** For the purpose of this Section, a "work place" is defined as any place other than the employee's home to which he/she is required to report to fulfill the assignment. **The Employer may require the employee to maintain and provide a complete and accurate written account of the work performed during a call back assignment.**

Section 7.7 Weekend Differentials

A. Full-time Unit ~~6~~ **D** employees whose regular~~ly~~ workday is on a second or third shift as hereinafter defined will receive a shift differential of one dollar and twenty-five cents ($1.25) per hour.

Effective July 9, 2006, in addition to any other compensation to which they may be entitled, a premium of one dollar and twenty-five cents ($1.25) per hour shall be paid to all Unit ~~6~~ **D** employees who are regularly scheduled to work on either a Saturday or a

Sunday, provided that no employee shall receive said differential for more than one (1) day **or shift** worked per **weekend not to exceed 7.5 or 8 hours.**

B. Employees otherwise entitled to a weekend differential under this Section shall receive the differential for days they are on paid leave status, including holidays, up to the maximum of one (1) full day **or shift** per week**end not to exceed 7.5 or 8 hours.**

C. Employees who are assigned to work a Compressed Workweek shall receive the shift differential for all hours worked beginning after 3:30 pm and ending before 8:00 a.m. on their regular full shift. This does not apply to employees who have requested and been granted an alternative work schedule.

D. Employees who are assigned to work a Compressed Workweek shall receive the weekend differential for all hours worked on a Saturday or Sunday up to the maximum of one (1) regular full shift per weekend. This does not apply to employees who have requested and been granted an alternative work schedule.

ARTICLE 8
LEAVE

Section 8.7.1 Family Leave

No changes

Section 8.7.2 Family and Medical Leave

A. Family Leave

1. The Employer shall grant to a full time or part time employee who has **been employed** ~~completed his/her probationary period, or if there is no such probationary period, has been employed~~ for at least **nine (9)** ~~three~~ consecutive months **preceding the commencement of the leave**, an unpaid leave of absence for up to twenty-six (26) weeks in conjunction with the birth, adoption or placement of a child as long as the leave concludes within twelve (12) months following the birth or placement. The ability to take leave ceases when a foster placement ceases unless the need for the additional leave is directly connected to the previous placement.

2. At least thirty (30) days in advance, the employee shall submit **to the Employer** a written notice of his/her intent to take such leave and the dates and expected duration of such leave. If thirty (30) day notice is not possible, the employee shall give notice as soon as practicable. The employee shall provide upon request by the Employer proof of the birth or placement or adoption of a child.

3. If an employee has accrued sick leave, personal leave, compensatory leave, or vacation credits at the commencement of his/her family leave, the employee ~~may~~ **shall** use such leave credits for which s/he may be eligible under the sick leave, personal leave or vacation provisions of this Agreement, **except that up to two (2) weeks of accrued leave per calendar year may be reserved and used after the FMLA has ended**. The ~~Appointing Authority~~ **Employer** may, in his/her discretion, assign an employee to temporarily backfill for an employee who is on family leave. Such assignment may not be subject to the grievance procedure.

4. At the expiration of the family leave, the employee shall be returned to the same or equivalent positon with the same status, pay and length of service credit as of the date of his/her leave. If during the period of the leave, employees in an equivalent positon have been laid off through no fault of their own, the employee will be extended the same rights or benefits, if any extended to employees of equal length of service in the equivalent position in the department.

5. Employees taking an unpaid leave of absence under this provision will accrue sick and vacation leave benefits only for the first eight (8) weeks of such

unpaid leave. Notwithstanding any other provisions of the Agreement to the contrary, the family leave granted under this Article shall not shall not affect an employee's right to receive any **other** contractual benefits for which s/he was eligible at the time of his/her leave.

6. During the time an employee is on family leave, the employee shall be entitled to group health insurance coverage benefits on the same terms and conditions in effect at the time the leave began, provided the employee continues to pay the required employee share of premium while on leave. If the employee fails to return from leave, ~~MassDOT~~ **the Employer** may recover, as provided under FMLA, the cost it incurred in maintaining insurance coverage under its group health plan for the duration of the employee's leave.

B. Medical Leave

1. The Employer shall grant to any **full-time or part-time** employees ~~who has completed his/her probationary period or, if there is no probationary period, who~~ has been employed at least **nine (9)** ~~three (3)~~ consecutive months **preceding the commencement of the leave** an unpaid leave of absence for up to twenty-six (26) **twenty six** weeks to care for a spouse, child or parent who has a serious health condition or for a serious health condition which prevents the employee from being able to perform the functions of his/her position. For this accompanying regulations, 29 C.F.R. Part 825, the Employer will request medical certification at the time the employee gives notice of the need for the leave or within five business days thereafter, or in the case of the unforeseen leave, within five business days after the leave commences. In the event of an unanticipated illness, an employee who returns to work within eight (8) working days of the beginning of their absence will not be required to return from D1 to his/her employer.

~~2. Upon the submission of satisfactory medical evidence that demonstrates an existing catastrophic illness, the Appointing Authority shall grant the employee on a one-time basis, up to an additional twenty-six (26) weeks of non-intermittent FMLA leave.~~

2.~~3.~~ At least thirty days in advance, the employee shall submit a written notice of his/her intent to take such leave and the dates and expected duration of such leave. If thirty (30) day notice is not possible, the employee shall give notice as soon as practicable. The employee shall provide, upon request by the Employer, satisfactory medical evidence. ~~Satisfactory medical evidence is defined under Section 1.K.2 of this Article.~~ **An employee requesting medical leave shall complete the Department's FMLA form and submit it to the Employer.** ~~Under FMLA Law, the Employer may obtain a second opinion at its own expense.~~ **If the Employer has reason to question the validity of the medical evidence, it may obtain a second opinion at its own expense. In the**

event there is a conflict between the second opinion and the original medical opinion, the Employer and the employee may resolve the conflict by obtaining the opinion of a third medical provider, who is approved jointly by the Employer and employee, at the Employer's expense. When there is no agreement on the third medical provider, within fifteen (15) days after the employer sends a list of medical providers to the Union, either party may submit a request that the Department of Public Health or the Department of Mental Health, as the case may be, to provide a list of five (5) medical specialists in the field of the condition underlying the need for the leave or able to schedule an appointment within thirty (30) days of the request. Each party may strike two names provided and rank the remaining three in order of preference and return such lists to the respective Department within ten (10) days of the receipt of the list. The closest matching specialist shall be requested to serve as a third medical provider. Pending receipt of a third medical opinion, the employee will be provisionally entitled to the leave, provided that if the employee fails to authorize his\her medical provider to release all medical information related to the conditions for which the leave is needed to the second or third medical provider, or misses a scheduled appointment with the medical providers due to their fault, the employer may deny the FMLA leave until the employee provides such authorization will attend a rescheduled appointment. If the certification of a third medical provider does not ultimately established employees entitlement to FMLA leave, the employee's provisional F MLA will terminate effective the date of the third medical opinion.

~~2~~**.3.** ~~Upon submission of satisfactory medical evidence that demonstrates an existing catastrophic illness, the Appointing Authority shall grant the employee on a one-time basis, up to an additional twenty-six (26) weeks of non-intermittent leave.~~

~~3.~~**4.** Intermittent leave usage and modified work schedules may be granted where a spouse, child or parent has a serious health condition and is dependent upon the employee for care, or for the serious health condition which prevents the employee from being able to perform the functions of his/her position.

Effective October 1, 2014 for new requests of intermittent FMLA and effective January 1, 2015 for employees currently on FMLA, employees who provide satisfactory medical documentation to support an intermittent FMLA may utilize up to 60 days of their FMLA allotment provided for in Section 8 (B) (1) for intermittent absences.

Where intermittent or a modified work schedule is medically necessary, the employee and Employer shall attempt to work out a schedule which meets the employee's needs without unduly disrupting the operations of the workplace. Such modified work schedules may include full time continuous leave, a change in job

responsibilities, or an alternative work option or a continuation of the intermittent leave beyond the sixty (60) days if operations allow provided the employee has not exhausted the 26 weeks of FMLA leave allowed within the previous 52 week period.

At the expiration of the intermittent medical leave, modified work schedule, or job assignment that was agreed upon, the employee shall be returned to the same or equivalent position with the same status, pay and length of service credit as of the date of his/her leave.

In the event that no alternative work option is agreed upon and if the employer believes that operations are being unduly disrupted, the employer will give written notice to the Union and employee of the intent to terminate the intermittent leave.

In such an event, no employee who then requests full time continuous leave and who is otherwise eligible shall be denied such leave as long as they provide medical documentation supporting an FMLA qualifying illness. Such leaves will be limited to the remainder of the 26 weeks of available FMLA leave and based upon their intermittent determination shall not be eligible for the catastrophic leave extension.

The Employer shall maintain the ability to transfer an employee to an alternative position with no reduction of pay or benefits in order to avoid disruption of operations so as long as the transfer is reasonable and not meant to discourage the use of intermittent leave. Wherever practicable an employee who transfers pursuant to this paragraph shall be given 10 days' notice of such transfer.

In the event that the employer gives notice of its intent to terminate the intermittent leave, and the affected employee does not wish to access any remaining full-time leave benefits as described above, the Union may request expedited impartial review by an arbitrator to determine whether the Employer has made a reasonable attempt to accommodate the need of the employee's intermittent leave beyond the sixty (60) days and whether or not the leave unduly disrupts operations. Said review must be requested within 10 calendar days of the notification that the leave will be terminated. The status quo ante shall be preserved pending the decision of the arbitrator, unless the proceedings are unreasonably delayed due to the part of the Union or the Employee.

The parties shall meet upon execution of the agreement to establish the review/arbitration process noted above. Such proceedings shall be informal in accordance with the rules to be agreed upon by the parties. The parties shall develop a form to be used as notice to the Union and employee of the intent to terminate intermittent leave.

5. If the employee has accrued sick leave, personal leave, compensatory leave, or vacation leave credits at the commencement of his/her medical leave, that employee ~~may~~ **shall** use such leave credits for which s/he may be eligible under the sick leave, personal leave, or vacation leave provisions of this Agreement, **except that up to two (2) weeks of accrued leave per calendar year may be reserved and used after the FMLA has ended. The Employer may in its discretion assign an employee to temporarily backfill for an employee who is on family or medical leave or hire a temporary replacement and such assignment or hire shall not be subject to the grievance procedure, except that the employee may file and Article 16 grievance if they are entitled to pay in a higher classification.**

6. At the expiration of the medical leave, the employee shall be returned to the same equivalent position with the same status, pay and length of service credit as of the date of her/his leave. If during the period of the leave, employees in an equivalent position have been laid off through no fault of their own, the Employer will extend the same rights or benefits, if any, extended to employees of equal length of service in the equivalent position in the department.

7. Between periods of unpaid medical leave, where an employee returns to the payroll for a period of less than two (2) weeks, when a holiday falls during that time, no holiday pay or compensatory time shall be granted for such holiday.

8. During the time an employee is on medical leave, the employee shall be entitled to group health insurance coverage benefits on the same terms and conditions in effect at the time the leave began, provided the employee continues to pay the required employee share of premium while on leave. If the employee fails to return from leave, the Commonwealth may recover the cost it incurred in maintaining insurance coverage under its group health plan for the duration of the employees leave, in compliance with the requirements set forth under the FMLA and regulations thereunder.

9. The total amount of Family Leave and Medical Leave available to employees under this section shall not exceed 26 weeks in a 12 month period. The total amount of accrued paid leave that may be reserved and used after the expiration of Family or Medical leave in any calendar year shall not exceed two (2) weeks in the aggregate.

10. Notwithstanding any provision to the contrary, an employee shall be entitled to benefits as provided by the Massachusetts Parental Leave Act G.L. c. 149, § 105D, the Massachusetts Family Medical Leave Act, G.L. c. 175M and other applicable laws which shall run concurrent with the Family and Medical Leave provided in this agreement. The terms of this Agreement shall control unless otherwise provided by law.

Section 8.8 Non-FMLA Family Leave

A. Upon written application to the Employer, including a statement of any reasons, any employee ~~who has completed his/her probationary period, or if there is no probationary period~~ who has been employed at least ~~three (3)~~ **nine (9)** consecutive months who has given at least two (2) weeks prior notice of his/her anticipated date of departure and who has given notice of his/her intention to return, may be granted non-FMLA family leave for a period not exceeding ten (10) weeks. Such leave shall be without pay or benefits for such period. The Employer may, in his/her discretion, assign an employee to temporarily back fill for an employee who is on non-FMLA family leave. Such assignment may not be subject to the grievance procedure.

The purpose for which an employee may submit his\her application for such unpaid leave shall be limited to the need to care for, or to make arrangements for care of grandparent, grandchild, sister or brother living in the same household, or child whether or not the child (or children) is natural, adoptive, foster, stepchild, or child under the legal guardianship of the employee.

B. Ten (10) days of non–FMLA family leave may be taken in not less than one half day increments. However, such leave requires the prior approval of the **Employer** ~~Appointing Authority~~ or his\her designee.

C. If an employee has accrued sick leave, personal leave, compensatory leave, or vacation leave credits at the commencement of her\his non-FMLA family leave, that employee ~~may~~ **shall** use such leave credits for which s/he may be eligible under the sick leave, personal leave, or vacation leave provisions of this agreement.

D. Between periods of non– FMLA family leave, where an employee returns to the payroll for less than two weeks, when a holiday falls during that time, no holiday pay or compensatory time shall be granted for such holiday.

Section 8.9 Catastrophic Illness/Injury Leave

Upon submission of satisfactory medical evidence that demonstrates an existing catastrophic illness or injury, the ~~Appointing Authority~~ **Employer** shall grant the employee ~~on a one-time basis~~, up to an additional twenty-six (26) weeks of non-intermittent non-FMLA leave. **A catastrophic illness or injury is a severe condition usually considered to be life threatening or with the threat of serious residual disability, that requires prolonged recovery or hospitalization and that totally incapacitates the employee from working. An employee may be granted leave under this paragraph not more than twice during their employment. The total aggregate amount of leave granted to any one employee shall not exceed 26 weeks.**

Section 8.10 Educational Leave

Employees may be granted a paid leave of absence in accordance with the policies of the Employer for educational purposes 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. The employee shall not suffer any loss of seniority or benefits as a result of such leave.

Based on the operational needs of the department, Employees enrolled in a degree program may be granted an unpaid leave of absence(s) up to (12) twelve months for course work required by the program. The decision to approve or deny any request for a leave of absence shall not be subject to the grievance procedure as outlined in Article 23, and shall not be arbitrable.

ARTICLE 9
VACATIONS

Section 9.8
The Employer shall grant vacation leave in the vacation year in which it becomes available, unless in ~~his/her~~ **its** opinion it is impossible or impracticable to do so because of work schedules or emergencies. In cases where the vacation requests by employees in the same title conflict, preference, subject to the operational needs of the Department/Agency, shall be given to employees on the basis of years of service with MassDOT.

Unused vacation leave earned during the previous two (2) vacation years can be carried over to the new calendar year beginning with the first full pay period in January for use during the following vacation year. Annual earned vacation leave credit not used by the last full pay period inclusive of December 31 of the second year it was earned will be forfeited.

All vacation time must be approved in advance by the employee's supervisor. Except in the case of emergency, employees must submit the request at least 48 hours before the use of the vacation day (s).

~~The department head is charged with the responsibility of seeing that vacation is taken in order that the employee does not lose vacation credits.~~ Each employee **who does not have access to Self Service Time and Attendance** shall receive annually, on or before October 1, as of September 1, a preliminary statement of the available vacation credits from the local office. ~~A central office statement shall be forthcoming to each work location by October 31 for dissemination to each employee.~~

The parties recognize the need to ensure the granting of personal leave, vacation, holiday and compensatory time when it is requested and as it becomes available. Towards this end the department heads and union representatives at each work location shall work out procedures for implementing this policy of granting time off.

Section 9.9
Absences on account of sickness in excess of the authorized sick leave provided in the Agreement may be charged to vacation leave upon request of the employee and subsequent approval by the Employer, which will not be unreasonably withheld, **except that no employee who is off the payroll without authorization within six months of the absence shall be permitted to charge an absence due to illness as vacation time.**

ARTICLE 11
EMPLOYEE EXPENSES

Section 11.1

~~B. An employee who travels from his/her home to a temporary assignment rather than to his/her regularly assigned office shall be allowed transportation expenses for the **any additional** the distance between his/her home and his/her temporary assignment and his/her regularly assigned office and his/her temporary assignment, whichever is less, **if any**.~~

B. An employee who travels from his/her home to an assigned temporary work location shall be reimbursed for mileage only for the distance that is in excess of the distance between the employee's home and his/her regular work location, if any, using the most direct route to each location.

C. Employees shall not be reimbursed for commuting between their home and office or other regular work location. With the approval of ~~the Personnel Administrator~~ **Director of Human Resources** an employee's home may be designated as his/her regular office by his/her ~~appointing authority~~ **department head** for the purposes of allowed transportation expenses in cases where the employee has no regular office or other work location.

Section 11.4
The Employer will make reasonable efforts to reimburse employees as soon as administratively possible provided that requests for reimbursement are submitted not more than 60 days after the expense is incurred. If the request is submitted after 60 days, the reimbursement may be treated as a taxable income.

ARTICLE 12
SALARY RATES

Section 12.1

The following shall apply to full-time employees:

A. Effective ~~January 11, 2015~~ **the first full pay period in July 2017** employees who meet the eligibility criteria provided in Section 2 of this Article shall receive a ~~3~~ **1%** increase in salary rate~~. or the annualized amount of one thousand seven hundred dollars to the base wage whichever is greater~~.

1. **If FY 2018 tax revenues equal or exceed $27.072 billion, then, effective the first full pay period in July, 2017, employees shall receive an additional increase of "up to" one percent (1%) in salary rate.**

   The terms, "state tax revenues," "budgeted revenues," and "budgetary funds" shall have the meanings assigned to those terms in M.G.L., Ch. 29, sec. 1.

   For the purposes of this section, "tax revenues" shall mean, for any given fiscal year, state tax revenues that count as budgeted revenues in the budgetary funds, as reported by the Commissioner of Revenue on a preliminary basis in July following the end of the fiscal year, subject to any final technical adjustments made prior to August 31. Tax revenues shall include taxes that are transferred to the Commonwealth's Pension Liability Fund, the Massachusetts Bay Transportation Authority State and Local Contribution Fund, the School Modernization and Reconstruction Trust Fund and the Workforce Training Fund.

B. Effective ~~October 4, 2015~~ **the first full pay period of July, 2018,** employees who meet the eligibility criteria provided in Section 2 of this Article shall receive a ~~3%~~ **two percent (2%)** increase in salary rate ~~. or the annualized amount of one thousand seven hundred dollars to the base wage whichever is greater~~.

C. Effective ~~July 10, 2016~~ **the first full pay period of July, 2019**, employees who meet the eligibility criteria provided in Section 2 of this Article shall receive a ~~3%~~ **two percent (2%)** increase in salary rate ~~. or the annualized amount of one thousand seven hundred dollars to the base wage whichever is greater~~.

D. The salary charts shall be will be adjusted to reflect the above adjustments.

~~Section 12.2~~
~~In addition to the wage increases provided above, the Employer shall make available the following:~~

~~A. In FY 2015 an amount equal to .025% of the total base wage payroll for the bargaining unit as of June 30, 2014 to fund benefits, other than across the board wage increases, as agreed by the Employer and Union.~~

~~B. In FY 2016 an amount equal to .025% of the total base wage payroll for the bargaining unit as of June 30, 2014 to fund benefits, other than across the board wage increases, as agreed by the Employer and Union.~~

~~C. In FY 2017 an amount equal to .025% of the total base wage payroll for the bargaining unit as of June 30, 2014 to fund benefits, other than across the board wage increases, as agreed by the Employer and Union.~~

~~The Employer and Union shall meet as soon as practicable after ratification of the Agreement to negotiate the application and use of the funds made available under this Section.~~

Section 12.2
Employees who receive a "Below" rating on their annual EPRS evaluation shall not be eligible to receive the salary increases provided in Section 12.1 of this article, nor any step increases. Employees who receive a "Below" rating will have their performance reviewed ~~on a monthly basis~~ in accordance with article 24A of this Agreement ~~I~~ **and** will become eligible for their salary and step rate increase previously denied effective upon the date of receiving a "Meets" or "Exceeds" rating.

Section 12.5
Whenever an employee paid in accordance with the salary schedules provided in Appendix A of this Agreement receives a promotion to a higher job group, the employee's new salary rate shall be calculated as follows:

1. For employees who are below the maximum step within their current job:

   a. Determine the employee's current salary rate and step within his/her current job group; then

   b. Find the salary rate of the next higher step within the employee's current job group; and

   c. Multiply the employee's current salary rate by one and three one- hundredths (1.03); then

   d. Compare the higher of the resultant amounts from b) or c) above to the salary rates for the higher job group into which the employee is being promoted.

e. The employee's salary rate shall be the first rate in the higher job group that at least equals the higher of the resultant amounts from d) above.

f. **For promotions after April 15, 2019 if the application of the above formula results in a salary that is less than the amount the employee would receive had he/she been promoted to the next lower grade, the employee's salary upon promotion shall be increased to the next higher step in the grade the employee is being promoted into.**

g. For promotions after April 15, 2019 an employee who is not at the terminal step in their grade and has been in their current step for at least nine (9) months at the time of a promotion shall be advanced one (1) step in in the new job grade after the promotional factor is applied.

Employees shall have the option of (f) or (g) above and not both.

2. For employees who are at the maximum step within their current job:

a. Determine the employee's current salary rate and step within his/her current job group; then

b. Multiply the employee's current salary rate by one and three hundredths (1.03); then

c. Compare **the higher of the** resultant amounts from b) above to the salary rates for the higher job group into which the employee is being promoted.

d. The employee's salary rate shall be the first rate in the higher job group that at least equals **the higher of** the resultant amounts from ~~d.~~ **c)** above.

e) For promotions after April 15, 2019 if the application of the above formula results in a salary that is less than the amount the employee would receive had he/she been promoted to the next lower grade, the employee's salary upon promotion shall be increased to the next higher step in the grade the employee is being promoted into, **provided a higher step exists.**

Section 12.10 Overpayments

When the Employer determines that an employee has been overpaid, it shall notify the employee and shall recover such overpayment over the same period of time in which the employee was overpaid unless the employer and the employee agree to another arrangement. A repayment schedule requested by the employee shall not be unreasonably denied. As a condition of any payment agreement an employee will be required to execute a wage withholding agreement that allows the Employer to withhold any unpaid sums from the employee's final paycheck or any amounts due the employee at the time of separation for unused, vacation, compensatory or vacation time.

ARTICLE 13B
TUITION REMISSION

Full-time employees shall be eligible for tuition remission as follows: **(For the UMass system, "tuition remission" is defined as the "student tuition credit").**

A. No changes to this section.

B. No changes to this section.

C. No changes to this section.

D. No changes to this section.

E. No changes to this section.

ARTICLE 14
PROMOTIONS

Section 14.1
A promotion shall mean an advancement to a **positon within high**er salary grade within **MassDOT.** ~~the jurisdiction of the employee's Department/Agency except where there is more than one appointing authority in the Department/Agency a promotion shall mean an advancement to a higher salary grade within the jurisdiction of the employee's appointing authority.~~ This Article is applicable to all promotions except those reasonably anticipated to be for less than one year and its application in all cases is restricted to employees who possess the educational, training, and/or experience requirements established by the ~~Chief Human Resources Officer~~ **Human Resources Division or Employer** for appointment to the relevant position.

This Article shall apply when promoting full-time employees to positions other than positions to be filled by appointment from a civil service eligible list.

In the event that a Civil Service examination for a position has been administered but scores have not been announced, the ~~Appointing Authority~~ **Employer** shall initially restrict eligibility for application for promotion to such position to those employees who have taken the examination. In the event that Civil Service has published an eligible list of those who passed a Civil Service examination for a position but has not certified said list, the ~~Appointing Authority~~ shall initially restrict eligibility for application for promotion to such position to those who passed said examination.

All vacancies, excluding those reasonably anticipated to be for less than one (1) year, shall be posted but will not limit the Employer from hiring from outside the ~~Department/Agency~~ **Division** after all applicants within the ~~Appointing Authority~~ **Division** have been considered. ~~Department/Agency~~ **The Employer** may receive applications from persons outside the ~~Department/Agency~~ **Division** or bargaining unit. **Initial consideration may be limited to those applicants who meet the minimum entrance requirements and any preferred qualifications. The Employer may establish a screening procedure to determine who among those who meet the minimum entrance requirements will be interviewed for the position provided it shall be based on objective and job related factors.** In the event a person is hired from outside the ~~Department/Agency~~ **Division**, or bargaining unit such action shall be subject to the grievance procedure through Step ~~III~~ as provided by Article 23 of the Agreement if the Union alleges such employee does not meet the minimum requirements for the vacancy as determined by the ~~Chief Human Resources Officer~~ **Human Resources Division or Employer**.

Where the Union files a grievance over the non-selection of an employee(s), the Union is limited to advancing to arbitration the grievances of one (1) non-selected employee per vacancy or class-action. The union shall identify such grievant in writing at the time of filing its demand for arbitration. The Arbitrator shall not have the authority to select the successful candidate for the position but shall be limited to an order reposting the position

and re-considering the candidates from the original pool of applicants, except if the Employer re-selects the original successful candidate following order to repost the position and the Arbitrator finds a new violation of Article 14. If a re-determination of the selection process is ordered it shall be limited to the original pool of applicants.

A. The following factors in priority order shall be used by the ~~appointing authority~~ **Employer** or his designee in selecting the employee for a promotion:

1. Ability to do the job as determined by, but not limited to:

   a. Experience and competence (job performance) in the same or related work

   b. Education and training related to the vacant position

2. Seniority, as measured by length of service within the ~~appointing authority~~**Division.**

3. Work history.

B. For promotions made pursuant to this article, the ~~Appointing Authority~~ **Employer** shall consider applicants and post promotional opportunities, within the **Division** ~~Appointing Authority's jurisdiction.~~ The employer shall notify all applicants in writing **of the name of the person selected and** ~~on the non-selection form provided herein~~ **of the reasons for non-selection.** ~~and shall post the name of the person selected to fill the position.~~

C. The provisions of Section B and Section 2 of this Article shall apply to all Bargaining Unit ~~3~~ **D** positions except approved managerial and confidential exclusions, disputed managerial and confidential exclusions and positions. ~~covered by the provisions of Chapter 14, Section 4 of the General Laws.~~

Section 14.2

A. Positions to be filled under the provisions of this Article shall be posted throughout the appropriate work unit(s) for ten (10) calendar days. **Postings may be made by electronic means in any work unit(s) where employees have access to email.** ~~In like manner the employer shall post the name of the person selected to fill the position.~~ The Union shall be furnished copies of all such positions. The ~~Appointing Authority~~ **Employer** may reasonably determine the positions in which employees must be employed and/or the requisite experience the employees must possess in order to be eligible to apply for a given promotion. ~~Employees on sick leave, vacation leave or authorized leave of absence for periods in excess of ten (10) calendar days, shall be mailed copies of those postings for which they are determined eligible to apply, provided~~

~~the employee has requested in writing, for each period of absence in excess of ten (10) calendar days, that the appointing authority furnish these postings.~~

~~Employees normally assigned to the field for periods in excess of ten (10) calendar days, who would therefore not have an opportunity to otherwise view a posting, shall also be mailed copies of those postings for which they are determined eligible to apply for provided the employee has requested in writing that the appointing authority so furnish those postings. The job postings shall include the job title, salary grade, eligibility requirements and other pertinent information.~~

B. An employee promoted in accordance with this Article whose performance is unsatisfactory may be returned to his/her previous job title under the jurisdiction of the ~~Appointing Authority.~~ **Employer**. If an employee's performance is determined to be unsatisfactory at any time during a probationary period of six (6) months such determination shall not be subject to the grievance procedure.

C. If the employee so requests within two (2) weeks prior to the mid-point of the above designated probationary periods, his/her supervisor shall meet with the employee and a union representative to discuss the employee's performance in the position.

D. At any time prior to the mid-point of the above designated probationary periods, an employee may request to return to his/her former job title under the jurisdiction of the ~~Appointing Authority~~ **Employer** and such request will be granted.

E. In the event an employee is returned to his/her former job title, the employee displaced by such return shall be returned to his/her former job title. Where more than one position in the back filled job title was filled pursuant to this Article, the employee last selected shall be the one displaced.

F. If an employee is returned to his/her former job title pursuant to the provision of Paragraph B of this Section, said employee will not be eligible for promotion pursuant to this Article for a period of one (1) year.

G. Notwithstanding the above paragraphs, employees may return to their former job titles under these provisions provided there is a position available under the jurisdiction of the ~~Appointing Authority~~ **Employer**. In the event a position is not available under the jurisdiction of the ~~Appointing Authority~~ ~~Employer~~ said employee shall be covered by the layoff and recall Articles of the Agreement.

H. All promotions made pursuant to this Article shall be temporary or provisional appointments at least until the completion of the probationary period. All vacancies resulting from an employee's promotion pursuant to this Article shall be filled temporarily or provisionally at least until the promoted employee has completed his/her probationary period.

~~I. It is not the intent of the Employer that the new salary plans specified in Article 12 discourage promotions from within the bargaining unit.~~

Section 14.3
An employee seeking a transfer to another work location shall submit a request for transfer to the ~~his/her Appointing Authority or his/her designee~~ **Human Resources Department**. Requests for a transfer shall be kept on file for a period of twelve (12) consecutive months from the date of submission by the employee seeking the transfer. Transfer requests not approved within this period must be resubmitted by the employee in order to remain active for consideration. Transfers shall be considered through an interview process, and where appropriate, implemented at the discretion of the ~~Appointing Authority~~ **Employer** from those applicants who can adequately perform the duties of the position.

ARTICLE 16
OUT-OF-TITLE WORK

Section 16.1 Work in a Lower Classification
While an employee is performing the duties of a position classified in a grade lower than that in which the employee performs his/her regular duties, he/she shall be compensated at his/her regular rate of pay as if performing his/her regular duties.

Section 16.2 Work in a Higher Classification
Any employee who is assigned by his/her supervisor to a vacant position in a higher grade for a period of more than thirty **consecutive** days shall receive the salary rate for the higher position from the first day of assignment, provided such assignment has the prior approval in writing of the **department head** ~~appointing authority or his/her designee~~. **Written approval must be provided on the form which is attached as Attachment C.** The approval of the **department head** ~~appointing authority or his/her designee~~ shall take effect as of the first day of assignment. Any assignment to a vacant position in a higher grade must in in writing to be valid.

This Article shall not apply to working in a higher grade when the holder of the higher grade is absent on vacation leave.

ARTICLE 18
LAYOFF - RECALL PROCEDURE

Section 18.1 Applicability
The provisions of this Article shall apply only to non-civil service employees and shall not apply to the separation from a position by reason of the certification of a civil service list by the Chief Human Resources Officer provided, however, that the employee displaced by the use of the civil service list shall be the least senior person in the title in the work unit to which the civil service appointment or promotion is being made; and further provided that the person displaced shall have bumping rights if any as set forth in this Article.

Section 18.2 Definitions (New from MLIA)
As used in this Article seniority shall mean service rendered in the ~~**Department/Agency**~~**Division.**

There shall be a single integrated seniority roster for each bargaining unit.

Division seniority shall be the length of an employee's total service within the Division. Division seniority for employees transferred to MassDOT pursuant to Chapter 25 of the Acts of 2009 shall include total service with the Department/Agency/Authority where they were employed as of October 31, 2009.

For purposes of layoff and recall seniority shall mean service rendered within a Division. The Highway Division, Registry Division, Aeronautics Division, Rail and Transit Division and the Office of Planning and Other Shared Services ("Shared Services"), shall be the "Divisions" for purposes of this Article.

MassDOT seniority shall be determined by the length of an employee's total service with MassDOT as determined by date of hire. Seniority for employees transferred to MassDOT pursuant to Chapter 25 of the Acts of 2009 shall include total service with the Department /Agency/Authority where the employee was employed on October 31, 2009.

Bargaining Unit seniority shall be the length of an employee's total service in a position within the bargaining unit. Bargaining Unit seniority for employees transferred to MassDOT pursuant to Chapter 25 of the Acts of 2009 shall include total service in a position within the bargaining unit with the Department/Agency/Authority where they were employed as of October 31, 2009.

An employee whose position was transferred from the former Massachusetts Turnpike Authority, the Massachusetts Port Authority or the former MassHighway, to MassDOT's Shared Services Division shall have seniority within the Shared Services Division and the Highway Division for purposes of layoff.

An employee whose position was transferred from the former Registry of Motor Vehicles to MassDOT's Shared Services Division shall have seniority within the Shared Services Division and Registry Division for purposes of layoff.

Employees transferred from the former Registry of Motor Vehicles, Merit Rating Board or former MassHighway to the Administrative Services Division of the former Executive Office of Transportation shall have seniority within the Division to which their original agency transferred and/or the Shared Services Division.

Where employees have equal seniority within a Division, MassDOT seniority and then Bargaining Unit seniority shall be used in order of priority.

Section 18.3 Layoff/Notice to Union/Notice to Employee
In the event that Management becomes aware of an impending reduction in workforce it will make every effort to notify the Union at least ten (10) calendar days prior to the layoff. Management will notify the affected employees in writing not less than five (5) working days in advance of the layoff date. Whenever practicable, affected employees will have four (4) working days to exercise their bumping rights.

Section 18.4 Displacement-Bumping Procedure
A. In the event there is a reduction in work force within a ~~department/agency~~ **Division** which will result in bumping and layoff, the ~~Human Resources Division~~ **Employer** will **consider** ~~encourage the department/agency to develop~~ a Voluntary Layoff Incentive program for affected employees.

B. An employee whose position is being eliminated shall have the right to exercise his/her seniority by accepting a reassignment within the ~~Department/Agency~~ **Division**, to the position of the least senior employee in his/her job title for which the employee is qualified, provided that the affected employee is less senior than the employee whose position is eliminated.

C. Alternatively, an employee whose position is being eliminated may elect to bump to a lower title in his/her job series, or to a title outside of the employee's job series in the next lower salary grade to the employee's current salary grade, for which the employee is qualified, within his/her region, provided that there are persons with less seniority in the lower title(s). This option is limited to the least senior employee in the affected title.

D. An employee electing to reassign/bump as set forth above, must, upon request, provide to the ~~Appointing Authority~~ **Employer** an updated resume at the time of his/her notification of his/her intention to reassign/bump.

E. For the purpose of this Article the geographic regions shall be defined and agreed to by **the Employer** ~~HRD~~ **and** the Union ~~President of the Local affected and the appropriate representative of the Department/Agency~~**. The Union agrees to meet with the Employer upon request to determine the geographic regions.**

F. Employees who physically work in a particular region will be included in that region for bumping, layoff and recall regardless of the office to which their position is posted.

G. A full-time employee whose position has been eliminated has a right to be reassigned to the position of the least senior employee in the departmental unit, region, ~~appointing authority~~ or **Division** ~~statewide~~.

H. If the position of the least senior employee is a part-time position, the full-time employee whose position has to be eliminated may elect to:

1. Accept the part-time hours

2. Accept reassignment to the position of the least senior full-time employee;

3. Be laid off

I. The least senior full-time employee who is displaced as a result of the operation of Section ~~G.2~~ **H-2** above may:

1. Accept reassignment to the position of the least senior part-time employee in the same title provided the part-time is less senior

2. be laid off, or

3. exercise bumping rights.

J. A part-time employee whose position is eliminated may accept reassignment to the position of the least senior employee in the appropriate departmental unit, region~~,~~ ~~appointing authority or statewide~~ **Division.** The part time employee unwilling or unable to accept the hours of the position of the least senior employee shall be laid off.

K. In all of the aforementioned personnel transactions in this Article, any employee who has been notified that he/she will actually be laid off shall file with ~~his/her appointing authority,~~ **the Director of Human Resources** within four (4) working days of receipt of such notice, a written request to reassign in title, or bump down to displace other positions occupied by employees based upon their seniority and qualifications. As used in this Article, qualifications shall mean objectively demonstrable knowledge, skills, and/or abilities. Appeals of employees denied the opportunity to reassign/bump due to qualifications as defined herein shall be processed in accordance with provisions outlined in the parties' memorandum of understanding regarding expedited arbitration as set forth in Appendix D.

L. It is agreed that the provisions of this Article do not preclude an employee from requesting and the ~~appointing authority~~ **the Employer** from granting, a voluntary layoff regardless of the employee's seniority in the ~~Department.~~ **Division** It is understood that

this option of voluntary layoff shall include, but is not limited to recall rights, and payment for all accrued vacation time.

Section 18.5 Transfers

A. Within the ~~Department/Agency~~ **Division** the employee who is to be laid off shall have the opportunity to transfer laterally to a fillable, vacant bargaining unit title, within the ~~jurisdiction of his/her present appointing authority~~ **Division**, for which he/she is qualified.

B. Between ~~Agencies~~ **Divisions** – the employee who is to be laid off may file a request for transfer to any **Division within MassDOT** ~~agency in state service~~. Upon approval of that ~~agency~~ **Division Administrator**, such employee may be appointed to any vacancy in the bargaining unit in the same grade and title or any similar title for which he/she might meet the necessary qualifications in the same or lower salary range as the position from which he/she was laid-off. **MASSDOT** ~~S~~seniority shall be the determining factor in the event one or more such employees are seeking the same position in another **Division** ~~state agency~~. **It is understood that the term Division does not include the Massachusetts Bay Transit Authority. This provision shall not be subject to the grievance arbitration provisions of this Agreement.**

Section 18.6

A. The ~~Department/Agency~~ **Division** shall maintain a regional recall roster from which laid-off employees will be recalled, to positions to be filled, in accordance with their seniority an in accordance with their qualifications to perform the work. As soon as it is administratively feasible, the **Employer** ~~Commonwealth~~ shall establish and maintain a statewide recall roster.

B. If the title of the employee is abolished as a result of the transfer of the functions to another ~~department/agency~~ **Division**, such employee may elect to have his/her name placed on the recall roster or to be transferred, subject to the approval of the ~~appointing authority~~**Division Administrator**, to a similar position in such **Division** ~~department/agency~~ without loss of seniority, retirement, or other rights and in accordance with paragraph "A" above.

C. The ~~Department/Agency~~ **Employer** shall appoint employees on the recall roster, prior to the appointment of any other applicant, to fillable vacant bargaining unit ~~6~~ **D** positions for which the laid off employee is determined qualified by the Employer.

D. A laid off employee will remain on the recall roster for three (3) years except an employee who is offered recall to a position in the same job grade as the position from which he/she was laid off, and refuses such offer shall be removed from the recall list and his/her rights shall be terminated at that time.

E. Notwithstanding the above, a laid off employee who fails to respond in writing to a notice of recall within seven (7) calendar days of the receipt of such offer or who upon

acceptance of the recall offer fails to report to work on the appointed date, shall forfeit any further recall rights.

F. Notices of the recall sent by the ~~Appointing Authority~~ **Employer** to a laid off employee and the employee's notice of acceptance, or rejection of said recall shall be sent by certified mail, return receipt requested **to the most recent address on file with the Employer.**

G. Whereas the parties wish to ensure that the least senior employee is terminated first under the procedure for lay off and recall of non-civil service employees specified in Article 18, it is agreed as follows: the Employer shall appoint to permanent non-civil service vacancy the temporary employee with the most seniority within the job title within the work unit.

Section 18.7
Employees who are separated from employment as the result of the implementation of the layoff /bumping procedures and who are subsequently recalled to employment shall for purposes of determining their salary upon recall under Article 12, be credited with their prior service and shall not upon recall be considered to be "hired, reinstated or reemployed" notwithstanding the provisions of Article 12 to the contrary.

Section 18.8
In computing seniority as defined in this Article any break in service or any time off in excess of thirty (30) days shall be excluded from the total seniority except approved military, **FMLA, Massachusetts Paid Family Leave,** maternity, educational and industrial accident leave.

Section 18.9
The parties may, by agreement in writing, alter the implementation of this Article to meet the varying needs of the particular ~~department/agencies~~ **Division.**

ARTICLE 20
REASSIGNMENTS

Section 20.1
Management may implement geographical reassignments in accordance with departmental needs and shall request volunteers for said reassignments prior to making mandatory reassignments. An employee who is adversely affected by the reassignment may request a discussion of said reassignment with the ~~Appointing Authority or his/her designee~~ **the Employer**. In the discussion the **Employer** shall take into consideration the family lifestyle of the employee, the distance of the reassignment, the availability of car pools and/or public transportation and/or any other employee hardship.

Section 20.2
As a general rule, ~~MassDOT~~ the Employer will not involuntarily relocate any of its employees to another work location that is more than thirty miles from his/her current work location. For purposes of this provision, work location shall mean the location at which the employee customarily reports to work. Should management decide that operational needs require the involuntary relocation of an employee more than thirty 30 miles from his/her current work location ~~MassDOT~~ the Employer will do so from among the pool of qualified employees within the classification needed to relocate in the reverse order of seniority, provided that any employee so relocated shall not be relocated beyond an adjacent district. For purposes of this provision District 4 and District 5 shall be considered adjacent, except that no employee transferred between these districts shall be relocated more than 45 miles from their current work location, and further provided that any such employee so relocated will be returned to his former work location as soon as operational needs permit. ~~This Article shall not apply to employees assigned as resident engineers or inspectors; the assignment and reassignment of such employees shall be subject to the applicable collective bargaining agreement and to established practice thereunder.~~

ARTICLE 22

ARBITRATION OF DISCIPLINARY ACTION

Section 22.1
No employee who has been employed in the bargaining unit described in Article 1 of this Agreement for six (6) consecutive months or more shall be discharged, suspended, or demoted for disciplinary reasons without just cause. **The Employer may extend the probationary period for an additional three (3) months on a one time basis by providing a minimum ten (10) day notice to the employee prior to ~~in advance of~~ the expiration of the probationary period.** An employee who severs his/her employment with an Agency must serve an additional probationary period upon re-employment whether in the same or a different job title or the same or different agency. **Upon issuance of discipline, including demotion, suspension, or termination, the Employer will provide a copy of the written notification sent to the employee to the Union.**

Section 22.2 No changes to this section.

Section 22.3 No changes to this section.

Section 22.4 No changes to this section.

ARTICLE 23
GRIEVANCE PROCEDURE

Section 23.1
The term "grievance" shall mean any dispute concerning the application or interpretation of the terms of this Collective Bargaining Agreement.

Section 23.2
The grievance procedure shall be as follows:

Step I An employee and/or the Union shall submit a grievance in writing, on the grievance form prepared by the Employer (Appendix C) to the person designated by the Employer for such purpose not later than twenty-one (21) calendar days after the date on which the alleged act or omission giving rise to the grievance occurred or after the date on which there was a reasonable basis for knowledge of the occurrence. Such grievance shall identify the Article(s) believed to have been violated, state how and when the Article(s) was violated and state the remedy sought. The person so designated by the **Employer** ~~agency head~~ shall reply in writing by the end of seven (7) calendar days following the date of submission, or if a meeting is held to review the grievance by the end of twenty-one (21) calendar days following the date of the submission. **A meeting will be held upon request by either party or the matter will be waived to step II.**

Step II In the event the employee or the Union wishes to appeal an unsatisfactory decision at Step I, the appeal shall be presented in writing, on the grievance form prepared by the Employer to the Director of the Office of Employee Relations and Employment Law within ten (10) calendar days following the receipt of the Step I decision. Such grievance shall identify the Article(s) believed to have been violated, state how and when the Article(s) was violated and state the remedy sought. The **Employer** ~~agency head or his/her designee~~ shall meet with the ~~employee and/or~~ the Union for review of the grievance **upon request** and shall issue a written decision to the employee and/or the Union within fourteen (14) calendar days following the day the grievance is filed **or Step II conference is held, ~~whichever is later~~ but in no event later than 90 days after the grievance is filed.**

Disciplinary grievances filed at Step II ~~or Step~~ of the grievance procedure, must also contain the "Waiver of Right to Appeal Disciplinary Action" form (as outlined in Article 22). Grievances not containing the signed waiver by the date of the scheduled conference or the rendering of a decision shall be considered denied.

Step III Grievances unresolved at Step II may be brought to arbitration solely by the Union by filing a completed Request for Arbitration form with the Director of Labor Relations and Employment Law . Such form must be filed within thirty (30) calendar days of the receipt of an unsatisfactory Step II response. Grievances that are not filed for arbitration within the thirty (30) as provided above shall be considered waived.

Section 23.3 – No change

Section 23.4 – No change

Section 23.5
The parties will attempt to agree on an Arbitrator on a case-by-case basis. Failing such agreement within thirty (30) days of the Office of Labor Relations and Employment Law's receipt of the Request for Arbitration, if the Office of Labor Relations and Employment Law has not proposed to the Union a list of arbitrators acceptable to the Union ~~Office of Labor Relations and Employment Law~~ or if there has been no agreement on an arbitrator, the Employer or the Union may file said Request for Arbitration with the American Arbitration Association under its Voluntary Labor Arbitration Rules.

Section 23.6 – No change

Section 23.7- change "HRD" to "Employer"

Section 23.8- No change

Section 23.9- Change "Step IV" to "Step III"

Section 23.10- Delete "III" throughout

Section 23.11- No change

Section 23.12- Change " Department/Agency Head" to "Employer"

Section 23.13 – No Change.

Section 23.14- No Change

Section 23.15 –

A. Change "NAGE" to "Union"
Change "Commonwealth" to "Employer"
Change " Step III" to "Step II"

B. Change "Commonwealth" to "Employer"

C. Change "Step III" to "Step II"

Section 23.16 – change "Commonwealth" to "Employer"

ARTICLE 24A
PERFORMANCE EVALUATION

Section 24A.1 – EPRS Standards

The Employee Performance Review System (EPRS) shall permit variations in format between various departments. There shall be no variation in format within the same ~~Department/Agency~~ **department** for the same job titles. Any format must meet the following criteria ~~(subject to formal promulgation under M.G.L. c. 31, sections 4 and 6A.~~:

A.. All employee evaluations shall be in writing and shall be included in the employee's official personnel file. The Union shall be notified should the employee lack English proficiency to understand the evaluation and its process. All EPRS evaluations shall be based on "Meets" expectations "Exceeds" expectations, or "Below" expectations standard.

B. Evaluations shall be completed by the employee's ~~state~~ immediate supervisor and be approved by a ~~state~~ supervisor of a higher grade designated by the ~~Appointing Authority~~ **Employer** (except in cases of potential conflict of interest or other legitimate reasons).

C. A Final Formal EPRS evaluation shall be completed once per year for each **employee** ~~member of the bargaining unit~~. Probationary employees shall be evaluated by the mid-point of their probationary period. However, the standard EPRS program shall commence no later than the first July 1st of their employment.

~~D. Prior to each annual evaluation period, the employee's supervisor shall meet with the employee and shall inform the employee of the general performance dimensions and procedures to be utilized in evaluating the employee's performance~~.

D.~~E~~ The performance dimensions shall be job-related, objective and measurable to the extent practicable.

~~F. At least once during the evaluation period, at or near its midpoint, the supervisor shall meet with the employee to review the employee's progress. The employee shall have two (2) work days to review the evaluation prior to signing it. A remedial development plan shall be formulated jointly if the mid-term review results in a rating of "Below".~~

~~G. At or near the end of the evaluation period, the supervisor shall meet with the employee and inform the employee of the results of the evaluation. Following the employee's review, the form shall be submitted to the higher level supervisor~~

~~for final determination of ratings. The employee shall have two (2) work days to review the evaluation prior to signing and shall be given a copy of the completed form. The employee shall sign the evaluation and indicate whether he\she agrees or disagrees with the content thereof.~~

~~**Section 24A.2**~~

~~There shall be established within each agency a labor\management committee, consisting of not more than four representatives of each party, which shall meet at reasonable times to discuss any problems or issues surrounding the performance evaluation system.~~

Section 24.A.2 – EPRS Procedures

A. Prior to each annual evaluation period, the employee's supervisor shall meet with the employee and shall inform the employee of the general performance dimensions and procedures to be utilized in evaluating the employee's performance.

B. At least once during the evaluation period, at or near its mid-point, the supervisor shall meet with the employee to review the employee's progress. The employee shall have two (2) work days to review the evaluation prior to signing it. If the mid-term review results in a rating of "Below", the employee shall be placed on a remedial development plan. At least once not later than 90 days before the end of the evaluation period, the supervisor and employee shall meet to review the employee's progress. The supervisor will identify the employee's specific performance deficiencies and what the employee must do to attain a "Meets" rating.

C. **At or near the end of the evaluation period, the supervisor shall meet with the employee to inform the employee of the results of the evaluation. Following the employee's review, the form shall be submitted to a management employee designated by the Employer for final determination of ratings. The employee shall have two (2) work days to review the evaluation prior to signing and shall be given a copy of the completed form. The employee shall sign the evaluation and indicate whether he/she agrees or disagrees with the content thereof.**

~~**Section 24A.3**~~

~~A. Any employee who has received a rating of below will have his\her evaluation reviewed monthly by the appointing authority or his\her designee, who shall review all the circumstances of the rating. The appointing authority or his\her designee, may redetermine the rating after reviewing the circumstances of the initial evaluation. If the appointing authority or his\her designee redetermines the rating the employee will receive the increase retroactive to the date of the original step increase due, or Article 12 increase, whichever is appropriate. If the~~

~~Appointing Authority or his\her designee does not redetermine the rating the employee may file, through the NAGE within fourtenn (14) days with the Human Resources Division, a request for a review of the Appointing Authority's or his\her designee's determination by a tripartite panel consisting of one person designated by the NAGE, one person designated by the Chief Human Resources Officer and one person designated by the Chairperson of the Board of Conciliation and Arbitration who shall be assigned on a rotating basis. The standard of review to be applied by the panel shall be solely limited to whether or not the final performance rating of "Below" was justified, the decision of the tripartite shall be final and binding and any employees having a below rating overturned shall be made whole in as prompt a manner as possible. Any costs associated with this process will be borne equally by the parties and.~~

~~B. The Department\Agency shall develop a remedial plan for an employee receiving any "Below" rating. Employees that may be nearing a " Below" rating shall be counseled by his\her supervisor as soon as possible, in advance of their final stage of the evaluation as to the specific areas that must be improved and what they must do to attain a " Meets" rating.~~

~~C. All performance merit ratings shall be based upon the EPRS system as found in this Article of the NAGE Agreement and all payment of salary and\or step increases shall be based upon current language found in Article 12 related to pay for performance.~~

~~D. All financial considerations (i.e. merit increases, step rate increases) shall be based on the employees most recent, final annual evaluation.~~

Section 24A.3 – Redetermination and Appeal Rights

A. Any employee who has received a final rating of "Below" will have his/her evaluation reviewed by the Employer or his/her designee, who shall review all the circumstances of the rating. The Employer or his/her designee may re-determine the rating after reviewing the circumstances of the initial evaluation. If the Employer or his/her designee re-determines the rating the employee will receive the increases provided under Article 12 retroactively.

B. If the Employer does not re-determine the rating, the Union may file within fourteen (14) days of the decision a request for a review of the final rating by an arbitrator appointed by the Division of Labor Relations. The standard of review shall be solely limited to whether or not the final performance rating of "Below" was justified. The decision of the arbitrator shall be final and binding and any employee having a "Below" rating overturned shall be made whole in as prompt a manner as possible. Any costs associated with this process will be borne equally by the parties. The arbitration shall be conducted on an expedited basis as agreed by the parties.

C. Only employees receiving an annual rating of "Below" shall have the right to appeal the rating. Any employee who elects to appeal their EPRS rating pursuant to G.L. c. 31, §6C shall not be entitled to file an appeal under this agreement.

D. All performance merit ratings shall be based upon the EPRS system as found in this Article and all payment of salary and/or step increases shall be based upon current language found in Article 12 related to pay for performance based on the employee's most recent final annual evaluation. Notwithstanding the foregoing, the Employer may implement a program of bonuses for employees who receive a final rating of "Exceeds". The Employer shall meet with the Union prior to implementing any such bonus program and discuss the impacts on employee terms and conditions of employment.

Section 24A.4

~~Nothing in this Agreement shall be construed as limiting in any way any other appeal rights provided by law, except that the appeal procedures provided in this Agreement shall not be available to any employee who elects to appeal his\her evaluation rating under the provisions of G. Help. C. 31, section 6 C.~~

Section 24A.4 - Attainment of Meets or Exceeds

A. Any employee who receives a "Below" evaluation who then receives a "Meets" or "Exceeds" rating at the mid-point of the following annual evaluation period will be eligible for the denied step and/or denied salary increases effective the date of the mid-point evaluation. An employee's anniversary date for step purposes shall not be retarded upon receiving "Meets" or "Exceeds".

B. Any employee who is adversely impacted by an untimely evaluation shall be made whole upon completion of the performance evaluation and upon the final a final rating of "Meets" or "Exceeds".

C. When work related circumstances occur over which the employee or department has no control, the employee shall not be prevented from attaining an overall rating of "Meets".

Section 24A.5

~~The Parties agree to establish a Labor\Management Committee, consisting of four (4) representatives selected by the NAGE and four (4) representatives selected by HRD. The committee shall meet bi-monthly and shall review and make recommendations concerning the Commonwealth's policies and practices regarding the review and maintenance of personnel records. The committee shall also discuss problems involving the performance Evaluation System which are~~

~~unrelated to the Department\agency labor management committees established above.~~

Section 24A.5 – Labor Management Committees on EPRS

A. There shall be established a Labor/Management Committee, consisting of not more than four (4) representatives of each party, which shall meet at reasonable times to discuss any problems or issues surrounding the Performance Evaluation System.

B. There shall be established a Labor/Management Committee to review and make recommendations to the Director of Human Resources to revise the Performance Evaluation Guidelines/Form. Said Committee shall consist of three (3) representatives selected by the Union and three (3) representatives selected by the Employer. The Committee shall convene and shall continue to meet upon request by either party.

~~**Section 24.A.6**~~
~~The Parties agree to establish a Labor\Management Committee to review and make recommendations to revise the Performance Evaluation Guidelines\Form. Said committee shall consist of three (3) representatives selected by the union and three (3) representatives selected by HRD. The committee shall convene and shall continue to meet upon request by either party.~~

Section 24.A.6 -
Consistent with the Employee Performance Review Guidelines promulgated by the Commonwealth Human Resources Division, nothing in this Article is intended to restrict the Employer's ability to discipline or discharge any employee for performance related issues during the EPRS cycle.

ARTICLE 30
WAGE REOPENER

In the event that during the term of this Agreement a Collective Bargaining Agreement is submitted by either the Governor, or the Secretary for Administration & Finance and said Agreement is funded by the Legislature and in the event such Agreement contains provisions for across-the-board salary increases or other economic terms that in the aggregate are in excess of those contained in this Agreement, the parties agree to re-open those provisions of this Agreement to further bargaining.

ARTICLE 31
DURATION

This Agreement shall be for the three-year period from July 1, ~~2014~~ **2017**to June 30, ~~2012~~ **2020** and terms contained herein shall become effective upon execution unless otherwise specified. It is expressly understood and agreed that subject to ratification by the ~~NAGE~~ **Union** Membership, the predecessor collective bargaining agreement shall be voided and superseded by all aspects of this collective bargaining agreement. Should a successor Agreement not be executed by June 30, 20~~17~~ **20**, this Agreement shall remain in full force and effect until a successor Agreement is executed or an impasse in negotiations is reached. At the written request of either party, negotiations for a subsequent Agreement will be commenced on or after January 1, ~~2017~~ **2020.**

NEW ARTICLE
INSTALLATION AND USE OF GPS DEVICES ON MASSDOT VEHICLES

Beginning January 1, 2019, the Employer may install and/or use Global Positioning System devices or other similar technology in department vehicles and use the data obtained by such devices for any business purpose, including but not limited to the deployment of personnel, the safety of the public and employees, and to gather statistical data regarding the efficiency of department vehicles. The Employer shall not use any such system to conduct live surveillance of employees on either a random or scheduled basis. However, where the Employer has received a credible complaint, or possesses other independent reliable information, the Employer may use stored data to investigate allegations of misconduct or policy violations. In any disciplinary proceeding where the Employer relies on the GPS data to establish employee misconduct or a policy violation, it shall provide a copy of the data to the Union as may be required by G.L. c. 150E. All vehicles with installed and active GPS or similar technology will be identified by a conspicuously placed sticker or other indicator. The Union acknowledges that such devices have already been installed in some department vehicles.

MODIFICATIONS TO MASTER LABOR INTEGRATION AGREEMENT

The following provisions of the Master Labor Integration Agreement are modified as appears below and are incorporated into the collective bargaining agreement. The parties agree to use their mutual good faith efforts to agree on the appropriate placement and numbering of the provisions.

SHIFT BIDDING

For employees who occupy a position in the HV Electrician or Telecommunication Analyst job series, shift schedules shall be posted annually during the last two (2) weeks in September, to be effective the first week of October. Employees shall have a choice of schedules, when posted, on the basis of classification seniority.

In areas or districts where more than one work shift exist**ed as of November 1, 2009,** MassDOT will determine the effective date as well as the number and hours of the shifts to be bid at each shift bid in accordance with any applicable provision governing work-week scheduling. Any changes in the number of shifts or hours of the shifts from the prior shift bid will be for operational needs. Before making any changes in the number or hours of shifts to be bid, MassDOT will meet with the affected unions and provide the unions with the reasons for each change and consider suggestions from the unions for the number and hours of each of the shifts to be bid.

Shift bids shall be posted for bidding at least once per year, but no more than two (2) times per year. Shift schedules shall be posted for seven (7) calendar days. Employees within the area or district in the applicable titles will timely bid for their preferred shift no later than the end of the seven (7) calendar day period following the posting based on classification seniority. Time spent by a former Massachusetts Turnpike Authority or Port employee in a job classification that has been assigned to a state title shall be deemed to be seniority within the state title for purposes of determining classification seniority in that title.

As a general rule, MassDOT shall not change an employee's shift/bid assignment. Should it become necessary in response to operational needs to adjust an employee's shift/bid, then absent an emergency situation, revisions to work schedules will be made with no less than ten (10) calendar days advance notice. Prior to making involuntary shift schedule change(s), Management shall request volunteers from qualified employees within the same title in the area or district where the open shift(s) exists. If there are insufficient volunteers, the shift schedule of the least senior qualified employee within the same title in the area or district where the open shift(s) exist on a shift where operations would be least impacted by an open shift will be adjusted.

This Article does not establish a minimum staffing obligation on the employer nor an obligation to fill any vacant shift on either a regular or an overtime basis.
This provision shall be incorporated into the collective bargaining agreements governing bargaining units B, C, D, and E, shall prevail over any conflicting provision, and is subject to the grievance arbitration procedure contained in the collective bargaining agreement applicable to the bargaining unit.

CONTRACTING OUT

Absent an emergency situation demanding otherwise, MassDOT shall not outsource bargaining unit work beyond the scope of any such work that it was out sourcing as of November 1, 2009, except in cases where employees of MassDOT are unable or unwilling to perform such services owing to lack of expertise or proper licensure/certification, or other inability to perform such services on the schedule or in the manner required by MassDOT, or under other circumstances where MassDOT reasonably determines that the public safety requires or that the public convenience would be unduly disrupted. Nothing in this provision shall limit the application of G.L. c. 29, sec. 29A to the extent that such provisions are applicable to MassDOT.

~~This provision shall be incorporated into the collective bargaining agreements governing bargaining units B, C, D, E and F, shall prevail over any conflicting provision, and be subject to the grievance arbitration procedure contained in the collective bargaining agreement applicable to the bargaining unit.~~

Appendix C

Assignment of Work in a Higher Classification Unit D

To: _____
(Employee Name)

From: _____
(Department Head)

Effective _____you are being assigned to perform the duties described below which are outside of your current classification in a higher job classification. You will be paid at the higher grade from the first day of assignment after you perform the duties for a period of thirty (30) consecutive days or more.

Current classification: _____

Higher classification: _____

Below is a description of the duties being assigned:

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

Approved By:

_____
Director or Designee

Date:_____

APPENDIX D-1

MEMORANDUM OF UNDERSTANDING

BETWEEN THE MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

AND

COALITION OF MASSDOT UNIONS

FOR BARGAINING UNIT D

The parties agree that all non-work related non-revenue transponder privileges provided to bargaining unit members are revoked effective June 26, 2018.

Entered this _____ day of _____, 2019.

Massachusetts Department of Transportation

By:_____
Maria C. Rota, Acting Director
Office of Labor Relations and
Employment Law

By:_____
Boris Lazic, Chief Human
Resources Officer

Coalition of MassDOT Union for Unit D

By:_____
Faren Woolery, President of
National Association of Government
Employees, Local 368 and Chairperson for
CMU for Unit D

APPENDIX D-2

MEMORANDUM OF UNDERSTANDING

BETWEEN THE MASSACHUSETTS DEPARTMENT OF TRANSPORTATION AND

COALITION OF MASSDOT UNIONS

FOR BARGAINING UNIT D

The parties agree that the side letter agreement between the Commonwealth of Massachusetts and the National Association of Government Employees dated 2/3/00 Regarding Bargaining Unit 6 employees concerning payment of emergency overtime is null and void as of July 1, 2018.

Entered this _____ day of _____, 2019.

Massachusetts Department of Transportation

By:_____
Maria C. Rota, Acting Director
Office of Labor Relations and
Employment Law

By:_____
Boris Lazic, Chief Human
Resources Officer

Coalition of MassDOT Union for Unit D

By:_____
Faren Woolery, President of
National Association of Government
Employees, Local 368 and Chairperson for
CMU for Unit D

APPENDIX D-3

MEMORANDUM OF UNDERSTANDING

BETWEEN THE MASSACHUSETTS DEPARTMENT OF TRANSPORTATION AND

COALITION OF MASSDOT UNIONS

FOR BARGAINING UNIT D

Transfer of Accruals and Credible Service for Vacation and Sick Time

The parties agree that the Commonwealth of Massachusetts Guidelines for the Transfer of Benefits issued by the Human Resources Division, a copy of which is attached hereto shall be applied to bargaining unit employees and remain in effect until the Commonwealth amends, modifies or revokes them.

GUIDELINES FOR TRANSFER OF BENEFITS

The following Guidelines cover basic questions that agencies typically have about what credit for prior service an employee can receive toward vacation and sick leave upon transfer from a public agency into a classified position subject either to collective bargaining or the Red Book. If an employee is leaving classified service to go to another public agency not subject to our rules, the rules of that public agency determine what benefits may be transferred. In such instances, refer the employee to the agency to which he or she is transferring.

General Issues

- To answer questions about transfer of benefits, you need to know what type of public agency the employee is coming from (state authority, local authority, Higher Education, legislature, municipality), and what type of classified position he/she is going into (management, collective bargaining, confidential). You also need to know if there has been a break in service of less than three years between the two jobs; if the break is three years or more, employees cannot get any credit at all.

- "Vacation status" is the credit for time previously worked that determines the rate at which an employee earns vacation in a classified position. For example, if the employee had five years of service in a city or town upon entering the classified position, he or she can begin earning vacation at the rate of 15 days per year.

- "Vacation and sick leave credits" are those unused leave balances earned in the previous job that may, under some circumstances, be brought into the classified job. Our rules limit the amount of such credits employees can actually bring over. Employees seeking these credits must complete a Transfer Form and send it in to HRD. The Red Book was revised in November 1999 to and allows for the transfer of these credits.

- Questions about "creditable service" for retirement purposes should be referred to the State Retirement Board. Such credit is allowed and calculated according to the rules set forth in Chapter 32 of the General Laws; "creditable service" and breaks in service for retirement purposes are thus figured differently than they would be for sick/vacation purposes.

- State and local authorities include Massport, MBTA, MWRA, Mass. Turnpike Authority, Mass. Housing Finance Agency, and local Housing Authorities. These are public agencies whose funding does not come from the Appropriation Act.

- Constitutional and Independent Offices include the Secretary of State, State Auditor, Inspector General, Treasurer, State Ethics Commission, Office of Campaign and Political Finance.

- Higher Education includes Board of Higher Education, University of Mass. and all state and community colleges.

Transfer from:	**Managers/Confidential (see Red Book)**	**Collective Bargaining**
Federal Government	No credit	No credit
Other States	No credit	No credit
Mass. Cities, Towns and Counties	Vacation status only	Vacation status only
Mass. State and Local Authorities	Vacation status only	Vacation status only
Legislative Branch, Governor's and Lt. Governor's Offices	Vacation status, vacation credits and sick leave credits	Vacation status and sick leave credits only
Judicial Branch	Vacation status, vacation credits and sick leave credits	Vacation status only
Constitutional and Independent Offices (including Counties that have officially become state agencies)	Vacation status, vacation credits and sick leave credits	Vacation status only
District Attorneys' Offices	Vacation status, vacation credits and sick leave credits	Vacation status only

Higher Education	Vacation status, vacation credits and sick leave credits	Vacation status only
Other classified positions, and certain managerial unclassified positions (e.g. Cabinet Secretaries, Undersecretaries, etc.)	Vacation status, vacation credits and sick leave credits*	Vacation status, vacation credits and sick leave credits*

* If break in service is 3 years or more, see Red Book or contract for special conditions under which Personnel Administrator can approve re-crediting of prior time for reemployment/reinstatement.

Entered this _____ day of _____, 2019.

Massachusetts Department of Transportation

By:_____
Maria C. Rota, Acting Director
Office of Labor Relations and Employment Law

By:_____
Boris Lazic, Chief Human Resources Officer

Coalition of MassDOT Union for Unit D

By:_____
Faren Woolery, President of National Association of Government Employees, Local 368 and Chairperson for CMU for Unit D

APPENDIX D-4

MEMORANDUM OF AGREEMENT BEWTWEEN THE MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

"EMPLOYER"

AND

THE COALITON OF MASSDOT UNIONS FOR UNIT D

"UNION"

RE: EMPLOYEE INCENTIVE BONUS PROGRAM

Whereas the Employer and the Union recognize the benefit of establishing an employee performance bonus program to recognize exceptional performance and promote employee engagement, they agree to the following:

1. The Employer may implement a bonus program covering employees who receive a final rating of "Exceeds" on their annual Employee Performance Review System review.

2. The Employer shall have the sole authority to determine the total cost of the program, the amount of any individual bonus, the design and duration of the program, and any other matter related to the program not specifically limited by the terms of this agreement.

3. The Employer shall have the sole right to suspend, modify or terminate the program at any time.

4. The Employer agrees to meet with the Union prior to the implementation of the program to discuss the impacts of the program on any mandatory term and conditions of employment.

5.. The Union acknowledges that it had the full opportunity to bargain over the bonus program during the course of negotiations for the Collective Bargaining Agreement for the term July 1, 2017 to June 30, 2020 and that the Employer has no further obligation to bargain.

6. This agreement shall not be subject to the grievance and arbitration provisions of any applicable collective bargaining agreement.

SIGNATURES APPEAR ON FOLLOWING PAGE

Entered this _____ day of _____, 2019.

Massachusetts Department of Transportation

By:_____
Maria C. Rota, Acting Director
Office of Labor Relations and Employment Law

By:_____
Boris Lazic, Chief Human Resources Officer

Coalition of MassDOT Union for Unit D

By:_____
Faren Woolery, President of National Association of Government Employees, Local 368 and Chairperson for CMU for Unit D

The parties intended to be bound have executed this agreement by their authorized representatives as of the _____ day of _____, 2019.

Massachusetts Department of Transportation

By:_____
Stephanie Pollack, Secretary

By:_____
Boris Lazic, Chief Human Resources Officer

By:_____
Maria C. Rota, Acting Director
Office of Labor Relations and Employment Law

Coalition of MassDOT Union for Unit D

By:_____
Faren Woolery, President of
National Association of Government Employees, Local 368 and Chairperson for CMU for Unit D