

2013 - 2015

Agreement between

The State of Montana

and

The American Federation of  
State, County and Municipal Employees  
Highway Maintenance

## TABLE OF CONTENTS

ARTICLE 1 RECOGNITION.....	3
ARTICLE 2 UNION SECURITY .....	3
ARTICLE 3 SENIORITY.....	4
ARTICLE 4 SHOP STEWARD CLAUSE - NON-DISCRIMINATION .....	4
ARTICLE 5 RULES, REGULATIONS AND POLICIES.....	5
ARTICLE 6 MANAGEMENT RIGHTS .....	5
ARTICLE 7 CAREER LADDER, VACANCIES AND REQUIREMENTS .....	6
ARTICLE 8 PAY AND HOURS.....	8
ARTICLE 9 HOLIDAYS AND LEAVES .....	10
ARTICLE 10 GRIEVANCE AND ARBITRATION PROCEDURE.....	11
ARTICLE 11 HEALTH AND SAFETY .....	12
ARTICLE 12 ALLOWABLE PER DIEM EXPENSES .....	13
ARTICLE 13 GENERAL .....	13
ARTICLE 14 JOB CLASSIFICATIONS .....	14
ARTICLE 15 MUTUAL AGREEMENT.....	15
ARTICLE 16 SAVINGS CLAUSE.....	15
ARTICLE 17 EFFECTIVE DATE - TERM.....	15
ADDENDUM A CLASSIFICATION AND WAGE SCHEDULE.....	17
ADDENDUM B ECONOMICS.....	20
MEMORANDUM OF UNDERSTANDING.....	21

**AGREEMENT BETWEEN  
THE STATE OF MONTANA  
AND  
THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES  
HIGHWAY MAINTENANCE**

THIS AGREEMENT is made and entered into this 26 day of August 2013, by and between the State of Montana, Department of Transportation, hereinafter called the EMPLOYER and the AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES (AFL-CIO), its Montana State Council No. 9 and its Local Unions Nos. 118, 156, 225, 243, 616, 852, 1073, 1621, 1900, and any locals of the Union representing Department of Transportation's employees, all of which are hereinafter called the UNION, for the purpose of promoting and improving the relations between the Employer, its employees, and the Union, establishing a formal understanding relative to all conditions of employment and providing a means for amicable and equitable adjustment of any and all differences or grievances which may arise, all of which the parties hereto believe and affirm will insure to the welfare and benefit of the people of the State of Montana;

**WITNESSETH:**

In consideration of the mutual covenants herein set forth which have been mutually determined at negotiating conferences the Employer and the Union agree will be bound as follows:

**ARTICLE 1  
RECOGNITION**

Section 1. The Employer recognizes the Union as the sole and exclusive bargaining agent for all Maintenance employees of the Montana State Department of Transportation, classified under Addendum "A" attached, employed to do highway maintenance work covered by the terms of this Agreement.

Section 2. The jurisdiction of the Union will be that unit duly certified by the Board of Personnel Appeals.

Section 3. The jurisdiction between the local unions will be the sole responsibility of the Union.

**ARTICLE 2  
UNION SECURITY**

Section 1. To assist the employees covered by this Agreement as a group in meeting the costs of planning, negotiating, and administering this Agreement and of protecting and promoting their interests, each employee as a condition of initial and continuing employment will be required to either maintain membership in or pay to the union a representation fee to be established by the union.

Section 2. All employees will have 30 days from the date of the signing of this Agreement or date of employment, whichever is greater, to pay the fees properly assessed in Section 1 of this Article.

Section 3. The Employer agrees to accept and honor voluntary written assignments of Union dues from wages or salaries due and owing employees covered by this Agreement provided that such assignments can be grouped and the total made payable to one assignee.

Section 4. The Union will indemnify, defend and hold the Department of Transportation and the State of Montana harmless against any claim made and against any suit instituted against the Department of Transportation, including attorney's fees and costs of defense thereof, on account of any provision of this Article.

### **ARTICLE 3 SENIORITY**

Section 1. Seniority will be recognized after three months of continuous service in a field maintenance area and will include the first three months of employment time from the most recent date of hire.

Section 2. Layoffs: The last person hired within a field maintenance area will be the first person laid off or transferred. In cases involving the same hire dates, the employee with the highest score on the employment test will avoid the layoff. If the test scores are the same, the employee with the highest number in the last four digits of his/her social security number will avoid the layoff.

Section 3. Recall: If a position is vacated by the layoff of the least senior employee and then later restored by the employer, the vacated position will be posted within the field maintenance area. If the vacated position remains unfilled after the bidding process is completed, laid off employees will be recalled in reverse order of layoff to the vacated position providing the position is in the previous grade and classification of the laid off employee. Recalled employees must respond within 15 days to a certified letter offering re-employment or forfeit all rights to re-employment.

Section 4. Seniority will be revoked if an employee: retires or otherwise terminates employment; is discharged; transfers out of the bargaining unit; or refuses or fails to respond to a recall from layoff, or refuses to return to work on the date requested, as long as the date requested allows an employee who has obtained interim employment to give two weeks notice of termination to the interim employer.

Section 5. Seniority will continue to accrue for up to a period of 18 months if an employee is on layoff or is granted an authorized leave of absence. All of an employee's seniority will be revoked if the employee has not been recalled from a layoff by the end of the 18-month period. Also, an employee on an approved leave of absence at the end of the 18-month period will cease to accrue seniority until his/her return to work or revokes seniority in accordance with Section 4.

Section 6. Discharge will be subject to review in accordance with grievance and arbitration provisions of this Agreement.

Section 7. When crews of differing jurisdictions (Crafts/AFSCME) are combined, seniority will prevail for work assignments. No employee will receive differential pay, as outlined in Article 14, because of this provision.

Permanent employees will have seniority over temporary or seasonal employees regardless of jurisdiction.

Section 8. Once annually and upon request by an AFSCME field representative, the employer will provide a list of all permanent, full-time bargaining unit employees, their hire dates, and their pay locations.

### **ARTICLE 4 SHOP STEWARD CLAUSE - NON-DISCRIMINATION**

Section 1. The Employer will grant a reasonable amount of time off without pay, to Union members whenever required in the performance of duties as a "duly authorized representative of the Union," provided such absences do not interfere with the operation of the Department of Transportation. "Duly authorized representative" means members of regularly constituted committees and/or officer of the Union.

Section 2. The Union(s) will furnish the Maintenance Chief lists of the names of said representatives and will update those lists when appropriate. Further, the Union shall furnish one name as a point of contact per local for processing grievances.

Section 3. This Agreement will allow three shop stewards at each field maintenance area in the Union's jurisdiction. If an employee is located away from the steward's work location such employee will contact the steward on his/her own time and at his/her own expense.

Section 4. No employee will be discharged or discriminated against by the Employer for upholding Union principles or working under the instructions of the Union, so long as such activity does not interfere with the operations of the Department of Transportation. The parties further agree that each will fully comply with applicable laws and regulations regarding discrimination against any applicant for employment or any applicant for Union membership because of such person's race, religion, color, national origin, or sex.

## **ARTICLE 5**

### **RULES, REGULATIONS AND POLICIES**

Section 1. All existing rules, regulations, and policies of the Department of Transportation that are not specifically covered by this Agreement will remain in full force and effect, provided such rules, regulations, and policies are not in conflict with the terms of this Agreement.

The Union will notify the Administrator, Department of Transportation Human Resources Division, when discrepancies in application and enforcement of rules, regulations and policies are discovered. The Administrator will then investigate such discrepancies and notify the Union of resolution.

Section 2. The Employer agrees to notify the Union, in writing, of, and the Union may discuss with the Employer, the establishment of new rules, regulations, and policies affecting maintenance employees or changes in such rules, regulations, or policies prior to placing them in effect. Such changes will be posted on bulletin boards for a period of 15 consecutive work days before becoming effective, excepting in cases of emergencies requiring immediate action.

Section 3. Employees will comply with all reasonable rules, regulations, and policies that are not in conflict with the terms of this Agreement, provided they are uniformly applied and enforced. Questions concerning the reasonableness of rules will be addressed informally and, if not resolved, will be addressed through the grievance procedure.

Section 4. Any unresolved complaints as to the reasonableness of any new or existing rules, regulations, or policies, or discrimination in their application, will be resolved through the grievance procedure.

## **ARTICLE 6**

### **MANAGEMENT RIGHTS**

Management retains the rights to manage, direct, and control functions in all particulars except as limited by the terms of this Agreement, or state law. Such rights will include but not be limited to:

1. Directing employees.
2. Hiring, promoting, demoting, transferring, assigning, and retaining employees.
3. Relieving employees from duties because of lack of work or funds, or under conditions where continuation of such work would be inefficient or non-productive.
4. Maintaining the efficiency of government operations.
5. Determining the methods, means, job classifications, and personnel by which the employer's operations are to be conducted.
6. Taking whatever actions may be necessary to carry out the missions of the Employer in situations of emergency.
7. Establishing the methods and processes by which work is performed.

The retention of these rights does not preclude any employee, or the Union, from filing a grievance or seeking a review of the exercise of this right in a particular case.

## ARTICLE 7

### **Career Ladder, Vacancies and Requirements**

This section provides the system for promoting employees within the maintenance technician series. Employees will be promoted by completing the required time in grade, classroom training, practical experience, and by successfully completing the MDT Maintenance Academy.

AFSCME Council 9 will be notified by email of position openings covered by the agreement.

#### **Section 1: Career Ladder Advancement**

- A. The certification board will consist of four members: one AFSCME field representative, one bargaining agent from the Craft Council, and two members from management of the Montana Department of Transportation. Alternate committee members may be substituted when current members are unable to attend. The board will approve certification requirements in the maintenance career ladder program, and resolve any disputes regarding career ladder decisions.

#### **subsection 2. Career Ladder Policy.**

- A. An Employee will be eligible for promotion when s/he has met the requirements of this provision. The effective date for promotion will be the first pay period after the employee has met all promotion requirements.
- B. Promotion to the Maintenance Technician II, Maintenance Technician III and Maintenance Technician IV is allowed without a vacancy provided an employee has met the certification requirements.
- C. No differential will be paid for work performed in a higher classification within the maintenance technician series.
- D. An employee in the classification outside the Maintenance Technician Career Ladder can be included in this policy provided s/he begins as a Maintenance Technician I after successfully completing the selection process and being selected for the vacancy.
- E. All time employed with MDT as a seasonal/temporary maintenance technician will count for promotional purposes (2,080 hours equals one year).
- F. This provision supersedes the staffing levels outlined in Section 6 of the addendum to the contract for the maintenance technician series.

#### **subsection 3. Certification Requirements.**

- A. To be considered for promotion, an employee must meet the time-in-grade requirements, complete the classroom training and practical experience, and obtain a certificate of completion from the MDT Maintenance Academy.
- B. An employee classified as Maintenance Technician I will be promoted to a Maintenance Technician II when s/he has completed one year experience as a Maintenance Technician I.
- C. An employee classified as Maintenance Technician II will be promoted to a Maintenance Technician III when s/he has completed the following:
  - Forty-two hours of classroom training on the following topics: four hours of advanced traffic control; 16 hours MMS, and computer training, eight hours management and communications training, six hours general math, and eight hours instruction on in-grade equipment. Up to four hours of approved videos by the Certification Board may substitute for the classroom training required by this section.
  - Ninety hours of practical experience on in-grade equipment within the Maintenance Technician III and IV series listed in Addendum A. The 90 hours must include 30 hours of direct supervision and 60 hours of on-the-job training (indirect supervision), with a maximum of 40 hours on one piece of equipment. Training hours at the MDT Maintenance Academy will count toward direct supervision hours.
  - Two years experience as a Maintenance Technician II.
  - Certified completion of the MDT Maintenance Academy.

- D. An employee classified as Maintenance Technician III will be promoted to a Maintenance Technician IV when s/he has:
- Two years experience as a Maintenance Technician III.
  - Certified completion of the MDT Maintenance Academy.
- E. Other department-sponsored courses may be required as a condition of employment but are not required for career ladder advancement.

## **Section 2. VACANCIES**

### **A. Maintenance Technician Opening**

1. The position will be posted in the field maintenance area, and employees covered under the AFSCME contract will be given first consideration for vacant positions within the maintenance area. Management will make every effort to give a minimum two week notice to the employee prior to the effective start date, unless by mutual agreement between the employer and the employee. If there are no permanent full-time applicants or if none of the permanent applicants qualify for the position, the Employer will then fill the position within the seasonal classification. If there are no seasonal employees signed up for the position, or if none of the seasonal applicants qualify for the position, the Employer will then fill the position from within the temporary classification. (For purposes of this section, permanent full time will not apply to seasonal or temporary employees)
2. Each year of temporary employment as a Maintenance Technician I with MDT will count as one point, with a maximum of ten points for seniority. The point(s) will be added to the total passing score. S/he must also successfully complete a competitive selection process both at the selection for initial hire and permanent hire. This seniority provision applies only to the selections indicated in this paragraph.
3. If there are no temporary employees signed up for the position, or if none of the temporary applicants qualify for the position, the Employer may hire from whatever source the Employer wishes to utilize. Nothing in this provision precludes the Employer from exercising other management selection rights, such as reference checks.
4. Seniority within the field maintenance area will be the controlling factor for a permanent employee desiring to fill or transfer to a vacant position within the maintenance technician series with the understanding that permanent full-time employees will be considered first over seasonal and temporary employees.
5. For the purposes of this section, seniority for permanent full time employees will be calculated from the first date an employee obtains permanent full-time status with the department.
6. If another maintenance technician vacancy occurs in the same maintenance section within 60 days of the original vacancy posting, the same applicant pool may be used for the selection.

### **B. Other Positions (non-maintenance technician)**

1. The selection of applicants for all other positions outside the Maintenance Technician career ladder will be filled according to MDT policy.
2. There will be at least one union member from AFSCME/CRAFTS, chosen by management on the selection committee for Section Person positions.

## **Section 3 – General Conditions for All Maintenance Positions**

- A. Within 30 days of hire, the full CDL with Class A Type II, air brakes and tanker endorsements will be required for continued employment. If an employee is unable to acquire the full CDL licensure within 30 days due to testing limitations, the employee must notify the Maintenance Chief, who may grant an extension.
- B. Vacancies for Maintenance Superintendent, Shop Superintendent, and Field Maintenance Bureau Chief or other equal or higher-rated positions are not covered by this Agreement.

- C. Qualifications for job openings will include a requirement that the successful applicant establish their permanent residence within 30 road miles from the section house within 30 calendar days of the effective date of the appointment, and that the applicant must have a telephone or reasonable access to the section house. This does not include mechanics/machinists.
- D. For applicants outside the section, qualifications for section person openings will include a requirement that the successful applicant establish their permanent residence within 20 road miles from the section headquarters within 30 calendar days of the effective date of the appointment, and that the applicant have a telephone or reasonable access to the section headquarters. All permanent employees as of November 21, 2000, who live within a 30 mile radius of any section will be grandfathered and protected from the 20 mile requirement in the event these become section persons in any of those sections.

Employees may request an extension of time to move in accordance with MDT policy.

## **ARTICLE 8**

### **PAY AND HOURS**

Section 1. Definition of Work Day and Week. A regular work day will consist of eight hours continuous except for a normal lunch period not to exceed one hour. A regular work week shall consist of 40 hours, five regular work days, Monday through Friday, inclusive. A designated work week shall consist of 40 hours composed of any five consecutive work days immediately followed by two days off. The schedule for a designated work week will be established by the Employer.

Alternate work schedules (four 10-hour days, or four nine-hour days and one four-hour day) will be discussed and mutually agreed to in writing with the Union prior to implementation.

Section 2. Application of Work Day and Week.

- A. For routine highway maintenance work the regular work week will prevail.
- B. The assignment of the duties of janitor, serviceman, watchman, and similar type work will normally be confined to the classification within an area headquarters maintenance section of serviceman or combination man on a designated work week basis. Maintenance employees in other classifications within an area headquarters maintenance section, may by mutual agreement be assigned to these duties on a designated work week basis in cases of emergency or approved leave. In case mutual agreement cannot be reached with any employee, the employee with the least seniority within an area headquarters maintenance section in grades 5 through 8 will be assigned this duty.
- C. Maintenance employees may by mutual agreement be assigned to duties on a designated work week basis in cases of emergency, approved leave, or winter weather conditions. In case mutual agreement cannot be reached with an employee, this duty will be assigned by seniority beginning with a list of permanent full-time employees and then a list of seasonal and temporary employees, with the exception of the section person a period not to exceed two weeks.
- D. Employees will be given 24 hours notice prior to a change of shift.
- E. When an employee is scheduled for training, the work shift may be changed by the supervisor for that training with 24 hour notice.

Section 3. All time worked in excess of eight hours in any one work day, or all time worked in excess of 40 hours in any one work week, or on days other than the designated work week, will be compensated at the rate of one and one-half times the regular rate or one and one-half times compensatory time. Selection for either option can be made at in April and October of each year of the contract term; or upon initial hire or when an employee changes positions. If an employee elects to be compensated by time off, the maximum amount s/he may accrue is 60 hours. Any excess hours earned beyond 60 will be compensated at time and one-half pay. Compensatory time may not be accrued while in grade differential status.

Work days will commence at midnight except where a designated shift extends through the midnight hour, or where the employee is working on an overtime rate immediately prior to midnight, in which case the overtime rate will continue until the employee is released.

Time and one-half pay or compensatory time will be given for work performed prior to or after the designated shift. The overtime provisions of the labor agreement are intended to provide a premium for employees working under said provisions. With this understanding, the employees covered by the labor agreement are encouraged to avail themselves to said premium pay in accordance with the Employer's needs.

Section 4. The Employer will attempt to equalize overtime during the period from May 1 through April 30 of each year, between permanent employees in each field Maintenance Section, with all employees being considered equal each May 1. Overtime for each employee will be posted in the section headquarters.

Section 5. If an employee works on any holiday as set forth in Article 9, s/he will be compensated two and one-half times his/her regular rate of pay for all hours worked on said holiday. If an employee works on an additional day as set forth in Article 9, s/he will be compensated at two and one-half times his/her regular rate of pay for all hours worked on said additional day. If, however, an employee works the additional day and receives pay as described herein and the employee also works the actual day of the holiday, then such work on the actual day of the holiday will be compensated at one and one-half times pay if such time is in excess of the employee's 40-hour work week.

Section 6. Sunday. Except for positions classified as Rest Area Caretakers, employees working on a Sunday will receive one and one-half times the regular rate for all hours worked.

Section 7. Call Out. If an employee is called out on a Saturday, Sunday, or holiday, each and every call out will be for a minimum of four hours. . If call-out time is over four hours the minimum will be six hours. If the call-out time is over six hours the minimum will be eight hours. Compensation for Saturday and Sunday will be at one and one-half times pay and for holidays will be two and one-half times pay. If the employee is called out on any other day, each and every call out will be for a minimum of two and one-half hours at one and one-half times pay. Time spent on a call will be relieved after the emergency is satisfied and all work stemming from the emergency has been completed. Time spent on all emergency work will be designated at the time of the call out work.

For call out assignments on an employee's days off, reasonable excuses will be honored, however each employee will realize it is essential that s/he make an effort to cooperate with call out requests during winter weather conditions or emergency situations. It is understood storm emergency employees may be used to achieve and complement a proper work force after making an attempt to contact all regular employees. It is further understood that Article 8, Section 4, may not be complied with in the application of this clause.

Seasonal and temporary employees who are in an on-call status will be paid straight time for call-outs, until they work 8 hours in a work day, 40 hours in a work week or are called out on a premium shift (Saturday, Sunday and Holiday)

Section 8. Casual or seasonal storm emergency employees may be used to achieve and complement a proper work force. It is understood that the hiring of casual or seasonal storm emergency employees will not offset overtime for regular employees.

Section 9. The Department of Transportation agrees to pay Section Persons "A" ,"B" and "C" overtime compensation for hours worked in excess of eight hours per day or 40 hours per week, according to Article 8, Section 4, within the following criteria:

- A. Section Person A ,B or C accumulated overtime hours must not ordinarily exceed the lowest accumulated hours of any person on his/her crew. Special unforeseen situations may occur that the Section Person A, B or C may temporarily exceed the lowest accumulated hours of any person on his/her crew. This condition should occur infrequently and should be corrected at the first opportunity.
- B. Claims for overtime by Section Person A ,B or C will be subject to audit by the Department and abuse of the foregoing policy or failure to adequately schedule subordinates' work schedules are grounds for corrective or disciplinary actions.

## **ARTICLE 9 HOLIDAYS AND LEAVES**

Section 1. Employees will be granted the following holidays without loss of pay:

- |   |  |
|---|--|
| 1. New Year's Day   | 1st Day of January   |
| 2. Martin Luther King Jr. Day                                   | 3rd Monday in January  |
| 3. President's Day  | 3rd Monday in February   |
| 4. Memorial Day   | Last Monday in May   |
| 5. Independence Day   | 4th Day of July  |
| 6. Labor Day  | 1st Monday in September  |
| 7. Columbus Day   | 2nd Monday in October  |
| 8. Veteran's Day  | November 11  |
| 9. Thanksgiving Day   | 4th Thursday in November   |
| 10. Christmas Day   | 25th Day of December   |
| 11. State General Election Day                                  | 1st Tuesday after 1st Monday in November in even-numbered years. |
| 12. Any other day declared a legal holiday for state employees. |  |

Section 2. Should the holiday fall on a Sunday, the following Monday will be the holiday. Should the holiday fall on a Saturday, the preceding Friday will be the holiday. When a holiday falls on a Saturday, the holiday shall be observed on the preceding Friday, except as provided for in ARM 2.21.620 (3).

Section 3. Observance of a holiday falling on an employee's day off (Additional Day Provision). Any employee who is scheduled for a day off on a day which is observed as a legal holiday, except Sundays, will be entitled to receive a day off either on the day preceding or the day following the holiday, whichever allows a day off in addition to the employee's regularly scheduled day off.

Section 4. There will be no regular scheduled holiday work except that emergency work may be performed on holidays at time and one-half rate in addition to holiday pay. (Regular pay plus one and one-half times regular pay.)

Section 5. Annual Leave (Vacation).

Subsection 1. Annual leave time will accrue at the rate established by law as follows:

- A. From one full pay period through 10 years of employment at rate of 15 working days per year.
- B. After 10 years through 15 years of employment at the rate of 18 working days per year.
- C. After 15 years through 20 years of employment at the rate of 21 working days per year.
- D. After 20 years of employment at the rate of 24 working days per year.

Subsection 2. There will be no annual leave granted until the employee has worked continuously for a period of six calendar months. Annual leave time will be granted at the time requested insofar as possible subject to the requirement of maintaining Department of Transportation operations:

- A. Leaves of three days or less require a day's notice to the Maintenance Chief or designee. Unforeseen circumstances which do not allow the employee to give a day's notice may be approved at the discretion of the Maintenance Chief or designee provided the employee has contacted the Maintenance Chief or designee one hour prior to the beginning of the employee's shift.
- B. When leave requests of more than three days are submitted at least 10 days in advance, the employer will approve or disapprove the request in writing not less than five days before the beginning of the requested leave period. The reason for disapproval will be in writing.
- C. In instances when it is necessary for an employee to make an early request for annual leave, the employer will respond to the leave request at least 30 days prior to the beginning of the requested leave period. In the event of vacation plans that require monetary obligations or unusual advanced preparation, the employer will respond within 30 days of the submission of the leave request. Examples include, but are not limited to, vacations incorporating air or boat travel, weddings and family reunions. The reason for disapproval will be in writing.

Subsection 3. Part-time employees who work at least 20 hours per week normally will accrue annual leave credits on a pro-rata basis.

Subsection 4. The amount of annual leave permitted to accrue past the beginning of a new calendar year will be two times the number of days earned annually.

Subsection 5. Annual leave time earned but not used at the time of termination will be paid the employee at his/her regular permanent classification and salary grade rate.

Section 6. Sick leave for employees will be governed by regulations of the State Department of Administration, subject to any future revisions made by the Department of Administration.

## **ARTICLE 10**

### **GRIEVANCE AND ARBITRATION PROCEDURE**

Any time an employee is suspected of wrong doing which may result in disciplinary action, management will consider the employee's response prior to issuing the discipline.

A grievance shall be any dispute or complaint concerning interpretation, application, or compliance with any provision(s) of this agreement, or whether the discipline or discharge of an employee who has successfully completed all probationary periods was for just cause.

A grievance will be processed in accordance with the following procedure:

#### Step 1

If informal efforts between the employee and his/her supervisors have failed to resolve a grievance, the employee may refer the matter to his/her Local Union in writing within 15 working days of the occurrence of the alleged grievance. If the Local Union decides to pursue the grievance, the Union will, no later than the 30th day after the occurrence of the alleged grievance, present the grievance in writing stating the nature of the grievance and the remedy sought, and discuss such grievance with the Maintenance Chief (except in the case of the Helena Headquarters, to the Equipment Bureau Chief). Within 10 working days thereafter, the Maintenance Chief will submit his/her reply in writing to the Local Union.

#### Step 2

Should the Local Union decide that the reply of the Maintenance Chief is unsatisfactory, the Local Union will submit the grievance, within 10 working days after receipt of the Maintenance Chief's decision, to the

District Administrator, (except in the case of the Helena Headquarters, to the Maintenance Division Administrator). Within 15 working days thereafter, the District Administrator will submit his/her reply in writing to the Local Union. Any grievance pertaining to a discharge may bypass step 3 and proceed to step 4 by mutual agreement.

### Step 3

Should the Local Union decide that the reply of the District Administrator is unsatisfactory, the Local Union will resubmit the grievance to the District Administrator, (except in the case of the Helena Headquarters, to the Maintenance Division Administrator), within 10 working days after receipt of the District Administrator's decision at Step 2. Within 15 days thereafter, a four person fact-finding panel, two persons from the Union, one of whom is not a party to the grievance or been involved in processing the grievance and two persons from Management, one of whom is neither involved with the grievance nor supervised by someone involved with the grievance, will be selected to establish facts, hear witness testimony, and determine whether the grievance should be sustained or denied. The fact-finding panel will then hear both parties' case. In non-disciplinary cases, the union will present their case first. Within 15 calendar days thereafter, the fact-finding panel by a majority decision will submit its findings in writing to both parties. The decision of the fact-finding panel will be the final solution to the grievance: no other recourse will be available to any party to the grievance except in the case of a deadlocked fact-finding panel.

By mutual agreement, the parties may bypass the fact-finding panel.

### Step 4

Should the fact-finding panel not resolve the grievance, the Union will notify the Director of the Department of Transportation of its desire to move the grievance to arbitration. Such notice will be in writing and mailed within 10 days after the fact-finding panel reached deadlock. The Director or his/her designee and the affected Union will mutually agree upon an arbitrator within 30 days of the Director's receipt of notice from the union, or if mutual agreement cannot be reached, then the parties will jointly request a list of seven possible persons to serve as arbitrator from the Federal Mediation and Conciliation Service or the Board of Personnel Appeals within five days of failing to mutually agree upon an arbitrator. Each party will be entitled to strike three names from the list in alternate order and the name so remaining will be the arbitrator. The arbitrator will consider the grievance and will render a decision within 30 days of the hearing, and that decision will be final and binding on all parties to the grievance.

The Department of Transportation and the Local Union will share equally the costs of the impartial arbitrator.

During the processing of any matter under this or the preceding Steps 1, 2, 3, or 4, the Union agrees not to strike, render unfair reports, or cause slowdowns, and the Employer agrees not to lock out employees represented by the Union.

Any failure or refusal to abide by the terms of the above paragraph will constitute a waiver by the party who breaches the Agreement of the rights and constraints created by the above paragraph.

No arbitrator will have the power to add to, detract from, or modify the terms of this Agreement.

## **ARTICLE 11**

### **HEALTH AND SAFETY**

Section 1. There will be a Safety Committee in each district and area office, and in the Helena headquarters, as required by the Montana Safety Culture Act. The Safety Committee will consist of an equal number of employees and management, including each local union. The local union will provide a list of three persons to the Maintenance Chief for selection of the union committee representative.

The Safety Committee will also be responsible for reviewing accidents/incidents in the area to make recommendations to management for their future prevention.

Section 2. The health and safety of employees shall be reasonably protected while in the service of the Employer. The Employer shall carry industrial accident insurance on employees. Both parties to this Agreement hold themselves responsible for mutual cooperative enforcement of safety rules and regulations. Employees shall use all available safety devices and shall cooperate in the enforcement of all safety rules and regulations.

Section 3. As required by the Family Medical Leave Act (FMLA), the Employer agrees to provide individual insurance contributions, as set forth in 2-18-703, MCA, for a period up to 12 weeks for bargaining unit employees who are injured and on workers' compensation or otherwise qualify for leave under FMLA. This provision applies only to employees who are injured and become eligible to receive workers' compensation benefits on or after July 1, 1993.

## **ARTICLE 12** **ALLOWABLE PER DIEM EXPENSES**

Section 1. Adjustments in salary structures have been made for noon meal allowance, and therefore, employees will not be entitled to a meal reimbursement for noon meals while they are carrying out work activities within their assigned Field Maintenance Areas.

The only exception to the foregoing rule is when "special travel" has been requested and prior approval for "special travel" has been approved by the Maintenance Chief or authorized designee. Special travel is defined as travel to meetings, seminars, or other special circumstances.

Employees may be reimbursed for noon meals in situations where they have been assigned to travel outside their regular assigned Field Maintenance Area. The Maintenance Chief has the discretion to approve or disapprove the reimbursement.

Section 2. Statutory expenses will be allowed employees engaged in regular operations which require overnight stays away from home, traffic line striping, equipment transfers (when not assigned to traveling crews), emergency snow removal, washouts or emergency assignments away from regular headquarters for a duration of time. This expense will be paid by claim in accordance with Section 2-18-501, MCA.

## **ARTICLE 13** **GENERAL**

Section 1. Each maintenance employee will be paid a monthly salary rate, or its hourly equivalent shown on Addendum "A", attached, which is hereby made a part of this contract.

Section 2.

A. Fringe benefits will be allowed as follows, in accordance with employer's practice for all full-time regular monthly employees:

- Annual Leave
- Military Leave
- Social Security
- Public Employees' Retirement System
- Sick Leave
- Paid Holidays
- Longevity - See Addendum "A"

- B. Rate of pay for vacation, sick leave, military and paid holidays will be based on employee's permanent classification and salary grade at the time such leave is taken.

Section 3. Shift Differential.

- A. For any full shift that starts between the hours of noon and midnight employees will receive a \$1.00 per hour shift differential. Shift differential will be paid for all actual hours worked during a full shift.
- B. A full shift is working a minimum of eight (8) hours, or a combination of hours actually worked and approved leave; for any employee. Employees will be paid the appropriate grade differential, if assigned to work in a higher grade, and the shift differential.
- C. Shift differential as outlined in A will be paid at the rate of one and one-half times the contractual rate of one dollar (\$1.00) per hour for all hours work in overtime status.

Section 4. The Employer agrees that superintendents, will not operate maintenance equipment or perform routine maintenance operations except for purposes of instruction or during emergency situations only.

Section 5 The Employer will provide actual time up to four (4) hours paid release time per contract term for CDL-required physicals and two (2) hours paid release time per contract term for CDL license renewal. There must be prior approval by the immediate supervisor for times, dates, and actual hours approved.

Section 6. Letters of caution, consultation, warning, admonishment and reprimand will be considered temporary contents of the personnel file for an employee and will be destroyed no later than 24 months after they have been placed in the file unless such items can be used in support of possible disciplinary action arising from more recent employee action or behavior patterns or is applicable to pending legal or quasi-legal proceedings.

## **ARTICLE 14 JOB CLASSIFICATIONS**

Section 1. Employees may be temporarily assigned to do work in or below the level of their permanent classification without a reduction in pay.

When assembling crews or intermixing employees of another union affiliation, qualified AFSCME employees will be given the opportunity to do the work within their Union's geographical jurisdiction.

Qualified employees within the Field Maintenance Area (Division) where the work is to be performed will be given the opportunity to do the work before other employees from other Field Maintenance Areas (Divisions) are considered.

Section 2. Grade differential will not be paid to maintenance career ladder employees who are working within the maintenance career ladder grades. Grade differential will be paid to maintenance career ladder employees working within the grades outside the maintenance career ladder or to non-career ladder maintenance employees working in higher grades. The differential paid shall be a minimum of four hours for any accumulated time spent for four hours or less, minimum of six hours for more than four but less than six, minimum of eight for more than six but less than eight, except that any time worked in a higher classification of less than one full hour will not be paid at a differential rate (such time may not be accumulated to add up to one hour). Employees are required to place all activities on the employee's time sheet when the activity is above his/her permanent classification.

Section 3. Journey level employees will receive appropriate differential for each grade above the employee's permanent classification and grade in which work activity is performed in accordance with Section 2 above.

Section 4. The parties will establish a Blue Collar Classification Committee, comprising two Craft Council representatives, two AFSCME representatives, four Department of Transportation Representatives, and one representative from the State Office of Labor Relations. Representatives from other interested bargaining units representing Department of Transportation maintenance employees covered by the Blue Collar matrix will also be allowed to attend committee meetings. The purpose of the committee is to factor Blue Collar classifications according to the inventory review agreement dated April 7, 1992.

Section 5. If a Section Person A, B or C is absent or out of the division for a shift, an employee will be assigned to temporarily replace the Section Person A, B or C and will receive the appropriate differential rate for all hours worked. If the Shop Superintendent and the Working Shop Foreman are absent or out of the division for a shift, an employee will be assigned to replace the Working Shop Foreman and will receive the appropriate differential rate for all hours worked.

Section 6. It is agreed that there will be one permanently classified Section Person in each highway maintenance section; and that there will be one permanently classified, competitively selected Working Shop Foreman in a division shop.

## **ARTICLE 15** **MUTUAL AGREEMENT**

This Agreement, together with those Addenda which are referenced to herein, and which by specific reference, are made a part hereof, constitutes the complete and sole Agreement which exists between the Employer and the Union. It is agreed that neither party will attempt to add to or alter the terms of this Agreement except as provided immediately below. It is further agreed that the acts, practices, or Agreements of the Employer's supervisory employees will not be construed to add to or alter this Agreement.

## **ARTICLE 16** **SAVINGS CLAUSE**

If any section, subdivision, paragraph, sentence, clause, phrase, or other part of this Agreement is determined or declared to be contrary to or in violation of any State or Federal Law, the remainder of this Agreement will not be affected or invalidated.

## **ARTICLE 17** **EFFECTIVE DATE - TERM**

This Agreement will become effective the first day of July, 2013, and will remain in full force and effect through the 30th day of June, 2015, and will remain in effect from year to year thereafter, except that either party will notify the other in writing at least 60 days prior to the expiration date if they desire to modify this Agreement.

The Union will have the right to take concerted actions after December 1, 2014, on wages and fringe benefits concerning the 2014-15 biennium.

If the Union gives notice to reopen the Agreement, it will also notify the Chief of the State Office of Labor Relations in writing of such requested negotiations at the same time such notice is given, to the Employer agency. In the event such notice is given, negotiations will begin not later than 30 days prior to the expiration date. Every effort will be made by both parties to conclude negotiations before the expiration date of this Agreement.

The Union may request negotiations on applicable economic issues covering the 2013-14 biennium no sooner than five months prior to the convening of the regular 2015 Legislative Session so that there will be sufficient time for adequate negotiations to take place.

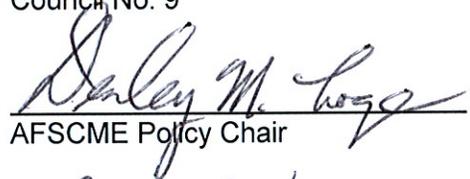
IN WITNESS WHEREOF, the parties hereto acting by and through their representative and duly authorized officers or representatives have hereunto set their hands and seals the day and year first above written.

DATED this 26 day of August 2013

FOR: AMERICAN FEDERATION OF  
STATE, COUNTY, AND MUNICIPAL  
EMPLOYEES, COUNCIL NO. 9



Timm Twardoski, Executive Director  
Council No. 9



AFSCME Policy Chair



First Vice-President



Second Vice-President

Terry McLeod 8/15/2013  
Treasurer

FOR: STATE OF MONTANA



State Office of Labor Relations



Mike Tooley, Director  
Montana Department of Transportation

**ADDENDUM A**  
**CLASSIFICATION AND WAGE SCHEDULE**

Section 1. The following table represents the blue collar grade levels and classifications activities applicable to this Agreement, and the pay rates for the years covered in the terms of this Agreement.

Class Code	Grade	Classification Title	Journey Wage	
			2013	2014
998950	5	Custodian	17.377	18.347
998906	6	Laborer	17.839	18.809
999101 999307	7	Service/Combination A Maintenance Technician I (Training)	18.301	19.271
992205 998918 999308	8	Stockperson Facility Technician Maintenance Technician II Single axle trucks (classes 19, 21, 22 or 28); Tar pot (under 1,000 gallons); Pulvi-mixer Push/pull brooms; Crack sealers; Rollers (under 5 tons); Auger-type drills; Recyclers (under 15 TPH)	18.764	19.734
999102 998401 999309	9	Service/Combination B Painter Maintenance Technician III Loader (under 1.5 cu yd.); Tandem axle trucks (w/plow,sander, flush tanks or tilt trailers); Single axle trucks (FWD), w/sander or small lowboy (class 23 and higher); Striping nurse truck (tandem axle); Power sweepers; Mowers (over 30 HP); Power chip box; Truck Rollers (over 5 ton); Pavers (towed); Screening plant/conveyors; Athey loader; Bucket Post driver (tractor mounted)	19.226	20.196
998403 998402 998904 998404 999310	10	Painter (Sign Shop) Painter Foreman Utility Worker Striping Machine Operator/Driver Maintenance Technician IV Backhoe; Motor patrol; Track mounted dozer/excavator; Distributor (over 1000 gallons); Snooper operator/driver; Rotary plow; Wing plow; Crusher; Hot plant; Recycler (over 15 TPH); Paver (self-propelled); Mobil crane (w/license); Weed spray operator (w/license); Pug mill; Transport driver (tandem tractor); Crack sealing machine; Mobil brooms; Attenuator truck Belly dump or truck and pup	19.688	20.658
998510	11	Vegetation & Noxious Weed Spray Forman	20.150	21.120
996311 998612 998405 998911	12	Mechanic/Machinist Maintenance Carpenter Striping Foreman Permanent Maintenance Crew Leader	20.612	21.582
996307	13	Working Shop Foreman	21.074	22.044
471115*	Band 5	Section Person A Section Person B Section Person C	22.608500 23.799180 24.988830	23.738925 24.989139 26.238272

\*O20 Pay Plan

Section 2. Training assignments for up to one year may be considered when there are no minimally qualified applicants for either the Maintenance Technician I or Section Person A or B positions. If job posting is utilized, it should reflect that a training assignment will be considered if there are no qualified applicants. Salary during the training assignment will be at one grade below the classified grade until the employee meets the minimum requirements. Permanent full-time employees will be given preference for attendance to the training academy.

Section 3. Mechanics and Machinists required to provide and maintain a tool chest valued at \$1,000.00 or more will be provided a tool allowance, to be paid bimonthly at the rate of:

FY 2013-15      \$75.00 per month (Receipts required)

Mechanics and Machinists can be reimbursed for the actual cost of tool replacement up to the above rate by providing receipts to the employer for eligible expenses. Any amount not reimbursed during a quarter can be carried forward during the term of the contract and be reimbursed later by providing receipts for eligible expenses. Tool receipts can be carried forward from year to year. Unused tool allowances may not be carried from one biennium to the next. Mechanics covered by this provision will be responsible to supply their basic hand tools, excluding those tools deemed to be special shop tools, power tools (electric or air) or expendable tools such as hack saw blades, chisels, easy out, drill bits, etc. Employer furnished tools are not eligible for tool reimbursement. Carpenters will be provided all tools, including specialty tools, as needed and approved by the Maintenance Chief to efficiently perform job duties.

If an employee is off work for more than 90 calendar days on industrial accident, disability leave, or leave without pay, the employee will not be eligible for reimbursement for any tool expenses until the employee returns to work.

Employees will receive \$332 at the end of the first year of the contract to purchase required safety equipment. If an employee is hired any time after the end of the first year of the contract, the safety allowance will be prorated up to \$166 based on the number of months left in the current contract. Seasonal and temporary employees who work full-time are eligible for an allowance of up to \$75 per year based on the number of months worked, divided by 12, payable at the time of termination of temporary employment. Seasonal or temporary employees who work less than full time are not eligible for the safety allowance.

The Employer will continue to provide and pay for safety equipment currently provided.

Mechanics/machinists may utilize the \$332 for the purchase of coveralls, safety glasses, safety shoes/boots, etc.

Employees will wear required safety equipment. Failure to do so will be grounds for disciplinary action.

Section 4. Blue Collar Longevity Allowance.

Subsection 1. Longevity pay will be in addition to an employee's base salary and will be computed as follows:

Pursuant to Section 2-18 304 each employee who has completed five years of uninterrupted state service must receive 1.5% of the employee's base salary multiplied by the number of completed, contiguous five year periods of uninterrupted state service. In addition to the longevity allowance provided above under each employee who has completed 10 years of uninterrupted state service, 15 years of uninterrupted state service, or completed 20 years of uninterrupted state service must receive an additional 0.5% of the employee's base salary for each of those additional five years of uninterrupted service.

Subsection 2. All employees who have earned longevity prior to the effective date of this Agreement at a rate higher than that provided for in Subsection 1 above will continue to receive longevity at that higher rate.

Section 5. Crew Sizes and Permanent Classifications.

A. The following permanent classifications will be assigned to maintenance sections depending on the size of the crew of permanent employees:

<u>Crew Size</u>	<u>Permanent Classifications for the Crew</u>
1 person	1 Section Person A
2 person	1 Section Person A and 1 Maintenance Technicians
3 person	1 Section Person A and 2 Maintenance Technicians
4 person	1 Section Person A and 3 Maintenance Technicians
5 person	1 Section Person A and 4 Maintenance Technicians
6 person	1 Section Person B and 5 Maintenance Technicians
7 person	1 Section Person B and 6 Maintenance Technicians
8 person	1 Section Person B and 7 Maintenance Technicians
9 person	1 Section Person B, 1 Crew Leader and 7 Maintenance Technicians
10 -13	1 Section Person C, 1 Crew Leader and 8–11 Maintenance Technicians
14 or more	1 Section Person C, 2 Crew Leaders and 11 Maintenance Technicians

Nine to Seventeen Person Crews

	9	10	11	12	13	14	15	16	17
Section Person C	1	1	1	1	1	1	1	1	1
Crew Leader	1	1	1	1	1	2	2	2	2
Maint. Tech III	2	3	3	3	3	3	4	4	5
Maint. Tech. II	2	2	2	3	3	3	3	4	4
Maint. Tech. I	3	3	4	4	5	5	5	5	5

- B. Crew sizes and classifications are based on permanent employees only. There would be no change in classifications or crew sizes if temporary, seasonal, Area Headquarters positions, etc., are added to a crew.
- C. Classifications shown for each crew are minimum levels. There may be special circumstances in a section that would warrant assigning a higher classification or an equivalent classification of a different title to a crew.
- D. Classifications that are not included on section crews but are attached to an Area Headquarters are: Carpenter, Hot Plant Operator, Laborer, Mechanic/Machinist, Painter, Painter Foreman, Service/Combination A, Service/Combination B, Stockman, Stockman with Terminal, Striping Machine Driver (in most cases), Striping Machine Operator (in most cases), Transport Drivers, Utility Worker, and Working Shop Foreman.
- E. No employee will suffer a downgrade as a result of implementation of this section. Employees that could be downgraded will be red-circled and protected unless the employee transfers or terminates.

**Memorandum of Understanding  
Between  
Montana Department of Transportation  
&  
American Federation of State, County and Municipal Employees  
Highway Maintenance**

The Department and the Union agree to the following provisions in the implementation of the Transportation Operations for the 2013-2015 contract term.

Transportation operations defined as work that falls under Manual on Uniform Traffic Control Devices or contract administration support. Examples include but are not limited to; flagging, road closures, material testing, quality or quantity measurement and verification.

1. In case of an emergency or shortage of employees; the Department may utilize any employee from any bargaining unit to perform transportation operation duties on a temporary assignment.
2. A temporary assignment will not exceed 14 working days.
3. Any employee assigned on a temporary assignment must possess the necessary qualifications.
4. Employees assigned temporary transportation operations duties will receive their regular pay rate and will remain in the Collective Bargaining Unit of their regular position.
5. Employees temporarily assigned to transportation operations will continue to report to their permanently assigned work location prior to the temporary worksite. Upon mutual agreement other arrangements may be made.
6. This agreement is not intended to be used for the purpose of overtime reduction.

DATED this 26 day of August, 2013

FOR: AMERICAN FEDERATION OF  
STATE, COUNTY, AND MUNICIPAL  
EMPLOYEES, COUNCIL NO. 9



Timm Twardoski, Executive Director  
Council No. 9

FOR: STATE OF MONTANA



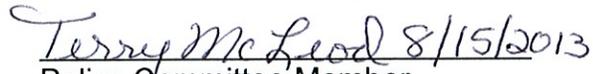
State Office of Labor Relations

  
AFSCME Policy Chair

  
Mike Tooley, Director  
Montana Department of Transportation

  
Policy Committee Member

  
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