New Jersey Turnpike Authority

Joint Memorandum of Agreement with Locals 194, 196-1, 196-12, 200 and 3914 (2020)

JOINT ISSUES – MEMORANDUM OF AGREEMENT - FINAL

NJ TURNPIKE AUTHORITY

AND

IFPTE LOCALS 194, 196 (Ch. 1 and 12), and 200 and AFSCME Local 3914

NJ TURNPIKE AUTHORITY ("The Authority") and **IFPTE LOCALS 194, Local 196 Ch. 1, Local 196 Ch. 12, Local 200, and AFSCME Local 3914** ("Local Unions") having engaged in negotiations for an agreement to succeed the current Collective Negotiations Agreement ("Agreement") between the Authority and the Local Unions that expired on June 30, 2019, hereby agree to the following amendments to the Agreement as set forth below.

This Joint Memorandum of Agreement ("Joint MOA") represents a complete package on the joint issues and no individual element of this Joint MOA is acceptable to the parties absent an agreement to the complete package set forth herein.

Therefore, the parties to this Joint MOA hereby agree to amend their respective Agreements as follows:

1. Compensation:

   a. All employees covered by the Agreement that are on payroll effective upon the date of ratification shall receive the following across-the-board increases:

Effective July 1, 2019:	2.00%
Effective July 1, 2021:	2.00%
Effective Jan. 1, 2022:	2.00%
Effective July 1, 2022:	2.00%

   All steps for all job classifications within the bargaining unit shall also be increased by the across-the-board increases set forth above.

b. No Layoffs: In return for the deferral of what would have been the July 1, 2020 2% raise until January 1, 2022, the Authority agrees not to layoff any bargaining unit employees for a period of 18 months commencing July 1, 2020 through December 31, 2021 and agrees that if any bargaining unit employees are laid off prior to January 1, 2022, such members shall be made whole with respect to compensation and benefits. Further, the Turnpike agrees not to challenge the legal arbitrability of a grievance seeking to enforce this provision of the parties' collective bargaining agreement.

2. Health Benefits: **Schedule A attached** (Plan Design) with Exhibits M-1, M-2, M-3, M-4 and M-5 (Employee Contributions to Medical), Exhibits R-1 and R-2 (Employee Contributions to Prescription Drug Plan), Exhibits D-1 and D-2 (Employee Contributions to Dental benefits), and Exhibits V-1 and V-2 (Employee Contributions to Vision coverage).

3. Job Protection/Anti-Privatization: **Schedule B attached.**

4. Grievance: **Schedule C attached.**

5. Discipline: **Schedule D attached.**

6. Kronos/Attendance: **Schedule E attached.**

7. State of Emergency: **Schedule F attached.**

8. Drug and Alcohol Testing: The parties agree to continue to negotiate over the Authority's proposals concerning Drug and Alcohol testing (CDL and non-CDL). These negotiations are a continuation of the negotiations in which the parties were engaged for successor collective bargaining agreements. The Local Unions agree to provide the Authority with a written response to their proposals by no later than January 15, 2021. The written response shall include a list of specific issues, if any, that the Local Unions have with the Authority's proposals. The parties thereafter will meet and make best efforts to reach agreement on Drug and Alcohol testing by no later than February 15, 2021.

9. Temporary Disability Benefits and Workers Comp: The existing Temporary Disability Benefits shall remain in force and effect. However, the parties agree that commencing in January 2021, the parties will meet and negotiate over Temporary Disability Benefits, including the Authority's proposal that the contract provisions should be null and void and that the Authority should instead be bound by the provisions of State Law (i.e. N.J.S.A. 43:21-40). In the course of these negotiations over the Authority's proposal on Temporary Disability Benefits, the Local Unions may also make proposals Workers Compensation benefits. Absent mutual agreement between the Authority and the Local Unions, the existing Temporary Disability Benefits and Workers Compensation Benefits shall remain in effect.

10. Joint MOA: The parties agree that this Joint MOA, along with all Schedules and Exhibits that are attached hereto shall be made a part of the overall Memorandum of Agreement ("MOA") signed by each individual Local Union that is a party thereto. Each overall MOA will also include the specific amendments to each Local Union's Collective Negotiations Agreement that relate to issues specific to each Local. Absent agreement between a Local Union that is a

signatory to this Joint MOA and the Authority on a successor collective bargaining agreement, the provisions of this Joint MOA shall not be effective as to that Local Union.

11. Term of Agreement: The term of this Agreement is from July 1, 2019 through June 30, 2023.

IN WITNESS WHEREOF, the parties have caused this MOA to be signed by their duly authorized representatives on this ___ day of November 20, 2020.

On behalf of NJ Turnpike Authority:

____
James Carone

On behalf of IFPTE Local 194

____
Barry Kushnir

On behalf of IFPTE Local 196-1

____
Sean McBride

On behalf of IFPTE Local 196-12

____
Steve Douglas

On behalf of IFPTE Local 200

____
Michael Calleo

On behalf of AFSCME Local 3914

____
Charles Ortiz

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Sean McBride

On behalf of IFPTE Local 196-12

Steve Douglas

On behalf of IFPTE Local 200

Michael P Calleo

Michael Calleo

On behalf of AFSCME Local 3914

Charles Ortiz

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On behalf of IFPTE Local 200

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Michael Calleo

On behalf of AFSCME Local 3914

11-23-20

Charles Ortiz

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On behalf of AFSCME Local 3914

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On behalf of IFPTE Local 194

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On behalf of IFPTE Local 200

Michael Calleo

On behalf of AFSCME Local 3914

Charles Ortiz

SCHEDULE A

HEALTH BENEFITS

A. **New Direct Access (NDA) Plan**

Effective as soon as practicable following ratification, the plan design of the Authority's Direct Access Plan will be modified as follows:

1. Out-of-Network Reimbursement Rate: The rate will change from 90% of Fair Health to 225% of Medicare.

2. Out-of-Network Deductible: Increase from $100/$200 to $200/$500.

3. Out-of-Network Out-of-Pocket Maximum: No change

4. Out-of-Network Coinsurance: Decrease from 80% to 70%.

5. Emergency Room Co-Pay: Increase from $50 to $100 (waived if admitted).

6. Acupuncture Visits: Change Out-of-Network Acupuncture from unlimited visits to a maximum of 30 visits annually and increase coinsurance for Out-of-Network Acupuncture from 80/20 to 60/40.

7. Chiropractor Visits: Maintain overall maximum of 60 visits per year for all Chiropractor visits, but cap Out-of-Network visits to a maximum of 30 visits annually. Increase coinsurance for Out-of-Network Chiropractors from 80/20 to 60/40.

8. Physical Therapy Visits: Maintain unlimited in-network visits, but cap Out-of-Network visits to a maximum of 30 visits annually. Increase coinsurance for Out-of-Network Physical Therapists from 80/20 to 60/40.

9. Prescription Drugs:

    a. The Turnpike shall implement an Advance Control Formulary (ACF)

    Plan participants, who are taking prescription drugs that are not on the ACF, will receive sixty (60) calendar days written notice prior to the participant's next fill date that one or more of their prescription drugs is not on the ACF. A participant's doctor may request that the participant continue to take the non-advanced formulary drug(s) based on a medical reason, with no penalty, by submitting a letter to CVS Caremark.

    If there is a dispute over whether or not there is a medical reason for the participant to continue taking a drug that is not on the ACF, the participant shall utilize the CVS Caremark Formulary Exception Process which allows a participant to have formulary coverage for a drug not covered by the CVS Caremark advanced formulary based on a medical reason.

While the initial appeal is pending as to whether there is a medical reason for participant to continue taking a non-ACF drug, the participant shall continue to pay the same co-pay they were paying for the prescribed drug prior to the establishment of the ACF. This paragraph applies only to prescribed drugs that an employee was already taking prior to the effective date of the ACF for that particular employee's Local Union.

If a dispute is decided in favor of the participant continuing to take a non-advanced formulary drug based on a medical reason, the participant shall pay the same co-pay he/she was paying prior to the establishment of the ACF.

b. If an employee purchases a brand drug where there is a generic equivalent and there is no medical reason for the brand drug, the employee pays the difference between the generic and the brand. To accomplish this, the Authority will implement the standard Dispense as Written ("DAW") 2 and DAW 1 penalties in which members shall pay the generic copay plus the difference in cost between the generic drug and the brand name drug. In addition, the DAW 2 and DAW 1 alternative copays that are currently in place shall be removed.

   If there is a dispute over whether or not there is a medical reason for the brand name drug, employees shall utilize the CVS Health standard "Brand Penalty" Exception Process, which allows members to waive the DAW penalties for a brand name drug if the member must utilize the brand name drug for medical necessity.

c. Generic Mail Order will be $0 copay. All other copays currently in effect for the prescription drug plan shall remain in effect.

10. <u>New Direct Access Plan</u>: The New Direct Access Plan shall retain all design features of the Authority's Current Direct Access (CDA) Plan – the Direct Access Plan that was in effect on November 1, 2020 – that are not expressly modified by paragraphs 1-10 above. All employees shall have the option for CY-2021 to remain in any of the existing Plans or to opt into the New Direct Access Plan. The following rules shall apply to plan selection in CY-2022 and thereafter:

    a. **<u>For employees that opt to select the New Direct Access Plan in CY-2021 or CY-2022</u>**: Employees who select the New Direct Access Plan in 2021 will have a one-time option to go back to the Current Direct Access Plan in 2022 and employees who select the New Direct Access Plan for the first time in 2022 will have a one-time option to choose to go back to the Current Direct Access Plan in 2023. Any employee that selects the New Direct Access Plan for CY-2021 and CY-2022 will no longer be eligible to select the Current Direct Access Plan in CY-2023 or thereafter. Any employee that selects the New Direct Access Plan for CY-2022 for the first time and then selects the New Direct Access Plan for

CY-2023 will no longer be eligible to select the Current Direct Access Plan for CY 2024 or thereafter. Employees who select the New Direct Access Plan in CY-2023 or after shall not have the option of returning to the Current Direct Access Plan.

b. **<u>For employees that opted for the Current Direct Access Plan in CY-2021</u>:** These employees will always be eligible, during open enrollment, to opt for the New Direct Access Plan for the upcoming calendar year.

c. Open enrollment for the 2022 and 2023 plan years shall begin during the fourth quarter of 2021 and 2022 respectively and shall continue through at least December 1st.

11. <u>Employee Contributions</u>: The employee contribution rates for the New Direct Access Plan shall be based upon percentage of salary and are set forth in <u>Exhibit M-2</u> attached effective January 1, 2021. On or before November 10, 2021, the Authority will notify the Local Union of the proposed amount of increases or decreases to the cost of the New Direct Access Plan for CY-2022, which shall be guided by the recommendation of the Authority's actuarial consultant. The Authority shall provide to the Local Unions information relied upon by the Authority's actuarial consultant to recommending adjustments to the cost of the New Direct Access Plan rates, including the basis for the consultant's recommendations. The parties agree to meet and discuss appropriate increases or decreases to the employee contributions, if any, effective January 1, 2022. The parties shall make best efforts to agree upon the increased contribution amounts by no later than November 30, 2022. This process will occur annually as described above for the duration of this Agreement. Absent mutual agreement between the parties, the contribution rates in effect for plan year 2021 shall not change.

B. **<u>Current Direct Access Plan</u>**: The Current Direct Access Plan, with its current design, shall be offered as an option to employees at monthly contribution rates set forth in <u>Exhibit M-1</u> to be effective January 1, 2021. No employee enrolled in the Current Direct Access Plan shall pay a higher percentage of the cost of benefits than the percentage that the employee would have paid under the Chapter 78 contribution rate schedule. On or before November 10, 2021, the Authority will notify the Local Union of the amount of increase or decrease to the fully insured equivalent rate of the Current Direct Access Plan for CY-2022, which shall be guided by the recommendation of the Authority's actuarial consultant. The Authority shall provide to the Local Unions information relied upon by the Authority's actuarial consultant to recommending adjustments to the Current Direct Access Plan fully insured equivalent rates, including the basis for the consultant's recommendations. The monthly contribution rates set forth in Exhibit M-1 shall be increased or decreased effective January 1, 2022, if necessary, by the amount of the percentage increases that the consultant recommends based on the actual experience of the Plan, provided, however, that the percentage that an employee pays toward the cost of the Current Direct Access Plan cannot be increased above the percentage that the employee would have paid under Tier Four of Chapter 78. This process will occur annually as described above for the duration of this Agreement.

C. **The OMNIA Tiered Network/HMO/HD/EP Plans**: The employee contribution rates for the HMO/EPO are set forth in Exhibit M-3 attached. The employee contribution rates for the High Deductible Medical Plan are set forth in Exhibit M-4 attached. The employee contribution rates for the OMNIA Tiered Network HMO Medical Plan are set forth in Exhibit M-5 attached. No employee enrolled in the OMNIA Tiered Network, HMO, HD or EP Plans shall pay a higher percentage contribution rate than the employee would have paid under the Chapter 78 employee contribution rate schedule. On or before November 10, 2021, the Authority will notify the Local Union of the amount of increase or decrease to the fully insured equivalent rate of each of these plans for CY-2022, which shall be guided by the recommendation of the Authority's actuarial consultant. The Authority shall provide to the Local Unions information relied upon by the Authority's actuarial consultant to recommending adjustments to the fully insured equivalent rates for the OMNIA Tiered Network, HMO, HD or EP Plans, including the basis for the consultant's recommendations. The employee contributions paid by employees pursuant to the contribution tables set forth in Exhibit M-3, M-4 and M-5 shall be amended effective January 1, 2022, if necessary, by the amount of the percentage increases or decreases that the consultant recommends based on the actual experience of the Plan, provided, however, that the percentage that an employee pays toward the cost of benefits cannot be increased above the percentage that the employee would have paid under Tier Four of Chapter 78. This process will occur annually as described above for the duration of this Agreement.

D. Prescription Drug Benefits: Employee contribution rates for the Prescription Plans are set forth in the attached Exhibit R-1 and Exhibit R-2. On or before November 10, 2021, the Authority will notify the Local Union of the proposed amount of increase to the fully insured equivalent rate of the Prescription Drug Plans for CY-2022, which shall be guided by the recommendation of the Authority's actuarial consultant. The parties agree to meet and discuss appropriate increases to the employee contributions effective January 1, 2022. The Authority shall provide to the Local Unions information relied upon by the Authority's actuarial consultant to recommending adjustments to the fully insured equivalent rates for the Prescription Drug Plans, including the basis for the consultant's recommendations. The parties shall make best efforts to agree upon the increased contribution amounts by no later than November 30, 2022. This process will occur annually as described above for the duration of this Agreement. Absent mutual agreement between the parties, the contribution rates in effect for plan year 2021 shall not change.

E. Retiree Health Benefits:

1. The Authority shall be responsible for the full cost of Lifetime Retiree Health Benefits, including the administrative fee, for employees who qualified for Lifetime Retiree Health Benefits prior to the effective date of Chapter 78 or who had 20 or more years of qualifying service on the effective date of Chapter 78. This group of retirees shall be offered the option of receiving either: (1) the same dental and vision benefits they received as active employees, just prior to retirement, paid for by the Authority, or (2) having the Authority reimburse them for the cost of Medicare Part B Standard premium. Notwithstanding the above, if the applicable collective bargaining agreement requires the Authority to pay for the cost of both of these benefits in retirement, the Authority shall continue to pay for both benefits.

2. Employees that qualified for Lifetime Retiree Health Benefits after the effective date of Chapter 78 shall:

    i. Be offered the option of receiving either: (1) the same dental and vision benefits they received as active employees, just prior to retirement, or (2) having the Authority reimburse them for the cost of Medicare Part B Standard premium. Those that select the dental and vision benefits shall contribute to the cost of the dental and vision benefits at the same contribution rate that they were paying as active employees prior to retirement. Notwithstanding the above, if the applicable collective bargaining agreement requires the Authority to pay for the cost of both of these benefits in retirement, the Authority shall continue to pay for both benefits; and

    ii. Contribute to the cost of Medical and Prescription Drug benefits in retirement at the same contribution rate they were contributing as an active employee prior to retirement.

    iii. Employees who are eligible to receive Lifetime Retiree Health Benefits upon retirement shall be eligible to receive benefits of the medical plan they are in at the time of retirement. If a retiree opts to enroll in the New Direct Access Plan, the retiree shall pay the contribution rates set forth on exhibit M-2 attached, or as adjusted pursuant to sections A(12) and D above, based on their retirement benefit.

3. Dental Benefits:

3. The annual dental benefit shall increase to $3,000 effective January 1, 2021.

4. The lifetime maximum benefit for orthodontics shall increase to $4,000 effective January 1, 2021.

5. The monthly employee contribution rates for the Dental Plan effective January 1, 2021 are attached hereto as Exhibit D-1 and Exhibit D-2. On or before November 10, 2021, the Authority will notify the Local Union of the amount of increase or decrease to the full insured equivalent rate of the Dental Plans for CY-2022, which shall be guided by the recommendation of the Authority's actuarial consultant. The Authority shall provide to the Local Unions information relied upon by the Authority's actuarial consultant to recommending adjustments to the fully insured equivalent rates for the Dental Plans, including the basis for the consultant's recommendations. The contribution tables set forth in Exhibit D-1 and Exhibit D-2 shall be amended effective January 1, 2022, if necessary, by the amount of the increases or decreases that the consultant recommends based on the actual experience of the Plans, provided, however, that the percentage that an employee pays toward the cost of the Dental Plan cannot be increased above the percentage that the employee would have paid under Tier Four of Chapter 78. This process will occur annually as described above for the duration of this Agreement.

D. **Hearing Aids:**

1. Reimbursement for hearing aids shall be increased from $350 to $700 bi-annually.

E. **Vision Benefits:** Monthly employee contribution rates for the Vision Plans effective January 1, 2021 are set forth in the attached Exhibit V-1 and Exhibit V-2. On or before November 10, 2021, the Authority will notify the Local Union of the amount of increase or decrease to the fully insured equivalent rate of the Vision Plans for CY-2022, which shall be guided by the recommendation of the Authority's actuarial consultant. The Authority shall provide to the Local Unions information relied upon by the Authority's actuarial consultant to recommending adjustments to the fully insured equivalent rates for the Vision Plans, including the basis for the consultant's recommendations The contribution tables set forth in Exhibit V-1 and Exhibit V-2 shall be amended effective January 1, 2022, if necessary, by the amount of the increases or decreases that the consultant recommends based on the actual experience of the Plans provided, however, that the percentage that an employee pays toward the cost of the Vision Plan cannot be increased above the percentage that the employee would have paid under Tier Four of Chapter 78. This process will occur annually as described above for the duration of this Agreement.

SCHEDULE B

JOB SECURITY

A. In the event the Authority considers privatization of any functions that could result in the layoff or displacement of bargaining unit employees or that could result in the transfer of bargaining unit work to private vendors, contractors or other entities, the Authority agrees to give the Union reasonable advance notice, but no less than 90 calendar days' notice, prior to awarding a privatization contract to perform the bargaining unit work. For purposes of this Article, "privatization" means the transfer of any work currently performed by bargaining unit members to any private entity, including any private vendor, contractor or company, except that situations where the employees' functions are replaced through automation shall not be subject to any of the provisions of this Article.

B. The Union shall be given the opportunity to demonstrate to the Authority that bargaining unit employees will do the same work more efficiently than a private contractor. The Authority shall meet with Local 194 within thirty (30) calendar days from the date of the 90 day notice provided pursuant to paragraph A above, or within thirty (30) calendar days from the issuance of an RFP for the privatization of bargaining unit work, whichever is sooner.

C. The Authority agrees to make good faith efforts to lessen the possibility of a layoff or demotion-in-lieu-of layoff of bargaining unit employees impacted by the privatization of bargaining unit work. Actions by the Authority to either reduce or eliminate layoffs may include hiring and promotion freezes, the separation of non-permanent employees, the transfer or reassignment of bargaining unit employees into vacant positions for which they are qualified, training bargaining unit employees to fill Authority vacancies for which they may not be qualified without training, and other actions to be negotiated by the parties following notice of layoff.

D. In addition, the Authority shall minimize the impact of the privatization of bargaining unit work by encouraging the private vendor or contractor to consider hiring qualified bargaining unit employees before hiring persons not currently employed by the Authority.

SCHEDULE C

GRIEVANCE PROCEDURE

Delete and replace with the following:

A. **General Provisions**.

1. Definition of Grievance: A grievance shall be defined as any alleged violation of the express terms or conditions of any provision of this Agreement.

2. Information Requests:

   The Union shall have the right to request pertinent information and documents related to the grievance or disciplinary matter at issue. Whenever possible, the Authority shall provide the requested information within 10 calendar days from receipt of the request. If it is not possible to provide the information within 10 calendar days, the Authority shall notify the Union, provide the reason the information cannot be provided, and provide the soonest possible date within which the requested information will be provided.

3. Union Representation: Employees shall be entitled to union representation at every step of the grievance and arbitration procedure.

B. **Formal Steps**: All grievances shall be processed in the following manner:

Step 1:

1. Non-disciplinary grievances: Any non-disciplinary grievance shall be submitted in writing, to the applicable Department Head within 20 calendar days of its occurrence or of the date when the employee or the Union first became aware of the circumstances giving rise to the alleged grievance. Grievances may be filed by electronic mail.

2. Non-disciplinary grievances: A non-disciplinary grievance shall set forth the name of the grievant(s), the date of the alleged violation, the alleged facts of the grievance, the specific Article(s) and Section(s)

alleged to have been violated, and the remedy that is being sought by the grievant or Union.

3. Disciplinary grievances: If the grievance relates to disciplinary action, the grievance must be submitted, in writing, to the applicable Department Head within 20 calendar days of the Union's receipt of the Advisory Notice of Disciplinary Action ("ANDA"). Grievances may be filed by electronic mail.

4. Disciplinary grievances: If the grievance is disciplinary in nature, the Union shall include copies of all documents that it intends to rely upon in challenging the discipline. If the Union obtains additional evidence upon which it intends to rely upon in challenging the discipline after the filing of the grievance, such evidence (including documents and witness statements) shall be provided to the Authority within 10 days of the Union deciding that it intends to rely upon such evidence in challenging the discipline. The Union shall not be precluded from introducing other documents or evidence at a disciplinary meeting or hearing or at arbitration.

5. Disciplinary grievances: It is understood that the burden of proof is on the Authority in disciplinary matters. The fact that the Union provides copies of the documents that it relies upon in challenging the discipline shall not impact this burden of proof.

6. A Step 1 meeting shall occur between the Department Head, the grievant(s), and the Union within 10 calendar days of the date of receipt of the written grievance in order to attempt to resolve the issue.

7. If the grievance is not resolved at the Step 1 meeting, the Department Head shall render a written decision ("Step 1 Decision") within 10 calendar days of the Step 1 meeting. A copy of the Step 1 Decision will be provided to the Union and the grievant(s).

Step 2 – Non-Disciplinary Grievances:

1. If the Union is not satisfied with the Step 1 Decision, it may submit the grievance to Step 2, by notifying the Director of Human Resources in writing, within 10 calendar days after receipt of the Step 1 Decision.

2. Either the Director of Human Resources or designee, or the Union, may request a Step 2 meeting, which may be conducted by telephone if mutually agreed, for the purpose of resolving the grievance prior to issuance of the Step 2 Decision. If requested, the meeting shall be scheduled within twenty (20) calendar days of being requested.

3. At the Step 2 meeting, the Union will make a presentation to the Director of Human Resources or designee explaining the basis for the grievance and any supporting arguments.

4. Within 21 calendar days of the conclusion of the meeting, the Director of Human Resources or designee shall issue the Step 2 decision, in writing, to the Union.

Step 2 –Disciplinary Grievances:

1. If the Union is not satisfied with the Step 1 Decision, it may submit the grievance to Step 2, by notifying the Director of Human Resources in writing, within 10 calendar days after receipt of the Step 1 Decision. In this written submission of the grievance to Step 2, the Union shall either request a Step 2 meeting or hearing.

2. Disciplinary Meetings: Where a Step 2 meeting is requested by the Union:

    a. The Director of Human Resources or designee shall schedule the meeting within twenty (20) calendar days of the request.

    b. At the meeting, the Authority shall make a statement that includes sufficient facts to explain the basis for the discipline. Thereafter, the Union will have the opportunity to explain why the discipline was unwarranted and/or why the penalty is too severe.

c. Within 21 calendar days of the conclusion of the meeting, the Director of Human Resources or designee shall issue the Step 2 decision, in writing, to the employee and the Union.

3. Disciplinary Hearings: Where a Step 2 hearing is requested by the Union:

   a. The Director of Human Resources or designee shall serve at the Hearing Officer and shall schedule a Step 2 hearing within 20 days from the date that the Union submitted the grievance to Step 2.

   b. All witnesses at the hearing shall be subject to direct and cross examination.

   c. Within 21 calendar days from the conclusion of the Step 2 hearing, the Hearing Officer shall issue the Step 2 decision, in writing, to the employee and Union.

Step 3. Arbitration:

1. If the Union is not satisfied with the Step 2 Decision, the Union may file a written request for binding arbitration through the Public Employment Relations Commission (with copy provided simultaneously to the Director of Human Resources). Requests for arbitration must be submitted to the Public Employment Relations Commission within thirty (30) calendar days of its receipt of the Step 2 Decision.

2. Nothing in this Agreement shall be construed as compelling the Union to submit a grievance to arbitration. The Union's decision concerning whether to request binding arbitration shall be final as to the interests of both the Union and the Grievant.

3. The Arbitrator selection process and the conduct of the arbitration hearing shall be governed by the rules, regulations and procedures of the New Jersey Public Employment Relations Commission ("PERC").

4. Each party to this Agreement shall bear the expenses of preparing and presenting its own case.

5. The party bearing the burden of proof at the hearing shall provide the opposing party with the names of witnesses they may call and the documents they may introduce at the arbitration hearing within 7 calendar days prior to the arbitration hearing. The party that does not bear the burden of proof shall provide the party bearing the burden of proof with a list of witnesses they may call and the documents they may introduce within 5 calendar days prior to the arbitration hearing. Neither party shall be precluded from calling witnesses or introducing documents that were not disclosed in advance pursuant to this section, based on the case presented by the opposing party.

6. The fees and the expenses of the Arbitrator, together with any incidental expenses mutually agreed upon in advance, shall be borne equally by the parties.

7. Either party may have a verbatim record of the arbitration hearing taken by a certified transcriber at that party's expense. However, if both parties request a copy of the transcript, the cost of the transcript and transcriber shall be shared equally between the parties.

8. The arbitrator shall conduct a hearing to determine the facts and render a decision in writing to the parties. The arbitrator shall have no authority to add to, detract from, alter, amend or modify any provision of this agreement, or to impose on either party a limitation or obligation not explicitly provided for in this agreement. The arbitrator shall confine him/herself to the issue(s) submitted for arbitration. The Award of the arbitrator shall be final and binding.

9. The arbitrator shall have the authority to resolve disputes regarding the scheduling and/or adjournment of the arbitration hearing.

10. In disciplinary arbitration hearings, the arbitrator shall ~~have the right to~~ determine whether the discipline was imposed for "just cause." If the arbitrator determines that the discipline was not imposed for "just cause" (either because the Authority failed to meet its burden of proof that the employee engaged in misconduct or incompetence or because the arbitrator determines that the level of discipline imposed was not reasonable), the arbitrator shall have the authority to: (a) reinstate the employee to his/her position, (b) reduce the penalty, (c) award back pay

and benefits, and/or (d) restore all seniority that the employee would have earned but for the discipline.

C. **Abandonment of Grievance**:

1. If the initial grievance was not timely filed at Step 1 or timely appealed to Step 2 as set forth above, or if it was not timely submitted to arbitration then the grievance shall be deemed to have been permanently abandoned by the Union and the Union shall be precluded from submitting the matter to arbitration.

2. No arbitrator shall have any authority whatsoever to rule upon the merits of a grievance that has been abandoned in accordance with the procedures.

D. **Extending Time Limits**:

Time limits set forth in this Article may be extended by mutual agreement, in writing.

E. **Authority Failure to Timely respond**:

A failure by the Authority to respond at any step within the provided time limits shall be deemed a denial of the grievance at that particular Step and shall permit the Union to move the grievance to the next step in the procedure.

F. **Attendance at Meetings/Hearings**:

The Authority shall permit the Grievant (or employee that is the subject of discipline) and a reasonable number of witnesses that need to attend the Step 1 or Step 2 meeting or an arbitration hearing pursuant to Step 3 to be excused from any scheduled duty during the meeting time without loss of pay. Whenever possible, these meetings will be scheduled during working hours.[1]

[1] The parties agree that the current practice(s) with respect to employees assigned to second and third shifts and who participate in grievance meetings or arbitration hearings during the first shift, shall remain in effect.

SCHEDULE D

DISCIPLINARY ACTION

Delete Article in its entirety and replace with the following:

A. Disciplinary Procedure

1. Discipline Defined: The term "discipline" shall mean: (a) official written warning or written warning in lieu of suspension without pay, (b) suspension without pay, (c) demotion, which is any reduction in grade or title, or (d) discharge, when any of the foregoing occur based upon the employee's conduct or performance. The following shall not be construed as discipline:

    a. Dismissal or demotion due to layoff made by the Authority;

    b. Written or verbal counseling. A Counseling Notice is part of the performance improvement process and is an opportunity for management to constructively discuss with an employee, the Authority's observations about the employee's performance or behavior. Oral counseling, although in writing, is not to be considered discipline and shall not be placed in the employee's Human Resources file and shall not be introduced into evidence to support the reasonableness of a disciplinary penalty.

2. Just Cause: No employee shall be subject to discipline by the Authority without just cause.

3. Written Warning in Lieu of Suspension: Subject to the agreement of the Union and the employee, the Authority reserves the right to substitute a written warning in lieu of suspension without pay, which shall have the same weight as a suspension without pay for purposes of progressive discipline. An agreement between the parties to substitute a written warning in lieu of an unpaid suspension does not waive the right of the employee or Union to challenge whether the written warning was imposed for just cause under this Article unless the agreement so specifies.

4. Vacation Balances: The Authority may also, in lieu of suspension and upon mutual consent of the Union and employee, deduct days from the

employee's vacation balances. In such circumstance, the disciplinary penalty will be treated as equivalent to the same number of unpaid suspension days for purposes of progressive discipline.

5. Written Notice of Discipline: When discipline is imposed pursuant to this Article, the Authority shall provide an Advisory Notice of Disciplinary Action ("ANDA") to the employee on a form expressly provided for that purpose by the Human Resources Department. The ANDA shall set forth the reasons for the discipline, sufficient facts to demonstrate the basis of the discipline, and the penalty being imposed. A copy of the ANDA shall be provided to the Union as soon as feasible but no later than seventy-two (72) hours after being provided to the employee.

6. Time Limit for Issuance of Discipline: The Authority shall serve a written notice of discipline within 10 days of becoming aware of the alleged offense. If the Authority conducts an investigation into the alleged conduct, the 10-day period will begin to run upon the conclusion of the investigation. The Authority must complete the investigation as expeditiously as possible based on the nature of the investigation.

7. Within ten (10) calendar days from the issuance of the ANDA, the Authority shall provide to the employee and the Union all evidence, including all documents, witness statements and other evidence, upon which the Authority relied upon in support of the imposition of discipline. If the Authority obtains additional evidence upon which it intends to rely upon in support of the discipline, such evidence (including documents and witness statements) shall be provided to the Union within 10 days of the Authority deciding that it intends to rely upon such evidence in support of the discipline. It is understood that the Authority's agreement to provide this information to the Union at this early stage of the proceedings does not preclude the Authority from submitting additional evidence that is relevant and supportive of the disciplinary action taken (including additional documents or witness statements) at any arbitration proceeding. No arbitrator shall preclude the admission of such evidence, or refuse to give due weight to such evidence, based on the fact that it was not timely provided to the Union within 10 days from the issuance of the ANDA or within 10 calendar days from when the Authority decided to rely upon such evidence.

8. Discipline Effective Immediately: Any suspension without pay, demotion, or discharge shall be effective following issuance of the Step 2 Decision, except for suspensions without pay, demotions or discharges that are effectively immediately pursuant to Section B(2) of this Article. For discipline that is effective immediately under Section B(2), such discipline is subject to reversal only pursuant to the grievance procedure.

9. Challenging Discipline: The Union has the right to challenge the issuance of an ANDA by timely filing a grievance at Step 1 of the Grievance Procedure. Once a grievance is filed challenging disciplinary action, the procedures set forth in the Grievance Procedure shall apply.

10. Union Representation: An employee that is subject to discipline pursuant to this Article has the right to be represented at all steps of the Grievance Procedure by the Union.

11. Pre-Termination or Pre-Suspension Notice and Opportunity to be Heard: Prior to suspension without pay or termination of an employee, the Authority shall provide the employee with a pre-suspension/pre-termination opportunity to be heard. At this meeting, the Authority shall explain the basis for the proposed suspension or termination and the employee or Union representative shall have an opportunity to respond. The Authority shall consider the employee's position prior to rendering a decision of whether to impose discipline pursuant to this Article. The employee shall have the right to Union representation at this meeting.

B. Other Provisions Relating to Discipline

1. Expungement: Records of discipline of suspensions of 10 days or less that did not involve criminal charges shall be removed from the employee's personnel file after 3 years if there has been no further discipline during that 3-year period. Once the record of the discipline has been removed from the employee's personnel file, the discipline shall not be considered by the Authority with regard to future disciplinary action.

2. Suspension Without Pay Pending Investigation or Pending Issuance of Step 2 Decision: The Authority may temporarily suspend an employee without pay pending the results of an investigation or pending the issuance of a Step 2 Decision when the Authority determines that the employee: (a) poses a threat to the health or safety of him/herself or others, (b) is unfit for duty, (c) has been formally charged with a crime that is directly related to his or her job, (d) is suspected of theft, pilferage or serious insubordination, or (e) where the employee's presence in the workplace would, in the discretion of management, significantly disrupt operations. If the Authority decides to suspend an employee without pay pending investigation, it shall follow the procedures set forth in Section A(11) of this Article.

SCHEDULE E

ATTENDANCE

Preface: The parties agree that regular on-time and reliable employee attendance is crucial to the effective operations of the Authority. Without reliable on-time attendance by employees, depending service to the public cannot be delivered. To that end, the purpose of this Policy is to ensure that all employees know what is expected of them in the enforcement of an effective attendance system so that employees attend work as required. It is the responsibility of employees to make themselves aware of and comply with this Policy. The Policy sets forth only the minimum standards of attendance to avoid disciplinary action. However, all employees should strive not only to comply with the minimum standards, but rather, to achieve the highest possible level of attendance or perfect attendance. The Authority's expectation is that every employee arrives on time for all scheduled work assignments and completes his or her shift on every scheduled working day.

1. Employees in all departments shall be required to swipe in when arriving and swipe out when leaving each workday. The method for swiping in and out will be left to management's discretion, and may include KRONOS swipes, swiping an employee identification card at a point of entrance, or similar methods.

2. Employees shall be subject to discipline for unexcused lateness, unexcused early departure, or unexcused absence. Disciplinary action based on attendance is intended to be progressive and corrective.

3. Excused Absences, Lateness, and Early Departure: An incident of lateness, early departure, or absence shall be excused and not be deemed an occurrence under this Article in the following circumstances.

a. <u>Excused Lateness</u>:

i. When an employee contacts a supervisor at least 30 minutes prior to the start of the shift and indicates that he/she will be late for work and requests the lateness to be excused and the supervisor approves such request. If an employee is unable to reach his/her supervisor, the employee may leave a message on the supervisor's voice mail_at least 30 minutes prior to the start of the shift requesting an excused lateness. Requests to excuse a lateness shall not be unreasonably denied. The decision to deny an employee's request for an excused lateness shall be in the sole discretion of the supervisor and shall not be subject to arbitration. Thus, in challenging discipline pursuant to this Article, an employee may challenge the unreasonable denial of a request for an excused absence through Step 2.

ii. Each employee shall have seven (7) 12-minute grace periods per calendar year. Lateness within a grace period is excused. This grace period does not apply to toll collectors.

b. <u>Excused Early Departure:</u>

i. When an employee contacts a supervisor during the shift and indicates that he/she needs to leave early from work and requests that this early departure be excused and the supervisor approves such request. Employee requests for an excused Early Departure shall not be unreasonably denied. The decision to deny an employee's request for an excused early departure shall be in the sole discretion of the supervisor and shall not be subject to arbitration. Thus, in challenging discipline pursuant to this Article, an employee many challenge the unreasonable denial of a request for an excused Early Departure through Step 2.

ii. When an employee utilizes paid sick leave, paid bereavement leave, paid jury duty leave, paid vacation leave, paid personal leave or paid administrative leave in order to leave work early and such leave has been approved in accordance with the provisions of this Agreement.

c. Excused Absences:

i. When an employee utilizes paid sick leave, paid bereavement leave, paid jury duty leave, paid vacation leave, paid personal leave, or paid administrative leave that has been approved in accordance with the provisions of this Agreement.

ii. When an employee is on an approved unpaid leave of absence in accordance with the provisions of this Agreement or pursuant to applicable law, including, but not limited to FMLA, NJ Family Leave Act, NJ Safe Act, or the ADA.

iii. Any days that the employee is absent due to illness or injury and is also receiving Temporary Disability or Workers' Compensation benefits.

4. An absence, early departure, or lateness not excused under paragraph 3 above is an "unexcused" absence, early departure, or lateness.

5. Employees shall be disciplined based on the number of "occurrences" of unexcused absences, unexcused early departures, or unexcused lateness. An "occurrence" means an incident of unexcused lateness, an unexcused early departure, or an unexcused absence. An occurrence is a single day of unexcused absence or consecutive days of unexcused absence arising from the same injury or illness, including the injury or illness of a family member. For example, an absence that is unexcused of three consecutive days or more arising from the same illness due to the flu shall be counted as only one occurrence.

6. Reviews of attendance are based on a calendar year. Only occurrences during a calendar year are considered in imposing penalties under this Article. Effective on January 1, each year, the number of Occurrences for each employee shall be reset to zero. The penalties for violation of this Attendance Policy shall be as follows:

Number of Occurrences within a Calendar Year	Penalty
6	Verbal Warning
9	Written Warning
12	1-Day Suspension Without Pay
15	5-Day Suspension Without Pay
18	10-Day Suspension Without Pay
21	Termination

7. The Authority shall provide the Union with copies of all notices, Written Warnings, and other discipline received by employees pursuant to this Article. Each notice shall include the dates of all Occurrences that resulted in the discipline.

8. Employees that have an unexcused lateness (taking into account the grace period above), unexcused early departure, or unexcused absence and are to be docked pay shall have the option of using their leave time from their paid leave banks, if available, in lieu of a reduction of pay.

9. Employees with an excused lateness or excused early departure shall need to use paid leave time in order to be paid for all time not worked beyond the 12-minute grace period.

10. All disciplinary action under this Section is subject to the procedures set forth in Article ___, Grievance Procedure and Article ___, Disciplinary Action.

11. If an employee challenge to discipline under this Policy does not result in the discipline being overturned, or in any of the underlying Occurrences being deemed invalid, then the underlying Occurrences that preceded the disciplinary penalty shall be deemed valid and cannot be challenged when a future disciplinary penalty occurs.

12. If an employee or the Union does not challenge a disciplinary penalty given pursuant to this Policy in accordance with the Grievance and Disciplinary procedures, it shall constitute a waiver of any right to challenge the underlying Occurrences that preceded the disciplinary penalty. These underlying Occurrences cannot thereafter be challenged when a future disciplinary penalty occurs pursuant to this Policy.

13. <u>Absent Without Leave (AWOL) and Job Abandonment</u>: An employee that is absent from work without having called in and notified a supervisor of the absence may be subject to discipline outside of the progressive discipline set forth in this Article, but is subject to just cause. When an employee is AWOL for 4 or more consecutive days, the employee may be subject to discipline up to and including termination based on job abandonment, unless the employee can demonstrate that it he or she was to call in as a result of a medical or other emergency. Discipline based on a charge of job abandonment is not subject to the progressive discipline set forth in this Article but is subject to just cause.

SCHEDULE F

EMERGENCY DECLARATION

1. Effective October 1, 2020, Employees on duty and those who come to work on their shift or on overtime at a location within the geographic scope of the declaration of an Emergency shall receive a $100.00 bonus.

2. An Emergency declaration will apply only when the Governor of the State of New Jersey declares a State of Emergency as a result of inclement weather or acts of domestic or international terrorism.

3. The declaration of an Emergency will be announced on the Authority's Hotline and/or by any other reasonable means of communication. Once so announced, it is presumed that all employees are aware of the declaration. Employees are responsible to check the Hotline.

4. Essential employees who do not report to duty on a scheduled work day, will be deemed unexcused unless: (a) they have received approval for paid leave in accordance with the provisions of this Agreement, or (b) they are on an approved unpaid leave of absence in accordance with the provisions of this Agreement.

   An Essential employee that is unexcused as set forth above shall only be entitled to utilize their accrued unused paid time off to be paid straight time for the day when the Authority finds a suitable replacement to come to work to perform the duties of the absent Essential Employee. Notwithstanding that such Essential employees are paid for the day the absence will still be treated as unexcused for purposes of the Attendance Policy.

5. The Authority shall issue identification to essential employees that identify them as essential.