

AGREEMENT

between

UAW LOCAL 2327

CAPE MAY LIFEGUARDS

and the

CITY OF CAPE MAY

January 1, 2019 through

December 31, 2022

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PREAMBLE

THIS AGREEMENT entered into this ___ day of _____, 2019, by and between the CITY OF CAPE MAY, a Municipal Corporation of the State of New Jersey, (hereinafter called the "City") and AMALGAMATED LOCAL 2337, UNITED AUTO WORKERS, AFL-CIO (hereinafter called the "Union") as the bargaining representative for the CAPE MAY LIFEGUARDS represents the complete and final understanding on all of the bargainable issues between the City and the Union.

This Agreement is entered into pursuant to the provisions of Chapter 123, Laws of 1974 (N.J.S.A. 34:12A-5.1, et seq.) of the State of New Jersey to promote and ensure harmonious relations, cooperation and understanding between the City and Employees; to prescribe the rights and duties of the City and Employees; to provide for the resolution of grievances, all in order that the public service shall be expedited and effectuated in the best interests of the people of the City of Cape May.

ARTICLE ONE

RECOGNITION

A. In accordance with the Public Employment Relations Commission Certification of Representation dated April 24, 1998, under Docket No. RO-98-89, the City hereby recognizes the Union as the exclusive representative pursuant to NJSA 34:13A-1 et. seq. for all regularly employed Lifeguards employed by the City of Cape May. Excluded from this bargaining unit are managerial executives, confidential employees, supervisory employees within the meaning of the Act, Chief of Beach Patrol, lifeguard captains, City designated lifeguard lieutenants, police, and all other employees employed by the City of Cape May.

B. The terms "lifeguard", "officers" and "employee" shall be used interchangeably and shall be defined to include the plural as well as the singular. Reference to the male gender shall include the female gender in any reference herein.

ARTICLE TWO

NON DISCRIMINATION

A. The City and the Union agree that neither of them will discriminate or harass or cause discrimination or harassment against any employee covered by this labor agreement because of race, color, creed, age, sex, handicap, national origin, political affiliation, Union membership, or Union activity.

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

C. It is the policy of the City of Cape May that all City employees should be able to work in an environment free from discrimination and harassment of any kind.

D. Any discrimination or harassment whatsoever of City employees by other City employees and/or officials will not be permitted, regardless of their working relationship.

E. This policy refers to, but is not limited to, discrimination and harassment for the following reasons: Age, Race, Color, National Origin, Religion, Gender, Sexual Orientation, Marital or Civil Union Status and Disability.

F. Harassment shall also include sexual harassment.

G. Further, no employee hereunder shall participate or engage in "hazing" or "initiation" activities with or against any other employee. This limitation shall not prohibit the appropriate discipline of an employee under circumstances that warrant such discipline, so long as the discipline is for just cause.

ARTICLE THREE

DUES DEDUCTION AND REPRESENTATION FEE

A. The City agrees to deduct from the salaries of its employees subject to this Agreement dues for the Union. Said monies together with records of any corrections shall be transmitted to the Union office by the fifteenth (15th) of each month following the monthly pay period in which deductions were made.

B. If, during the life of this Agreement, there shall be any change in the rate of membership dues, the Union shall furnish to the City written notice prior to the effective date of such change and such notification shall be signed by the President and Secretary of the local Union.

C. The Union shall indemnify, defend and save the City harmless against any and all claims, demands, suits or other forms of liability, which may arise by reason of any deductions and remitting the same to the Association pursuant to this Article.

ARTICLE FOUR

MANAGEMENT RIGHTS

A. It is recognized that the management of the City, the control of its properties and the maintenance of order and efficiency, is a right and responsibility of the City of Cape May.

Accordingly, the City hereby retains and reserves unto itself, without limitation, all powers, rights, authority, duties, and responsibilities conferred upon and vested in it prior to the signing of this Agreement by the Laws and Constitution of the State of New Jersey and of the United States, including, but without limiting the generality of the foregoing, the following rights:

1. the executive management and administrative control of the municipal government and its properties and facilities and the determination of the methods of operation of its employees and to direct the activities of its employees;

2. the determination of the standards of selection of employment and the hiring of all employees and, subject to the provisions of law, the determination of their qualifications and conditions for continued employment as well as the assignment, promotion and transfer of employees;

3. the reprimand, suspension, demotion or discharge of employees or other disciplinary action;

4. the transfer, assignment, reassignment, layoff and/or recall of employees to work;

5. the determination of the number of employees and of the duties to be performed and the relief of its employees from duty because of a lack of work or lack of funding or other legitimate reason;

6. the maintenance of the efficiency of its operations and employees as well as the establishment, expansion, reduction, alteration, combination, consolidation or abolition of any job or job classification, department operation or service;

7. the determination of staffing patterns and areas worked, the control and regulation of the use of facilities, supplies, equipment, materials and other property to the City;

8. the determination of the number, location and operation of divisions, departments, units and all other work groups of the City, the assignment of work, the qualifications required, the performance standards and the size and composition of the work force;

9. the determination of the amount of overtime to be worked;

10. the determination of the methods, means and personnel by which its operations are to be conducted;

11. the determination of the content of work assignments;

12. the exercise of complete control and discretion over its organization and the technology of the performance of its work; and

13. the making, maintenance and amendments of such operating rules and regulations as it may from time to time deem best for the purposes of maintaining order, safety and/or the effective and efficient operation of the work of the City, which shall become effective upon written notice to the employees.

B. In exercise of the foregoing rights, powers, authorities, duties and responsibilities of the City, the adoption of policies, rules, regulations and practices in furtherance thereof, and the use of judgment and discretion in connection with the implementation thereof, shall be limited only by the specific and express written terms of this Agreement and by law, and then only to the extent such specific and express terms are in conformance with the Constitution and laws of the State of New Jersey and of the United States.

C. Notwithstanding anything which may be contained in this agreement to the contrary, nothing contained herein shall be construed to deny or restrict the City of its rights and responsibilities under NJSA 40A, the municipal laws of the State of New Jersey, or any other national, state, county or local law or regulation as such may pertain to operation of the Cape May Beach Patrol or of the municipal government generally.

ARTICLE FIVE

LEGAL REFERENCE

A. Nothing contained herein shall be construed to deny or restrict to any employee such rights as he may have under any other applicable laws and regulations. The rights granted the employee shall be deemed to be in addition to those provided elsewhere.

B. The provisions of this Agreement shall be subject to and subordinate to and shall not annul or modify existing applicable provisions of state and local laws except as such particular provisions of this agreement modify existing Ordinances of the City pertaining to terms and conditions of employment.

ARTICLE SIX

UNION RIGHTS

A. Information to Union.

1. Upon request, in writing, by the President of the Union or his/her designee, the City agrees to make known to the representatives of the Union, when and where the Union may obtain documents that the City is required by law to release and/or is pertinent to negotiations or grievances. The material shall be provided within a reasonable amount of time and location.

2. Upon request and pre-authorization of the Chief of Beach Patrol, or his designee, authorized representatives of the Union, not to exceed two (2) shall be permitted during off duty hours to visit the offices of the City Administration for the purposes of investigation alleged violations of the Agreement. In no event shall there be any interference with the operations of the Beach Patrol.

3. The City and Union agree to abide by the provisions set forth in the Workplace Democracy Enhancement Act and any amendment or other relevant caselaw interpreting, altering or abolishing said act.

B. Bulletin Boards.

The City shall permit the Union the use of a Bulletin Board to be supplied by the Union for its exclusive use. Such Bulletin Board shall be located in the headquarters building. This Bulletin Board may be utilized by the Union for the purpose of posting official Union announcements and other information related to the official business of the Union which is of a non-controversial nature. The Union agrees that it will not post material which may be profane,

derogatory to any individual, or constitute election campaign or political material of any kind. The City may have removed from the Bulletin Board any material which does not conform to the intent and provisions of this Article.

C. **Negotiations**

During negotiations, the Union representatives so authorized by the Union, not to exceed two Lifeguards, shall be excused from their normal duties for such periods of negotiations as may be agreed upon by the parties. Such excused individuals, however, shall be available for duty in the event that the need arises. Negotiations shall not take place between the beginning of Fourth of July weekend and the end of Labor Day weekend.

ARTICLE SEVEN

RETENTION OF CIVIL RIGHTS

Members shall retain all civil rights under the New Jersey State Law and Federal Law.

ARTICLE EIGHT

EXTRA CONTRACT AGREEMENT

The City agrees not to enter into any other Agreement or Contract with Union members who are covered hereunder, individually or collectively, which in any way conflicts with the terms and provisions of this Agreement.

ARTICLE NINE

GRIEVANCE PROCEDURE

A. **Purpose.**

1. The Purpose of this procedure is to secure, at the lowest possible level, equitable solutions to the problems which may arise affecting the terms and conditions of employment. The parties agree that this procedure will be kept as informal as may be appropriate.

2. Nothing herein contained shall be construed as limiting the right of any employee having a grievance to discuss the matter informally with any appropriate member of the City, and having the grievance adjusted without the intervention of the Union.

B. **Definitions.**

The term "grievance" shall mean an allegation that there has been:

1. A misinterpretation or misapplication of the terms of this Agreement or the inequitable, improper, unjust application or misinterpretation of rules or regulations, existing policy, or orders applicable to the City and its Beach Patrol.

2. The City maintains the right to discipline employees and such disciplinary actions shall be subject to the terms of Article ELEVEN.

C. **Procedure.**

Since it is important that grievances be processed as rapidly as possible, the number of days indicated at each level should be considered as a maximum and every effort shall be made to expedite the process. The time limits specified may, however, be extended by mutual agreement.

1. **LEVEL ONE - Chief of the Beach Patrol.**

A grievance to be considered under this procedure shall be initiated by the grievant within ten (10) calendar days of its occurrence and submitted in writing, to the Chief of the Beach Patrol with a copy to the City Manager. A decision shall be made in writing by the Chief of the Beach Patrol within ten (10) calendar days after the receipt of the grievance at this level.

2. **LEVEL TWO – City Manager of the City of Cape May.**

Within five (5) calendar days of receipt of the determination at LEVEL ONE, or ten (10) calendar days after submission of the grievance to LEVEL ONE if no decision has been rendered, the grievance may be filed in writing with the City Manager of the City of Cape May. The City Manager of the City of Cape May shall render a decision in writing, within ten (10) calendar days after the submission of the grievance at this Level.

3. **LEVEL THREE – Arbitration.**

If the grievant is dissatisfied with the decision of the City Manager of the City of Cape May and the Union finds the grievance to be meritorious, the Union may, within ten (10) calendar days after the City Manager of the City of Cape May's determination, or within fifteen (15) days of submission of the grievance to LEVEL TWO if no decision is rendered, submit the matter to binding arbitration and request an arbitrator in accordance with the rules and procedures of the New Jersey Public Employment Relations Commission.

D. **Authority of the Arbitrator.**

1. The arbitrator shall function in accordance with the rules and procedures of the New Jersey Public Employment Relations Commission.

2. The arbitrator shall limit himself to the issue before him and consider nothing else. He shall have no power to add to, subtract or modify the Agreement between the parties.

3. The arbitrator shall set forth in writing his findings of fact and conclusions of law upon which his decision is based. The decision of the arbitrator shall be binding upon the

parties.

4. The arbitrator shall be bound by decisions of the New Jersey Public Employment Relations Commission, the decisions of the Courts of New Jersey, and all New Jersey Statutes and Federal Laws.

E. Costs

The cost for services of the arbitrator, including per diem expenses, if any, and actual and necessary travel, subsistence expenses and the cost of the hearing room shall be borne equally by the City and the Union. Any other expenses incurred shall be paid by party incurring same.

F. Representation.

Any aggrieved person may be represented at all stages of the grievance procedure by himself, or at his option, by a representative selected or approved by the Union. When an employee is not represented by the Union, the Union shall have the right to be present and to state its views at all stages of the grievance procedure.

ARTICLE TEN

WORKMEN'S COMPENSATION

A. Whenever an employee is disabled through injury or illness as a result of, or arising from, his employment, he or she shall be provided by the City with the same benefits as provided pursuant to N.J.S.A. 34:15-1, et seq. (the Workmen's Compensation Act of New Jersey). The City insures coverage required by this Act.

B. An employee is required to report to the Chief of Beach Patrol, or his designee, any work accident or condition claimed to have caused disability upon occurrence or discovery, and is responsible for completing a written report on the matter within three (3) days or as soon as possible thereafter. The report shall include a statement of when, where and how the injury or illness occurred, statements of witnesses and copies of all medical reports concerning the injury or illness.

C. The City may require the employee to be examined by a physician designated by the City.

D. The City may, in its discretion and at its sole option, require or permit an employee who is off on Worker's Compensation leave to perform "light duty" if the City determines it is available.

ARTICLE ELEVEN

DISCIPLINARY ACTION

A. **City's Right to Discipline.** The City maintains the right to discipline its lifeguards for just cause. The following provisions constitute the sole and exclusive method for the imposition and appeal of discipline.

B. **Probationary Employees.** The first ninety (90) working days of employment of any employee shall be considered probationary. During the probationary period, any employee may be (1) disciplined or (2) terminated in the sole discretion of the employer and there shall be no right to appeal.

C. **Disciplinary Action.** The City acknowledges the principal of progressive discipline. Depending on the magnitude of the offense, the discipline issued by the City may be in any of the following forms:

1. Verbal reprimand;
2. Written reprimand;
3. Suspension without pay;
4. Demotion (reduction in hourly rate of pay)
5. Dismissal.

D. **Causes for Disciplinary Action.**

The causes for which disciplinary action may be taken include, but are not limited to, the following:

1. Neglect of duty.
2. Absence without leave or failure to report after authorized leave has expired or after such leave has been disapproved or revoked.
3. Incompetence or inefficiency due to mental or physical disability.
4. Insubordination or serious breach of discipline.
5. Intoxication while on duty.
6. Commission of a criminal act.
7. Disobedience of a rule or regulation of the City applicable to employees.
8. Conduct unbecoming a public employee.

9. Chronic or excessive absenteeism.
10. Negligence of or willful damage to public property or waste of public supplies.
11. Tardiness.
12. Use or possession of controlled dangerous substances during work hours or at any time.
13. Engaging or participation in "hazing" or "initiation" activities.
14. Failure to comply with the provisions of the Cape May Beach Patrol Lifeguard Manual.

E. **Disciplinary Hearing.**

An employee who has been Suspended without pay, Demoted or Dismissed may appeal such discipline through the Grievance Procedure beginning at Step Two. Employees hereunder are not covered by Civil Service or the New Jersey Department of Personnel Regulations. Therefore, there shall not be any appeal of any Disciplinary Matters to the New Jersey Department of Personnel.

ARTICLE TWELVE

EMPLOYMENT PROCEDURES

A. **Ability to Perform.**

All applicants for employment shall be required prior to the commencement of employment to take and pass an examination demonstrating the appropriate skills and physical abilities to perform the duties of the task. Further, the City may require Certification examinations in connection with the rehire or continued employment of any employee, in order to confirm the Lifeguard's ability to perform the duties of a Lifeguard in accordance with the Bathing Code set by the State of New Jersey (N.J.A.C. 8:18-1 et. seq.) and the guidelines established by the United States Lifesaving Association. Further, employees are required as a condition of continued employment to hold and maintain a CPR Certification and a First Aid Certification. All Certifications must be maintained throughout an employee's term of employment with the City.

B. **Medical Examinations and Certifications.**

All new applicants for employment and returning guards shall be required to provide a medical certification of fitness from their own physician certifying that they are free of any physical defect or disability which would preclude their providing full and complete service of their duties. Such certification shall be acquired at the sole expense of the prospective employee. The City reserves the right to require at any time that the employee be examined by a physician designated by the City to verify fitness for duty at the City's cost. At the request of

any lifeguard, the City will reimburse the lifeguard for up to \$75.00 for an annual physical to cover any of the out-of-pocket expenses or a reasonable and customary exam. Effective January 1, 2017, at the request of any lifeguard, the City will reimburse the lifeguard for up to \$100 for an annual physical to cover any of the out-of-pocket expenses or a reasonable and customary exam.

C. **Returning Guards.**

Guards who wish to return for their second year and beyond will be considered for employment prior to new applicants.

Guards who wish to return for their second year and beyond must meet established criteria to be rehired each season. The returning guard must have received a satisfactory year-end written evaluation based upon his/her performance during the season and be recommended for rehiring by the Chief of the Beach Patrol. The guard must also demonstrate he/she has maintained the physical capabilities for employment by passing such medical examinations and athletic tests as the City may deem appropriate. Each returning guard must present a Doctor's Certificate, at the cost of the employee, certifying that the employee is physically fit to perform the duties of a Lifeguard, subject to the reimbursement provisions provided under Paragraph B above.

D. **Layoffs.**

If there is a reduction in force, the City shall determine which employees shall be laid off. In making that determination, the City shall consider the employee's past performance, his/her disciplinary record, and attendance record. When all of these items are reasonably equal, then seniority shall be the determining factor and employees with the greater amount of seniority shall be retained.

E. **EMT Stipend.**

All new applicants for employment and returning guards who have obtained at their own cost and continue to possess at their own cost an EMT Certification shall receive an EMT Stipend of Five (\$5.00) Dollar per day, which shall be paid together with the employee's payroll check but not as part of base salary, for all days for which the Lifeguard works during the work season from the beginning of the Memorial Day weekend through and including Labor Day.

ARTICLE THIRTEEN

WORK RULES

The Union acknowledges and agrees that the City has the right to promulgate a Cape May Beach Patrol Lifeguard Manual which may contain such work Rules and Regulations and Standard Operating Procedures or other City Policies governing the operation of the Beach Patrol as the City may desire, including but not limited to:

1. Table of Organization
2. Responsibilities and Duties of Personnel
3. Regulations and Procedures Including Disciplinary Standards.
4. Rescue Procedures and Regulations
5. Vehicle Operations
6. Emergency Procedures
7. Ocean Conditions and Operations

Changes in the Cape May Beach Patrol Lifeguard Manual may be made by the City at any time unless the changes affect a negotiable term and condition of employment. In such event, the City will negotiate with the Union prior to adopting or changing the Cape May Beach Patrol Lifeguard Manual.

A copy of both the Beach Patrol Life Guard Manual and the City Policy Manual shall be available for examination and review at Beach Patrol Headquarters. Upon request, copies of the manual may also be sent via electronic mail to individual lifeguards. The City will advise the union of any changes to either manual and provide revised manuals containing such changes. All new employees shall receive a copy of the Beach Patrol Manual.

ARTICLE FOURTEEN

WORK SCHEDULE

A. Work Year

1. The City specifically reserves unto itself the right to establish by Resolution of the City Council the length of the beach season.

2. The work season for employees shall normally extend from the beginning of the Memorial Day weekend through and including Labor Day. This is not to preclude a modified work year for employees based upon their availability, with prior notice to and acceptance by the City Further, this shall not preclude the City from initiating Beach Patrol

related tasks earlier than the season aforesaid with employees who are available and willing to work, nor to extend the beach season beyond said date on the same basis.

3. Employees shall be informed by way of e-mail of the availability of “pre-season” work at least two (2) weeks before the pre-season work is scheduled to commence.

B. Work Week.

All employees shall be expected, if the City deems it necessary, to work a minimum of six (6) days per week on a schedule established by the Chief of the Beach Patrol, unless because of age they are prohibited by law or regulation from working more than forty (40) hours per work week. Employees may at their option, and if requested to do so, work a seventh (7) consecutive day within any work week.

C. Work Day.

Employees shall be compensated for the hours which they are actually on duty. Employees shall normally be scheduled to work six (6) days per week or a total of forty-eight (48) hours per week which shall be scheduled by the City. The City shall establish reporting procedures in its rules and regulations which the employees agree must be strictly followed. The starting and ending times of each shift shall be determined by the City and set forth in the rules and regulations. Additionally, when special circumstances exist at the direction of the Chief, all employees shall be required to attend up to three (3) unpaid meetings per year for no more than one (1) hour each as a condition of their employment. An employee may request to be excused from attending the unpaid meeting so long as the request to be excused is submitted to the Chief prior to the meeting. The Chief may in his absolute discretion approve or deny the request to be excused. During emergencies, the work schedule may be altered in order to accomplish the tasks of preservation of lives and property on the beach. Further, the City reserves the right to establish such work schedules as it deems efficient and appropriate and shall have the right to assign employees to such work schedules as it deems appropriate.

D. Overtime.

Overtime shall be paid for all hours worked beyond those set forth in an employee's regularly scheduled work period as determined by the City. No overtime shall be worked unless specifically authorized by the City Manager. All overtime shall be paid at the straight time rate except for After Hours Staffing, as set forth in Paragraph G of this Article and Emergency Rescue Call Back, as set forth in Paragraph H of this Article.

E. Exchange of Days off.

Employees shall be permitted to exchange days off so long as three (3) days prior written notice is given and prior approval is acquired from the Chief of the Beach Patrol, and that such exchange does not result in the payment to either employee of any overtime remuneration. In special emergency circumstances, the three (3) day notice requirement can be waived at the discretion of the Chief.

F. **Races and Contests.**

Employees who compete in swimming, rowing and running races and/or competitions in the name of the City of Cape May, or who perform work in the set up of Mascot Races, Lifeguard Races or any other Lifeguard competitions shall not receive overtime or other additional compensation of any kind.

G. **After Hours Staffing.**

The City Manager may, at his discretion, based upon funds and employee availability, determine the start and end dates and coverage hours for staffing after normal coverage hours ("After Hours Coverage"). An employee who has worked an eight (8) hour work day shall be paid overtime at the rate of time and one-half (x1.5) for each hour worked during After Hours Coverage. *(This is from a 2008 addendum.)*

H. **Emergency Rescue Call Back.**

Any employee not on duty responding to an after-hours call-back for emergency rescue or to secure City property shall be paid a flat rate of \$75.00 per completed response. The response shall be deemed completed upon the determination of the Chief of the Beach Patrol or his designee. *(This is from a 2008 addendum.)*

ARTICLE FIFTEEN

UNIFORMS

A. The City shall provide each employee with an appropriate uniform for the performance of their duties. The uniform shall consist of the following items:

- 1 Jacket (light weight water repellent summer jacket)
- 2 Tank tops
- 1 Tee shirt
- 2 Shorts
- 1 Cloth lanyard
- 1 Whistle

B. Employees who wish to purchase additional items of the uniform may do so with the permission of the Chief of the Beach Patrol.

C. Lifeguards shall be provided an annual allowance of \$75.00 for the purchase of sun protection and sunglasses.

D. In the event that any part of the employee's uniform is damaged or destroyed in connection with his duties as a lifeguard for the City, the Chief of the Beach Patrol has the discretion to make replacements at the expense of the City, provided the appropriate evidence is established that the damage or loss of the uniform was beyond the control of the individual employee and directly related to services performed on behalf of the City and not due to the employee's negligence.

E. In the consideration of the supply of such uniforms by the City, all employees shall keep such uniforms cleaned and in good condition and shall wear the appropriate uniform as directed by the Chief of the Beach Patrol for the entire tour of duty. Failure to wear such uniform shall subject an employee to discipline. Such uniforms may not be worn during the season when off duty, except when participating in or attending the races outlined in Article Fourteen, or while commuting to and from work.

ARTICLE SIXTEEN

SOLICITATION OF FUNDS

The Union agrees that no City employee shall solicit or assist in the solicitation of funds from any person or organization using the name of the Cape May Beach Patrol without prior written approval of City Manager of the City of Cape May or his designee. This restriction shall not apply to solicitations by or in behalf of the Cape May Beach Patrol by Employees while off duty. Absent such authorization, such employee shall, prior to the solicitation, directly inform the person or organization solicited that he or she does so as an individual only and not as an agent or representative of the City, and that the City has not approved the solicitation.

ARTICLE SEVENTEEN

LEAVE OF ABSENCE

A. Leave of absence, without pay, may be granted by the City for emergency situations, or other valid reasons presented to the Chief of Beach Patrol and approved by the City Manager, or his designee, in its discretion.

B. Leaves of absence shall be requested by the member in writing to the Chief of Beach Patrol no less than two weeks prior to the requested leave except in cases of emergency.

C. Upon return to service the member shall retain his position and shall be paid at the appropriate salary level but leave of absence time off shall not be considered as time worked for any purpose.

ARTICLE EIGHTEEN

NO STRIKE PLEDGE

A. The Union covenants and agrees that during the term of this Agreement, neither the Union nor any person acting in its behalf, will cause, authorize, or support nor will any of its members take part in any strike (i.e. the concerted failure to report to duty, or willful absence of any employee from his position, or stoppage of work or abstinence in whole or in part, from the full, faithful and proper performance of the employee's duties of employment), work stoppage, slowdown, walkout or other action which interferes with the full and complete normal operation of the Beach Patrol. The Union agrees that such action would constitute a material breach of this

Agreement.

B. In the event of a strike, slowdown, walkout, or other job action, it is covenanted and agreed that participation in any such activity by an employee covered under the terms of this Agreement shall be deemed grounds for termination of employment of such employee or employees subject, however, to the application of the grievance procedure set forth in Article Nine.

C. The Union will actively discourage and will take whatever affirmative steps are necessary to prevent or terminate any strike, work stoppage, slowdown, walkout or other action which interferes with the full and complete normal operation of the Beach Patrol.

D. Nothing contained in this Agreement shall be construed to limit or restrict the City in its right to seek and obtain such judicial relief as it may be entitled to have in law or in equity for injunction for damages or both in the event of any such breach by the Union or its members.

ARTICLE NINETEEN

MEMBERS RIGHTS

A. A Member shall have access to his/her personnel file upon reasonable notice and in the presence of a City Official.

B. No reports or charges shall be placed in a member's personnel file without the Employee receiving a copy of same.

C. Members shall be entitled to engage in outside employment during off-duty hours provided that such employment does not conflict with his employment responsibilities as an employee of the City of Cape May.

ARTICLE TWENTY

DRUG FREE WORK PLACE

A. A drug-free workplace, free from use of non-medically prescribed controlled substances, is vital to the City, to the safety of our work place, to the productivity of our employees, and to the interests of the general public. For these reasons, the City has implemented a drug policy and practices oriented toward maintaining a drug-free work environment.

B. The use, possession, sale or distribution of non-medically prescribed controlled substances on City premises (including parking lots and recreation areas or in any City work environment) is prohibited. "Work environment" includes situations where an employee is representing the City whether on a citizen related call or participating in a business meeting off-premises. A violation of this provision of the City's drug policy is not considered a medical issue and normally results in dismissal from the City. The City's drug policy also prohibits employees impaired by any medically prescribed controlled substances from entering City premises or other

work environments. Consideration is given to the safety of any employee asked to leave our premises due to an impairment (e.g. ability to drive, etc.).

C. The City reviews employees off-the-job drug-related incidents such as arrests for use, possession, sale or distribution of drugs to make a determination if the incident could result in an adverse or potentially adverse impact to the City and/or to our employees. The results of the review will determine the appropriate course of action for the City to take including dismissal, rehabilitation or other actions.

D. Drug testing will be administered pursuant to the terms and conditions of the City's Personnel Policy Manual. The Shop Steward shall be notified at the time that random drug testing is administered. If a Lifeguard is under the age of 18, parental consent will be required.

E. Any employee for whom a final, confirmed positive test result reflects the use of drugs, alcohol, or both, will be terminated, except if the following conditions are met:

- a) The employee has completed five (5) or more years of service as an employee of the City, voluntarily accepts unpaid suspension for the remainder of the summer season during which time positive tests occurred;
- b) The employee avails him/herself to an Employee Assistance Program, EAP, complies and completes the EAP program, and voluntarily accepts random drug/alcohol testing for a period of time recommended by the EAP and determined by the City. (In the event the employee is out-of-state in the off season for work, education, and/or he or she resides out of state, that individual may request a referral from the City's EAP provider to a program local to the employee. The employee must then submit this program to the City for approval and the employee will be responsible for any and all fees and costs associated with this out of state program.)
- c) The employee acknowledges that any subsequent confirmed positive test result will result in termination of employment; and
- d) The employee acknowledges that if the EAP determines that he/she is not compliant with the EAP program, his/her employment will be terminated.

F. Any employee who refuses to submit to a drug or alcohol test or who adulterates, substitutes or tampers in any way with a specimen will be terminated. Additionally, any employee who refuses to cooperate with personnel, including laboratory personnel, responsible for administering this policy, or otherwise violates this policy, will be terminated.

ARTICLE TWENTY-ONE

COMPENSATION

A. **Wages.**

The City agrees to increase the daily pay scale for Lifeguards during the term of this Agreement as follows:

January 1, 2019	one and one half (1.5%) percent
January 1, 2020	one and one half (1.5%) percent
January 1, 2021	one and three-quarters (1.75%) percent
January 1, 2022	one and three-quarters (1.75%) percent

An employee who has served twenty (20) or more years shall receive an additional ten (\$10.00) dollars above the top rate of the wage scale. The \$10.00 shall not be subject to the annual percentage increase and shall be added to the top rate after the percentage increase has been calculated.

The daily pay scale for Lifeguards employed by the City of Cape May shall be set forth on Schedule A attached hereto and by this reference made a part thereof. This daily pay scale is based upon an eight (8) hour day. Therefore, where applicable, the hourly rate of pay for employees shall be determined by dividing the daily pay scale rate for the employee by eight (8) hours.

Effective January 1, 2011, each employee shall be placed on the Wage Guide in accordance with his/her years of service with the City. Each employee shall move to the next Step on the Wage Guide provided that the employee has worked a minimum of thirty (30) days during the prior season. The Chief, with the approval of the Mayor or his designee, may authorize the placing of a lifeguard at a higher step, if he or she has prior experience with another municipality

B. **Court Time.**

If an employee is required to appear in Court on behalf of the City on City related business or for any reason arising out of his employment as a lifeguard, he shall suffer no loss of pay.

C. **Adjustments to Compensation.**

Nothing contained herein shall prevent the City from moving an employee to a higher hourly rate on the wage structure as a reward for outstanding achievement, or withholding an increment or reducing an employee's hourly rate as a disciplinary measure.

D. **End of Season Incentive Plan.**

In order to keep Lifeguards through the Sunday following Labor Day, an incentive plan shall go into effect. Such plan shall provide for a per diem incentive of \$6.50 during the term of this Agreement. In order for a Lifeguard to qualify for this incentive, the

following conditions must be met:

1. Salary funds from the Lifeguard budget must be certified available by the CFO by August 15th.
2. Lifeguard must have worked a minimum of 45 days prior to the incentive date, which is 14 days prior to Labor Day.
3. Lifeguard must work 6 days per week for the duration of the incentive period.
4. A maximum of 20 days will be considered for incentive pay from the period of 14 days prior to Labor Day up to and including the Sunday following Labor Day.

E. **Additional benefits.**

1. The City will compensate each lifeguard an amount of \$50.00 for each incident in which the lifeguard is authorized to dive in a search and recovery operation.
2. Lifeguards will be compensated at their normal rate of pay for mandatory meetings scheduled outside of the normal work day hours.

ARTICLE TWENTY-TWO

FULLY BARGAINED PROVISIONS

The parties acknowledge that this Agreement represents and incorporates the complete and final understanding and settlement of the parties on all bargain able issues which were or could have been subject to negotiations, and that all terms and conditions of employment applicable on the effective date of this Agreement to employees covered by this Agreement. Unless otherwise provided in this Agreement, no prior administrative procedure, practice or past practice shall be interpreted or applied so as to enlarge or otherwise conflict with the express terms of this Agreement.

During the term of this Agreement, neither party will be required to negotiate with respect to any such matters, whether or not covered by this Agreement and whether or not within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this Agreement.

This document constitutes the sole and complete agreement between the parties and embodies all of the terms and conditions governing the employment of employees in the Union.

The parties acknowledge that they have had the opportunity to present and discuss proposals on any subject, without prejudice, which is (or may be) subject to collective bargaining.

ARTICLE TWENTY-THREE

SEPARABILITY AND SAVINGS

Each and every clause of this Agreement shall be deemed separable from each and every other clause of this Agreement to the extent that in the event any clause or clauses shall be finally determined to be in violation of any Federal or State Law, then in such event, such clause or clauses, only to the extent that any may be so in violation shall be deemed of no force and effect and unenforceable without impairing the validity and enforceability of the rest of the Agreement, including any and all provisions on the remainder of any clause, sentence or paragraph in which offending language may appear.

ARTICLE TWENTY-FOUR

NOTICES

Whenever any notice is required to be given by either of the parties to this Agreement to the other, pursuant to the provisions of this Agreement, either party shall do so by certified mail at the following addresses:

1. If by the Union, to the City at the City's Municipal Building, c/o the City Manager of the City of Cape May.
2. If by the City to the Union President at the local union offices.

ARTICLE TWENTY-FIVE

LIAISON

The Union and the City recognize the desirability for continuing communication on the subject relating to current Beach Patrol practices and problems. The Union President may select a Liaison Committee of three members which may meet periodically during the year with the City to discuss and review all such matters in order that the quality of bather protection may be maintained and improved.

ARTICLE TWENTY-SIX

COMMENDATION

One day compensatory time off shall be granted to an employee who has received a commendation from the Mayor, Council and/or City Manager.

ARTICLE TWENTY-SEVEN

DURATION AND TERMINATION

A. This agreement shall remain in full force and effect from the first day of January, 2019 until midnight of December 31, 2022.

B. Thereafter, it shall automatically be renewed from year to year, unless either party hereto shall notify the other, in writing, ninety (90) days prior to the expiration date, that it desires to modify said agreement.


ARTICLE TWENTY-EIGHT

PENSION PLAN

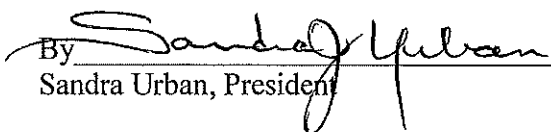
The parties acknowledge that the City is required to provide a pension to all lifeguards and has adopted a pension plan which is set forth on Schedule B attached hereto and by this reference made a part hereof. The pension plan shall also be modified to provide that any Lifeguards who have not attained the age of 18 as of the first day of each year he or she works as a Lifeguard shall not be eligible for participation in the plan until a year in which he or she is age 18 on the first day of work. Accordingly, until such time no pension contributions shall be withheld from their pay and none of the days worked shall be counted toward calculating a year of service, as defined in the pension plan. Employee's share of required contributions for buyback purposes will be limited to a twenty (20) year maximum for all current employees.

IN WITNESS WHEREOF, the CITY OF CAPE MAY has caused these presents to be signed by its Mayor, attested to by its City Clerk and its Corporate Seal to be hereto affixed, and the AMALGAMATED LOCAL 2327, UNITED AUTO WORKERS, AFL-CIO, has caused these presents to be signed by the CAPE MAY LIFEGUARDS and its Corporate Seal to be hereto affixed, the day and year first above written.


CITY OF CAPE MAY

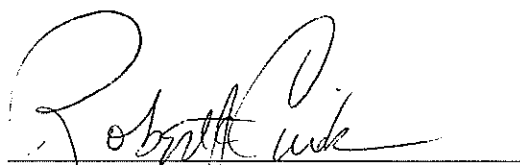
By 
Clarence Leer, Mayor

UAW LOCAL 2327 CAPE MAY LIFEGUARDS

By 
Sandra Urban, President

Attest:


Patricia Harbora, City Clerk


Robert Cwik, Lifeguard

Schedule A

Lifeguard Wage Guide

YEARS OF SERVICE		2019	2020	2021	2022
20+	\$	146.43	\$ 148.47	\$ 150.90	\$ 153.36
11 through 19	\$	136.43	\$ 138.47	\$ 140.90	\$ 143.36
10	\$	111.53	\$ 113.20	\$ 115.18	\$ 117.20
9	\$	109.59	\$ 111.23	\$ 113.18	\$ 115.16
8	\$	105.67	\$ 107.26	\$ 109.13	\$ 111.04
7	\$	103.74	\$ 105.30	\$ 107.14	\$ 109.02
6	\$	102.18	\$ 103.71	\$ 105.53	\$ 107.37
5	\$	101.17	\$ 102.68	\$ 104.48	\$ 106.31
4	\$	100.15	\$ 101.65	\$ 103.43	\$ 105.24
3	\$	99.17	\$ 100.65	\$ 102.41	\$ 104.21
2	\$	98.17	\$ 99.64	\$ 101.39	\$ 103.16
1	\$	97.21	\$ 98.66	\$ 100.39	\$ 102.15

CITY OF CAPE MAY, COUNTY OF CAPE MAY, STATE OF NEW JERSEY

RESOLUTION NO. 140-06-2019

RESOLUTION APPROVING A MEMORANDUM OF AGREEMENT WITH UAW LOCAL 2327 REPRESENTING CITY OF CAPE MAY LIFEGUARDS

MOTION: Hendricks SECOND: Mullock

WHEREAS, the City of Cape May (the "City") and UAW Local 2327 representing City of Cape May Lifeguards (the "Union") have negotiated a Memorandum of Agreement, a copy of which is attached hereto as EXHIBIT A, which has been approved by the Union; and

WHEREAS, the City Mayor and Council have determined the Memorandum of Agreement contains a long range wage and benefits guide and thus also desired to approve the Collective Bargaining Agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cape May, County of Cape May, State of New Jersey, with the foregoing recital paragraphs incorporated herein, as follows:

- 1. The Memorandum of Agreement, a copy of which is attached hereto as EXHIBIT A, is hereby approved.
2. The Mayor and Clerk are hereby authorized and directed to execute the Memorandum of Agreement and to take any and all other actions necessary to effectuate the purposes thereof.
3. The Mayor and Clerk are hereby authorized and directed to execute a contract which incorporates the terms of the Memorandum of Agreement, subject to editing by Labor Counsel.

I, Patricia Harbora, City Clerk of the City of Cape May, County of Cape May, State of New Jersey, do hereby certify the foregoing is a correct and true original Resolution adopted by the City Council of the City of Cape May at a meeting held on June 5, 2019.

Handwritten signature of Patricia Harbora, City Clerk

Table with 5 columns: Roll Call, Ayes, Nays, Absent, Abstain. Rows include Hendricks, Meier, Mullock, Sheehan, and Lear, with 'X' marks in the Ayes column.

Cc: City Manager
Lifeguards
UAW Local 2327