

Agreement

between

The State *of* Delaware
Justice of the Peace Court

and

International Brotherhood of Teamsters
Local 326

November 22, 2016 – November 21, 2019

TABLE OF CONTENTS

<u>ARTICLE</u>	<u>PAGE</u>
ARTICLE 1 PREAMBLE	3
ARTICLE 2 MANAGEMENT RIGHTS	3
ARTICLE 3 UNION RECOGNITION AND SECURITY	3
ARTICLE 4 GRIEVANCE PROCEDURE	4
ARTICLE 5 LABOR/MANAGEMENT COOPERATION	6
ARTICLE 6 UNION REPRESENTATIVES	7
ARTICLE 7 DISCIPLINE	7
ARTICLE 8 SENIORITY AND PROBATIONARY EMPLOYMENT	8
ARTICLE 9 SAFETY & HEALTH	9
ARTICLE 10 EQUIPMENT, RULES/POLICIES & CLOTHING	9
ARTICLE 11 TRAINING	10
ARTICLE 12 NON-DISCRIMINATION	10
ARTICLE 13 WAIVER & ALTERATION OF AGREEMENT	10
ARTICLE 14 LAWS, REGULATIONS & POLICIES	11
ARTICLE 15 STRIKES & WORK STOPPAGES	11
ARTICLE 16 MERGER	11
ARTICLE 17 TERM OF AGREEMENT	11

This Agreement is entered into this ___ day of __, 2016 by and between the State of Delaware, Justice of the Peace Court (hereinafter, "Court"), and the International Brotherhood of Teamsters Local 326 (hereinafter, "Union").

Article 1 Preamble

It is the purpose of this Agreement to provide harmonious relations, cooperation, and understanding between the Court and the Employees covered by this Agreement. To provide for the equitable adjustment of differences and establish cooperative and constructive employment relations. It is understood by the parties that this statement of purpose shall not constitute the basis of any grievance.

To facilitate the efficient administration of this Agreement, it is understood that whenever a Management or Union official is specified herein, a designee may be substituted.

Article 2 Management Rights

The management of the Court includes the right to plan, direct and control the Court's operations; to determine the method and means by which such operations are performed by the Court's employees; to determine the locations where work is performed; to assign work, to establish standards for the performance of Constable duties; to ensure the efficiency of the Court's operations; to hire, promote, and transfer employees; to determine the size of the workforce; to determine the necessity and amount of overtime; to allocate resources at its discretion; to establish and enforce work rules; to relieve Constables from duty; to maintain order; and to suspend, demote, discharge and impose discipline for cause. Each employee covered by the Agreement shall have the right provided in this Agreement for the adjusting of grievances. All other managerial authority is reserved to the Court unless specifically limited by an expressly negotiated provision of this Agreement.

Article 3 Union Recognition and Security

3.1 The Court recognizes the Union as the sole and exclusive bargaining representative for the employees in the classification of Justice of the Peace Court Constable ("Constables"), excluding supervisory employees, as recognized in the Public Employment Relations Board Representation Petition No. 15-10-1014, who are hereby covered by this Agreement.

3.2 Upon completion of the probationary employment period, employees may become members of the Union. Under no circumstances will membership in the Union be a condition of employment. Employees who are not, who do not become, or do not remain members of the Union shall, upon completion of the probationary period, and as a condition of employment, pay to the Union a service fee no greater than the dues uniformly required of its members.

3.3 The Court agrees to deduct the monthly Union membership dues or service fee from the earned wages of each employee only after the employee executes the appropriate written

authorization form. Dues or service fee deduction shall be made in equal amounts from the semimonthly payroll. Such deductions shall be remitted to the Local Union monthly, with a list of those from whom deductions have been made.

3.4 The term "dues" shall include any initiation fees required of members of the Union, as set by the Union. The term "dues" and "service fees" shall not include any fine, assessment, contribution, or any other form of payment requested or required by the Union.

3.5 Dues or fees deducted for employees returning from leaves of absence will be reinstated following receipt of the necessary employee payroll authorization.

3.6 The Union shall indemnify and hold the State harmless against any and all claims, demands, suits and other forms of liability that arise out of or involved any action taken or not taken by the State to comply with any of the provisions of this Article.

Article 4 Grievance Procedure

4.1 A grievance is defined as a dispute limited to the application or interpretation of this Agreement, except that complaints which allege a violation of the State of Delaware's Merit Rules may be processed under this procedure through Step 3, and thereafter pursuant to the Merit Rules.

4.2 Time limits set forth herein may be extended, in writing, by mutual agreement. As used herein, "days" shall refer to calendar days. If no extension is requested by the Union, the grievance will be considered settled on the basis of the Court's position. If the Court fails to request an extension of time, the grievance may be processed at the next level of the procedure. Furthermore, all documents from each step of the grievance procedure shall be attached to grievance appeals at each succeeding step.

4.3 Appeals of suspensions and dismissals shall be initiated at Step 2 of the Grievance Procedure.

4.4 All grievance appeals must be signed by the employee and the appropriate Union official. In the absence of the employee, the appropriate Union official may process the grievance.

4.5 All grievances shall be settled in the following manner:

STEP 1

4.5.1 An employee having a grievance or one designated member of a group having a grievance based on the same facts and circumstances (a class), shall within 10 days of the date of the grievance, or within 10 days of the date the employee could reasonably be expected to have knowledge of the grievance, meet with the employee's immediate supervisor and Steward to discuss the grievance.

4.5.2 If within 5 days following the meeting the grievance has not been resolved to the employee's satisfaction, written appeal may be made to the Chief of Uniformed Services on forms agreed to by the parties, and signed by the employee(s) and the appropriate Steward or other Union official. The Chief of Uniformed Services shall thereafter issue written decision within five days.

STEP 2

4.5.3 If the decision at Step 1 does not resolve the grievance, written appeal may be made within 5 days of the Step 1 decision to the Court's Chief of Uniformed Services who shall arrange to hear the grievance appealed grievance within 10 days. The Chief of Uniformed Services shall issue a written decision within 5 days from the date of the meeting.

STEP 3

4.5.4 If the decision at Step 2 does not resolve the grievance, written appeal may be made within 5 days of the Step 2 decision to the Court's Chief Magistrate. The Chief Magistrate, or designee, shall arrange to hear the appealed grievance within 10 days and shall give a written decision within 10 days following the meeting.

STEP 4

4.5.5 If the decision at Step 3 does not resolve the grievance, it may be appealed to Pre-Arbitration if the grievance involves a provision of the Agreement. Notice of any appeal to Pre-Arbitration shall be filed in writing with the State's Director of Labor Relations and Employment Practices (hereinafter "Director of Labor Relations") within 10 days from the date of the Step 3 decision. If the grievance involves a subject governed by the Merit Rules and is appealed, it shall be appealed pursuant to Merit Rules 18.8 and 18.9, as may be amended.

4.5.6 Within 20 days of receipt by the Director of Labor Relations of the Union's request for Pre-Arbitration (or a longer period upon a mutually agreed extension), the grievant, Union Director of Labor Relations (or designee) and Court's representatives shall meet to attempt to resolve the grievance. Within 10 days of this meeting, unless the parties agree otherwise, the Director of Labor Relations shall be issue a written notice memorializing whether or not the grievance was resolved. If the grievance is not resolved, the Union may invoke arbitration with the American Arbitration Association, provided it does so within 15 days of the written notice. Notice of any request to invoke arbitration shall be concurrently sent to the Director of Labor Relations.

ARBITRATION

4.5.7 If the grievance has not been resolved at Step 4, written appeal may be made to arbitration if it involves a provision of the Agreement. An appeal to Arbitration shall be filed in writing within 15 days from the date of the Step 4 decision; otherwise, such grievance shall be considered settled on the basis of that decision.

4.5.8 The Arbitrator shall be selected by agreement between the Director of Labor Relations and the Union within 10 days. If they cannot agree within that period, the Arbitrator shall be selected under the Voluntary Arbitration rules then existing of the American Arbitration Association.

4.5.9 The decision of the Arbitrator shall be final and binding on the parties and the Arbitrator shall be required to issue the decision within 30 days after the conclusion of all testimony and argument.

4.5.10 The arbitration award shall be in writing and shall set forth the Arbitrator's opinion and conclusions on the issue(s) submitted.

4.5.11 The Arbitrator shall limit decisions strictly to the application and interpretation of the provisions of the Agreement.

4.5.12 The Arbitrator shall be without power to make any decision contrary to or inconsistent with, add to, subtract, or modify in any way, the terms of this Agreement. The arbitrator shall be without power to establish or change any wage rate, wage schedule, employee benefit, employee classification or the job content of any employee occupational specification, or make any award which would require the spending of funds not appropriated in the State's or the Court's budget.

4.5.13 The fee for the Arbitrator's services and expenses, the administration of the American Arbitration Association and the cost of the proceedings shall be shared equally by the Court and the Union. If either party desires a verbatim record be made it shall pay for the record and make copies available to the other party for the reasonable cost of copying.

4.5.14 In the case of a grievance involving any continuing or other money claim against the Court, no award shall be made by the Arbitrator which shall allow any alleged accruals prior to the date when such grievance shall have been presented to the Court in writing except in a case whereby the employee or the Union, due to lack of knowledge, could not know prior to that date there were grounds for such a claim. In such cases, retroactive claims shall be limited to a period of 60 calendar days prior to the date the claim was first filed in writing.

4.5.15 The Court shall permit all persons pertinent to the grievance, and including those requested by the grievant, to be given time off from duty, without loss of pay, to appear at the hearing. Any employee attending such hearings or conference outside of regularly scheduled working hours shall not be eligible for compensation for attendance at such hearings.

Article 5 Labor/Management Cooperation

5.1 A Labor/Management Committee shall hold quarterly meetings to consider joint projects involving quality of work life/quality of work product, authorized uniforms and equipment, and to discuss issues other than grievances, provided an agenda is furnished before such meetings. The Court and the Union shall designate two representatives each, and any other persons as may be reasonably necessary to attend scheduled meetings. If neither party proposes an agenda, there

shall be no meeting. Other meetings of this committee may be called by either party as necessary to discuss safety issues.

Article 6 Union Representatives

6.1 The Court recognizes and shall work with Union Representatives on matters relating to grievances and administration of this Agreement. The Union shall designate one (1) Shop Steward and one (1) Alternate Steward in each county, and the Union shall advise the Court in writing of the names of these stewards prior to their assuming any duties. The Shop Steward shall be designated by the Union to investigate grievances and represent employees at grievances and disciplinary meetings. The Alternate Steward shall fulfill these responsibilities when the Shop Steward is absent or unavailable.

6.2 The Shop Steward shall be granted reasonable release time as necessary during his/her normal work hours without loss of pay to investigate grievances, attend grievance hearings, attend disciplinary meetings, labor-management meetings, or to conduct union business as authorized and designated by a provision of this Agreement. The request and use of release time shall not interfere with the Court's operations, nor shall investigations during work time be excessive. The Shop Steward shall not make unreasonable requests for other employees' time while those employees are on duty.

6.3 A representative of the Union shall have reasonable access with advance notice to the Court to those Court premises utilized for relevant Court operations for the purpose of conferring with the Court, or members of the bargaining unit. Upon entering the facility, the authorized Union representative shall notify the Court that they are in the facility.

6.4 Employees may request Union representation for any meeting with the Court in which discipline may result.

Article 7 Discipline

7.1 The Court shall not take any disciplinary action against an employee without just cause.

7.2 An Employee has the right to request Union representation at any meeting with the Court where discipline may result.

7.3 Prior to the implementation of a suspension, demotion or dismissal action, employees shall be notified in writing at least five (5) days in advance that such action is being considered and provided the reasons for the proposed action.

7.4 Constables shall receive written notice of their entitlement to a pre-decision meeting in dismissal, demotion, and suspension cases. If a Constable desires such a meeting, they shall submit a written request for a meeting to their Human Resources representative within five (5) days from the date of notice. Constables may be suspended without pay during this period provided that a management representative has first reviewed with the Constable and the Union the basis for the action and provides an opportunity for response. Where a Constable's continued

presence in the workplace would jeopardize others' safety, security, or public confidence in the Court, they may be removed immediately from the workplace without loss of pay.

7.5 The pre-decision meeting shall be held within a reasonable time not to exceed 15 calendar days after the employee has requested the meeting in compliance with 7.4. Pre-decision meetings shall be informal meetings to provide Constables an opportunity to respond to the proposed action, and offer any reasons why the proposed penalty may not be justified or is too severe.

7.6 Discipline shall remain in an employee's disciplinary file for 1 ½ years, unless an employee raises their past work record as a defense, mitigating factor, or claims ignorance of applicable standards.

7.7 The Court agrees to apply the principle of progressive discipline where appropriate when determining discipline for subsequent offenses. However, there shall be no requirement for progressive discipline in cases of egregious conduct, including but not limited to, theft, physical assault or fighting, violations of Use of Force policies, and actions that constitute felonies or serious misdemeanors, including driving under the influence; or where the Constable breaches their duty of fidelity to the Court.

Article 8 Seniority and Probationary Employment

8.1 As used in this Agreement, the term "seniority" shall mean an employee's length of continuous service in a bargaining unit position. No employee shall accrue seniority until successfully completing the probationary period. Employees who become Constables after having previously served, and successfully completed probation as Court Security Officers with the Justice of the Peace Court must thereafter successfully complete a three (3) month probationary period as a Constable. All other individuals hired as Constables must successfully complete a one (1) year probation. Upon completion of the probationary period, employees shall accrue seniority from their date of hire. Employees may be dismissed during the probationary period, and shall not have access to the grievance procedure.

8.2 The Court shall maintain a seniority list which shall be provided to the Union annually. Employees' earned seniority shall not be lost because of absence due to illness or injury on the job, authorized leave of absence, or temporary layoff unless the absence continues for more than one (1) year. Employees who return to work within one year from the date they separated from employment shall receive credit for seniority earned prior to their separation; no seniority shall accrue during separation.

8.3 Employees transferred or promoted to positions outside of the bargaining unit shall not lose seniority accumulated from their date of hire to the date of their transfer or promotion. However, seniority shall not accumulate during employees' absence from the bargaining unit. Employees returning to the bargaining unit within one (1) year shall pick up seniority credited at the time they left the bargaining unit and thereafter shall be entitled to the same seniority rights as any other employee. Employees absent from the bargaining unit for greater than one year

shall not maintain credited seniority. Employees shall lose all seniority upon disciplinary dismissal from employment for just cause.

8.4 Seniority shall be used for the following: Layoff, recall and vacation scheduling.

8.5 In the event the Court proceeds to lay off employees it shall do so by inverse seniority. Those employees with the least seniority shall be laid off first, and the Court shall provide employees with at least fourteen (14) days' notice prior to the effective date of any layoff. A copy of the layoff notice shall be sent to the Union. An employee who is recalled to work shall have the recall notice sent to the employee's known address by certified mail (or equivalent) and shall have seven (7) calendar days from delivery in which to notify the Court of his/her intent to return to work. The employee shall return to work within fourteen (14) days after delivery of the notice (or a later date if specified in the recall notice) or will forfeit seniority and any right of return.

Article 9 Safety and Health

9.1 The Union and the Court shall cooperate and develop policies and procedures in assuring employee safety and health. The Court will thereafter specifically address safety concerns relating to appropriate staff levels for performing evictions, pest infestations, and caution lighting for issued vehicles. In the event employees reasonably believe that their health and safety is jeopardized, they shall contact their supervisor.

9.2 Notwithstanding other provisions of this Agreement, Labor/Management meetings will be the proper forum to discuss the Court's safety objectives and responsibilities and to eliminate unsafe or unhealthy work situations as well as to educate Constables in safe work habits. Issues pertaining to vehicle safety will be addressed consistent with Article 9.1.

9.3 The Court shall provide each employee with a ballistic vest, and shall issue a policy for use and deployment of the vests. Vests shall be replaced upon expiration. The Union may provide the Court input regarding the Court's decision concerning appropriate protection levels for ballistic vests. The Court will develop a firearms training program for employees to maintain firearms proficiency and certification requirements.

Article 10 Equipment, Rules/Policies, and Clothing

10.1 The Court will determine what equipment is needed to meet its operational needs. The Union will be given an opportunity for input and suggestions to improve the adequacy of equipment issued.

10.2 The Court will provide vehicles at its discretion for Constables to perform their duties. Issues pertaining to vehicle safety/caution lighting will be addressed consistent with Article 9.1.

10.3 The Court will maintain a written policy for the use and care of firearms and equipment issued to its Constables. The Court agrees to provide cleaning supplies for Constables to

maintain their issued service weapons. The Court will develop a firearms training program for employees to maintain firearms proficiency and certification requirements.

10.4 Upon hire, the Court will provide employees with the following uniform items:

- Four short-sleeved shirts
- Four long-sleeved shirts
- Four pairs of trousers
- One winter coat
- One cap
- Two neckties
- One tie-bar

Authorized uniform items will be replaced upon demonstrated need. The Court will develop a list of authorized accessory uniform items separate from the employee's original basic issue.

10.5 The Court will maintain a written policy for the use of force, including deadly force.

10.6 The Court shall provide the Union with a copy of all applicable work rules, regulations and policies, and shall provide copies of all pending rule, regulation and policy changes.

10.7 New employees shall be provided with a copy of the current handbook upon hire.

Article 11 Training

11.1 The Court will, within available funding limitations, schedule Constables to undergo such training as the Court determines to be in the best interest and furthers the Court's operations. The Court will consider the Union's input and suggestions regarding training to enhance its operations.

Article 12 Non-Discrimination

12.1 The Court will not interfere with or discriminate against employees in matters of employment because of membership in the Union, legitimate activity permitted by this Agreement, or the legitimate exercise of collective bargaining rights provided by law.

12.2 The parties agree that there shall be no discrimination in the application of the provisions of this Agreement against any employee on the basis of race, marital status, genetic information, color, age, religion, sex, pregnancy, sexual orientation, gender identity, national origin, or political affiliation.

12.3 The Union agrees to represent employees by admitting persons into membership without discrimination on the basis of race, marital status, genetic information, color, age, religion, sex, pregnancy, sexual orientation, gender identity, national origin, or political affiliation; further, the Union recognizes its responsibility not to restrain or coerce employees in the performance of their duty. The Court agrees to do the same.

Article 13 Waiver and Alteration of Agreement

13.1 No agreement, alteration, understanding, variation, waiver or modification of any of the terms or conditions or covenants contained herein shall be made by any employee or group of employees with the Court, and in no case shall it be binding upon the parties unless agreement is made and executed in writing between the State of Delaware's Labor Relations Services (SLRS) and the Union.

13.2 The waiver or breach of any term or condition of this Agreement by either party shall not constitute a precedent in the future enforcement of the terms and conditions herein.

Article 14 Laws, Regulations and Policies

14.1 It is understood and agreed that if any part of this Agreement is in conflict with mandatory federal or state law, such part shall be suspended and the appropriate mandatory provision shall prevail, and the remainder of this Agreement shall not be affected thereby. To the extent that the subject matter of the superseded term remains negotiable and has not been replaced by a mandatory provision, the parties agree to meet to negotiate a new term that complies with governing law.

Article 15 Strikes and Work Stoppages

15.1 During the life of this Agreement, there shall be no strikes, stoppages of work, slowdowns, or any direct or indirect interference with the Court's operations. The Union agrees that its members will not participate in any strikes, work stoppages, work slowdowns or any direct or indirect interference with the State's operations. Should any of these actions occur, the Union will promptly do whatever is necessary to effect an immediate return to normal duty, and the cessation of such interference. The Court agrees that there shall be no lockout during the life of this Agreement.

Article 16 Merger

16.1 This Agreement represents and incorporates the complete and final understanding and settlement by the parties on all negotiable issues which were or could have been the subject of negotiations. During the term of this Agreement, neither party will be required to negotiate with respect to any such matter 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.

Article 17 Term of Agreement

17.1 By mutual consent, a memorandum of understanding may be entered into modifying or extending the term of this Agreement, which when signed and ratified, shall constitute an extension of the terms of this Agreement.

17.2 This Agreement shall become effective on the 1st day of December, 2016, and remain in full force and effect until 12:00 midnight, November 30, 2019. It shall be automatically renewed from year to year thereafter, unless either party shall give the other party written notice of desire to terminate, modify or amend this Agreement. Such notice shall be given to the other party in writing by registered mail on or before September 1, 2019, or any subsequent year. Any such notice by the Union shall be sent to the State Director for Labor Relations and Employment Practices.

IN WITNESS WHEREOF, the parties hereto set their hands and seal effective as of the day and year first above written:

FOR THE COURT:

The Honorable Alan Davis
Chief Magistrate

Marianne Kennedy
Court Administrator

David Nesler
Chief of Uniformed Services

Thomas J. Smith
Chief Negotiator

Monica Gonzalez-Gillespie
Director, Labor Relations
and Employment Practices

FOR THE UNION:

Joseph W. Smith, Jr.,
President & Business Agent,
IBT, Local 326

Len McCartney,
Chief Negotiator
Vice President & Business Agent
IBT, Local 326

Lou DiLeonardo
Shop Steward (New Castle County)

Joseph Haliday
Shop Steward (Kent County)

Eugene Thomas
Shop Steward (Sussex County)

Brian Maxwell
Director, Office of Management and Budget