

**BOROUGH OF RED BANK
COUNTY OF MONMOUTH**

RESOLUTION NO. NP23-106

**RESOLUTION AUTHORIZING CORRECTIVE ACTION PLAN IN RESPONSE TO
THE JULY 2022 REPORT OF THE OFFICE OF STATE COMPTROLLER AS TO
SICK AND VACATION LEAVE POLICIES IN NEW JERSEY MUNICIPALITIES**

WHEREAS, on July 7, 2022, the Office of State Comptroller issued a Report entitled *A Review of Sick and Vacation Leave Policies in New Jersey Municipalities* (the "Report"); and

WHEREAS, the Report identified two provisions of the collective bargaining agreement entered into by the Borough of Red Bank (the "Borough") and the Red Bank PBA Local No. 39 covering the period of 2018 through 2021 (the "CBA"), which two provisions do not comply with N.J.S.A. 40A:9-10.4 as to the payment of unused sick leave benefits; and

WHEREAS, first, Article X(A), Section (2) of the CBA allows payment for accumulated sick leave at retirement based on half-pay per day accumulated, capped at a total of \$20,000, which is in excess of the \$15,000 permitted by N.J.S.A. 40A:9-10.4; and

WHEREAS, second, Article X(A), Section (3) of the CBA allows for payment of accrued sick leave to the beneficiary of an employee should the employee die while still employed, allowing for payment of accrued sick leave at a time other than retirement, which is prohibited by N.J.S.A. 40A:9-10.4; and

WHEREAS, notwithstanding that these two provisions of the subject CBA are not compliant with N.J.S.A. 40A:9-10.4, in practice, the Borough has always construed N.J.S.A. 40A:9-10.4 to pre-empt the CBA, and has never actually paid any violative supplemental compensation to any employees; and

WHEREAS, given the findings of the Report, the Office of State Comptroller has required the Borough to initiate a Corrective Action Plan to bring the subject CBA into compliance with the provisions of N.J.S.A. 40A:9-10.4; and


WHEREAS, the Borough has developed and implemented such Corrective Action Plan and provided same to the Office of State Comptroller;

NOW, THEREFORE, BE IT RESOLVED, that the Governing Body of the Borough of Red Bank, County of Monmouth, State of New Jersey hereby endorses and authorizes the Corrective Action Plan in response to the Report of the Office of State Comptroller, as follows:

1. *Meet with the PBA to amend the CBA to comport with N.J.S.A. 40A:9-10.4.*
2. *If the Borough is unable to come to an agreement with the PBA on collectively negotiated language which complies with N.J.S.A. 40A:9-10.4, the Borough shall avail itself to the Public Employment Relations Commission's ("PERC") scope of negotiations procedures. See N.J.A.C. 19:13-1, et seq.*
 - a. *If necessary, the Borough shall file a scope of negotiations petition, alleging that the dispute over Article X(A), Sections (2) and (3) of the CBA is preempted by N.J.S.A. 40A:9-10.4 and, thus, that the subject is outside the scope of negotiations.*

- b. *Provided PERC agrees with the Borough's position, the Borough shall amend Article X(A), Sections (2) and (3) of the CBA to comply with the limitations of N.J.S.A. 40A:9-10.4 both as to capping sick leave payments at \$15,000 and prohibiting the payment of accrued, unused sick leave at a time other than retirement for employees hired after May 21, 2010.*

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Chief Financial Officer, Borough Manager, Red Bank PBA Local No. 39, and the Office of State Comptroller.

	MOVED	SECONDED	AYES	NAYS	ABSTAIN	ABSENT	
Councilmember Bonatakis						x	<p>I hereby certify that the above Resolution was adopted by the Borough Council of the Borough of Red Bank, In the County of Monmouth at a Meeting held on October 26, 2023.</p>  <p>Laura Reinertsen, Borough Clerk</p>
Councilmember Cassidy			x				
Councilmember Facey-Blackwood	x		x				
Councilmember Forest			x				
Councilmember Jannone		x	x				
Councilmember Triggiano			x				
Mayor Portman			x				
ON CONSENT AGENDA	Yes <u>x</u>			No <u> </u>			