

**A G R E E M E N T**

*Between*

**CITY OF OCEAN CITY  
CAPE MAY COUNTY, NEW JERSEY**

*And*

**OCEAN CITY LIFEGUARDS ASSOCIATION**

*January 1, 2005 through December 31, 2007*

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## PREAMBLE

This Agreement entered into this 2nd day of August, 2005, by and between the City of Ocean City, in the County of Cape May, a Municipal Corporation of the State of New Jersey, hereinafter called the "City", and the Ocean City Lifeguards Association, hereinafter called the "Association", represents the complete and final understanding on all bargainable issues between the City and the Association.

This Agreement is designed to maintain and improve a harmonious relationship between the City of Ocean City and the Association, and shall govern all rates of pay, wages, hours of work and other conditions of employment hereinafter set forth. This shall be through collective negotiations in order that more efficient and progressive public service may be rendered.

THIS AGREEMENT shall be binding for the following calendar years subject to the terms and conditions imposed herein: Calendar Years 2005, 2006 and 2007.

## ARTICLE I

### ASSOCIATION RECOGNITION

A. The City hereby recognizes the Ocean City Lifeguard Association for the purposes of collective negotiations as the exclusive representative of all seasonal Lifeguards and Medics, excluding the Deputy Fire Chief, the Operations Chief, the Senior Lifeguard Lieutenants, the Lifeguard Lieutenants, the Senior Lifeguards, and all other employees of the City.

B. References in this Agreement to "males" shall include "females" as well.

C. For purposes of interpretation of the terms and conditions of this contract, "Medic" or "Lifeguard" shall be synonymous. The only exception shall be when distinguished in the wage and salary scale. The City recognizes that only the officers of the Association are authorized to act on behalf of the Association, except that the officers may designate another to speak on behalf of the Association, by an express written authorization signed by the officer that specifies the area and duration of the authority.

## ARTICLE II

### MANAGEMENT RIGHTS

A. The City hereby retains and reserves unto itself, without limitation, all power, 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 city government and its properties and facilities, and the activities of its employees;

2. To hire all employees subject to the provisions of law, to determine their qualifications and conditions for employment, or assignment, and to promote and transfer employees;

3. To suspend, demote, discharge or take other disciplinary action for good and just cause according to law.

B. The exercise of the foregoing powers, rights, authority, duties or responsibilities of the City, the adoption of policies, rules, regulations and practices and furtherance thereof, and the use of judgment and discretion in connection therewith shall be limited only by the specific and express terms of this Agreement and then only to the extent such specific and express terms hereof are in conformance with the Constitution and Laws of New Jersey and of the United States and ordinances of the City of Ocean City.

C. Nothing contained herein shall be construed to deny or restrict the City of its rights, responsibilities and authority under R.S. 40 and R.S. 11, or any other national, state, county or local laws or ordinances.

### ARTICLE III

#### NEGOTIATIONS PROCEDURE

A. The parties agree to enter into collective negotiations over a successor Agreement in accordance with Chapter 303, Public Laws of 1968, as amended by Chapter 123, Public Laws of 1974, in a good faith effort to reach an Agreement on all matters concerning the terms and conditions of employees' employment. Such notification of negotiations shall be given not later than the following January of the date this Agreement expires. Any Agreement so negotiated shall apply to all members of the unit, be reduced to writing and signed by the City and the Association.

B. During negotiations, the City and the Association shall present relevant data, exchange points of view, and make proposals and counter-proposals.

C. Neither party in any negotiations shall have control over the selection of the negotiating representatives of the other party. The parties mutually pledge that their representatives be clothed with all power and authority to make proposals, consider proposals and make counter-proposals in the course of negotiations.

D. Should a mutually acceptable amendment to this Agreement be negotiated by the parties, it shall be reduced to writing and signed by the City and the Association.

#### ARTICLE IV

##### RULES AND REGULATIONS

A. The City agrees that it will not establish new work rules or regulations or modify or amend existing work rules or regulations governing wages, hours, or working conditions without prior consultation with the Association.

B. The City agrees to provide 20 written copies of this contract to the Association on or before Memorial Day. There shall be a mutual, cooperative effort by the City and the Association to produce and coordinate distribution of this Agreement.

C. The CITY agrees to provide a written copy of the Ocean City Beach Patrol's Operating Rules and Regulations to each new employee on or before their first day of work. There shall be a mutual, cooperative effort by the City and the Association to produce this document and distribute it to its new members.

D. The City shall at all times maintain safe and healthful working conditions and will provide employees with up-to-date wearing apparel, equipment and devices that may be reasonably necessary to ensure their safety and health.

## ARTICLE V

### LEGAL REFERENCE

A. Nothing contained herein shall be construed to deny or restrict to any employee such rights as he/she 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 contract modify existing local laws.

## ARTICLE VI

### ASSOCIATION REPRESENTATIVES AND MEMBERS

A. Upon prior request and authorization of the Deputy Fire Chief, or the Operations Chief, authorized representatives of the Association shall be permitted to visit the offices of the City Administration for the purposes of investigating alleged violations of the Agreement. In no event shall there be any interference with the operations of the Beach Patrol.

B. During negotiations, the Association representatives authorized by the Association, not to exceed three (3) days, 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.



**ARTICLE VII**

**RETENTION OF CIVIL RIGHTS**

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

**ARTICLE VIII**

**EXTRA CONTRACT AGREEMENT**

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

ARTICLE IX

WORK WEEK, OVERTIME

- A. The present working hours per week shall be continued in effect.
- B. All employees upon being personally notified of an emergency shall report to work within 30 minutes.
- C. Any employee being recalled for an emergency shall be guaranteed a minimum of two hours at time and one-half the employee's regular rate of pay.
  - 1. Any guard recalled for an emergency shall have the right to retain a partner for assistance as determined and approved by the Deputy Fire Chief or the Operations Chief.
- D. All employees shall notify the Deputy Fire Chief or the Operations Chief where they can be reached in case of an emergency.
- E. Any employee, who works past the beach closing time (currently 5:30 p.m.) at the request of the Deputy Fire Chief or the Operations Chief, may be entitled to overtime pay as determined by the Deputy Fire Chief or the Operations Chief on the following basis:

0 - 15 minutes	no compensation
16 - 30 minutes	.5 hour compensation
31 - 60 minutes	1 hour compensation

Thereafter, all overtime will be administered in .5 hour increments.

## ARTICLE X

### INJURY LEAVE

A. If an employee is incapacitated and unable to work because of a job-related injury or illness, he/she shall be entitled to injury leave with full pay during the period in which he/she is unable to perform his/her assigned duties, not to exceed the duration of the summer season within which the injury occurs, as mutually certified by the employee's doctor and the City doctor.

B. The City agrees to allow a Lifeguard Lieutenant or a Medic to accompany an injured or ill member of the Ocean City Beach Patrol to an appropriate medical facility or to the City doctor, in strict accordance with the City's standard policy toward Worker's Compensation injuries, and in accordance with all State Laws governing Worker's Compensation.

## ARTICLE XI

### EXCHANGE OF DAYS OFF

A. The Deputy Fire Chief or the Operations Chief may grant a reasonable, timely written request of any employee to exchange hours or days off. Such request shall be granted on a uniform basis with standard rules and regulations applying to all employees who make this request. Under no circumstances will employees be permitted to exchange days off if such exchange would entitle either employee to receive overtime.

## ARTICLE XII

### CLOTHING ALLOWANCE

A. All uniform and work clothes damaged in the line of duty shall be replaced by the City after inspection and certification by the Deputy Fire Chief or the Operations Chief.

B. All personal items that are damaged, destroyed, stolen or lost in the line of duty, which are not covered by insurance, shall be replaced by the City after inspection and certification by the Deputy Fire Chief or the Operations Chief. The City's liability shall be limited to \$150.00 per incident, or \$100.00 for non-prescription sunglasses, or \$200.00 for prescription glasses or sunglasses.

C. To take advantage of Section B, personal articles must appear on the list of approved articles, as developed by the parties.

D. In lieu of providing rain gear, the City will reimburse the Association an amount not to exceed a total of \$400, at the end of each of the 2005, 2006 and 2007 seasons, towards the cost of rain gear for each lifeguard who completes the season. The Association shall ensure that each lifeguard has a uniform set of rain gear satisfactory to the Deputy Fire Chief or the Operations Chief.

E. At the commencement of seasonal work, each lifeguard shall be provided the following items at the City's cost and expense:

1. Two white T-shirts with emblem and lettering.
2. One white canvas, full circumference-brim style hat with retaining string.
3. Two pairs of shorts.
4. Two competition-style swimsuits for each female lifeguard.

### ARTICLE XIII

#### TIME OFF

A. Employees shall be granted time off without deductions from pay or time owed for the following reasons:

1. Death in the immediate family, from the date of death up to and including the day of the funeral, up to a maximum of five (5) days, or seven (7) days in the event of travel. The amount of time off is to be determined by the Deputy Fire Chief or the Operations Chief.

2. Immediate family shall consist of wife, husband, child, mother, father, brother, sister, step-mother, step-father, step-child, guardian, mother-in-law, father-in-law, grandmother and grandfather.

B. No time off under this Article shall be cumulative.

ARTICLE XIV

MILITARY LEAVE

A. Military Leave shall be granted pursuant to State and Federal Statutes and Regulations

ARTICLE XV

LEGAL REPRESENTATION

A. The City shall provide legal representation for all employees for all litigation arising as a result of actions taken by any employee in the course of their duties and within their authority as a City employee.

## ARTICLE XVI

### GRIEVANCE PROCEDURE

A. The purpose of this procedure is to secure, at the lowest possible level, an equitable solution to the problems which may arise affecting the terms and conditions of employment under this Agreement.

B. Nothing herein shall be construed as limiting the right of any employee having a grievance to discuss the matter informally with any appropriate member of the department.

C. The term "grievance," as used herein, means any controversy arising over the interpretation, application, or alleged violation of the terms and conditions of this Agreement, and may be raised by the ASSOCIATION at the request of and on behalf of an individual or the CITY.

D. The following constitutes the sole and exclusive method for resolving grievances between the parties covered by this Agreement, and shall be followed in its entirety unless any step is waived by mutual consent:

**STEP ONE:** The aggrieved party or the ASSOCIATION shall institute action under the provision hereof within seven calendar days after the event giving rise to the grievance has occurred. The aggrieved party shall seek resolution of the situation with his immediate supervisor. In the event that the immediate supervisor is unavailable or is the party with whom the situation concerns then the aggrieved party shall seek resolution with the next highest rank within the chain of command. Failure to act within the said seven calendar days shall be deemed to constitute an abandonment of the grievance.

**STEP TWO:** If no agreement can be reached orally within five days of the initial discussion with his supervisor, the employee may present the grievance in writing within five calendar days to the Fire Chief or his designated representative. The written grievance at this step shall contain the relevant facts and a summary of the preceding oral discussion, the applicable section of the contract violated, and the remedy requested by the grievant. The Fire Chief or his designated representative will answer the grievance in writing within five calendar days of receipt of the written grievance.

**STEP THREE:** If the ASSOCIATION wishes to appeal the decision of the Fire Chief,



such appeal shall be presented in writing to the Business Administrator within five calendar days. This presentation shall include copies of all previous correspondence relating to the matter in dispute. The Administration's designated representative may agree to meet with the grievance committee upon request to resolve such grievance. The Administration's designated representative shall respond in writing, to the grievance within ten calendar days after such meeting. If no such meeting is held, the Administration's designated representative's response shall be in writing within ten calendar days after the date of submission.

E. The designated ASSOCIATION representatives shall be permitted as members of the grievance committee to confer with employees and the CITY on specific grievances in accordance with the grievance procedure during work hours of employees, without the loss of pay, provided the conduct of said business shall not diminish the effectiveness of the designated representative's division or require the recall of off-duty employees, and provided that permission is granted in advance by the Fire Chief or his designee.

F. The time limits expressed herein shall be strictly adhered to. If any grievance has not been initiated within the time limits specified, then the

grievance shall be deemed to have been abandoned. If any grievance is not processed to the next succeeding step in the Grievance Procedure within the time limits prescribed, then the disposition of the grievance at the last preceding step shall be deemed to be conclusive. If a decision is not rendered within the time limits prescribed for decision at any step in the Grievance Procedure, then the grievance shall be deemed to have been denied. Nothing herein shall prevent the parties from mutually agreeing to extend or contract the time limits provided for processing the grievance at any step in the Grievance Procedure.

## ARTICLE XVII

### COMMENDATION

A. One day compensatory time off shall be granted to an employee who has received a commendation from the Mayor.

ARTICLE XVIII

WAGES AND SALARY SCALE

A. During the term of this Agreement, the rates of pay for continuous service of the Lifeguards shall be as follows:

	<u>YEARS</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
LIFEGUARDS	1	9.20	9.50	9.80
	2-3	9.65	9.90	10.20
	4-5	10.20	10.50	10.80
	6-7	10.75	11.00	11.35
	8-9	11.65	12.00	12.35
	10-12	12.60	13.00	13.40
	13-15	13.80	14.20	14.65
	16-18	14.70	14.80	15.25
	19-20	14.70	14.80	15.25
	21+	14.70	14.80	15.25

MEDICS	<u>YEARS</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
	1	9.70	10.00	10.30
	2	10.30	10.60	10.90
	3	10.90	11.20	11.50
	4	11.40	11.75	12.10
	5	12.00	12.40	12.80

revised per attached M.O.U.  
dated 9/5/05

After a Medic completes their fifth (5<sup>th</sup>) year, they are then placed on the Lifeguard Scale at the 10-12 year Step.

B. All Lifeguards and Medics will retain their seniority and for each year of service will increase their seniority accordingly.

C. Each Lifeguard and Medic, who is hired to work on or before July 10th of each year, and who completes a minimum of 35 days of work during the season, will receive a stipend if they remain on staff from August 15th through Labor Day. The stipend will be equal to the total number of days worked between August 15th and Labor Day, multiplied by \$15.00.

D. In order to receive a general wage increase and a step increase, each Lifeguard and Medic must have worked a minimum of 35 days from the third weekend in June (the normal zone opening date) through the remainder of the season, during the previous year's season.

## ARTICLE XIX

### ELIGIBILITY TO RETURN

A. Unless otherwise notified in writing within 90 days of completion of employment for a given year, an employee's job performance for that year shall be deemed acceptable, and that employee shall be eligible to return for the successive year's employment period at the next grade and salary level.

B. If, after the 90 day period in Section A has elapsed, the Fire Chief, or designee, determines that the employee cannot be rehired for reasons other than the employee's work performance during his/her most recent employment period, the Fire Chief, or designee, shall notify both the employee and the Association in writing of its inability to rehire said employee, stating the reasons why it is unable to rehire said employee.

C. Employees must notify the Deputy Fire Chief of their intention to return for the next summer employment period, or the uncertainty of their availability to return for the next summer employment period, in writing on or before May 1st. Failure to notify the Deputy Fire Chief shall be construed as an intention of the employee not to return to work, and shall cause the employee to be removed from the list of Lifeguards eligible to return for employment for that summer employment period.

D. The City will reasonably attempt to hold an employment opening for any employee who notifies the Deputy Fire Chief prior to May 1st of their

uncertainty of availability to return for work for that summer employment period until the commencement of tryouts for the first year Lifeguards. Any employee who has notified the Deputy Fire Chief under Section C of the uncertainty of their availability to return for work must notify the Deputy Fire Chief prior to the commencement of tryouts for the first year Lifeguards, May 1st for returning Medics, of their intention to return for that summer employment period. However, no position shall be held open after the commencement of tryouts for the first year Lifeguards.

E. Reduction in work force by layoff shall be on a "last hired, first fired" basis.

## ARTICLE XX

### COURT TIME

A. If an employee is required to appear in court on City related business on his/her day off or time off, he/she shall be compensated according to Article IX - Overtime.

B. If an employee is required to appear in court on City related business, he/she is expected to be dressed in a suitable fashion.

## ARTICLE XXI

### MUTUAL COOPERATION PLEDGE

A. The Association hereby covenants and agrees that during the term of this Agreement, neither the Association 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 for duty or willful absence of any employee from his/her position, or stoppage of work, or absence in whole or in part, from the full, faithful and proper performance of the employee's duty of employment), work stoppage, slow-down, walkout or other illegal job action against the City. The Association agrees that such action would constitute a material breach of this Agreement.

B. In the event of a strike, slow-down, walkout or job action, it is covenanted and agreed that participation in any such activity by an O.C.L.A. member shall entitle the City to invoke any of the following alternatives:

1. Withdrawal of dues deduction privileges (if previously granted).
2. Such activity shall be deemed grounds for disciplinary action, up to and including termination of employment, of such employee or employees.

C. The Association agrees that it will take or cause to be taken reasonable and prompt procedures and actions to prevent its members from participating in any strike, work stoppage, slow-down or other activity aforementioned. The Association's actions will include publicly disavowing such activities and ordering all such members who participate in such activities to cease and desist from same immediately and to return to work along with other steps, if any, as may be necessary.

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 or damages or both in the event of such breach by the Association or its members.



## ARTICLE XXII

### MISCELLANEOUS

A. All employees shall have access to their personnel files at reasonable times.

B. All employees shall be notified in writing of any reports or charges made against them. Such employees shall have the right to remain silent until they consult with an attorney, or with the O.C.L.A.

C. Employees shall be entitled to engage in outside employment during off-duty hours, provided that such employment does not conflict with their employment responsibilities as an Ocean City Lifeguard.

D. Included in the physical examination provided by the City, complaints of skin abnormalities will be noted and recommendations for possible consultation conveyed. The City agrees that skin screening is an important preventative health issue for Lifeguards and agrees to continue to explore ways with the Association to provide education and opportunity for access to regular skin screenings.

E. The City shall provide, at its cost and expense, a brand name 20-SPF (or greater) sunscreen lotion to each Lifeguard, as needed.

F. The City recognizes that the parking of lifeguard vehicles in downtown areas at the height of the summer season is a problem, and resolves to work, through the Revenue Collection Division of the Department of Finance and the Fire Chief or designee, with the Association to resolve the issues of parking of lifeguard vehicles during duty hours.

G. The officers of the Association may request and may be granted an annual meeting with the Business Administrator and the Fire Chief or designee, during the summer season to review the Lifeguard Manual, and to discuss other concerns.

H. The City agrees to post all promotional openings via paper and/or electronically, in locations that are accessible to all Lifeguards.

I. The Association agrees to pre-employment drug testing for all Lifeguards and Medics.

J. The Association agrees to adopt the "Policy for Handling Requests for Accommodations" in Appendix A.

### ARTICLE XXIII

#### SEPARABILITY AND SAVINGS

A. If any provision of this Agreement or any application of this Agreement to any employee or group of employees is held invalid by operation of law, or by a Court or other tribunal or competent jurisdiction, such provision shall be inoperative but all other provisions shall not be affected thereby and shall continue in full force and effect.

### ARTICLE XXIV

#### FULLY BARGAINED AGREEMENT

A. This Agreement represents and incorporates the complete and final understanding and settlement by the parties of all bargainable 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 parties at the time they negotiated or signed this Agreement.

ARTICLE XXV

TRAINING OF ROOKIE LIFEGUARDS

A. The City shall provide, at its cost, a course consisting of not less than 40 hours in Open Water Lifesaving, which meets the curriculum requirements of the United States Lifesaving Association. For successfully completing the required 40 hours of Rookie Training, the first-year Lifeguards shall be compensated at the rate of \$9.20/hour in 2005, \$9.50/hour in 2006, and \$9.80 in 2007. The location for the course will be mutually determined by the City and the Association.

Anyone who does not successfully complete the required 40 hours of Rookie Training shall be compensated at the prevailing minimum wage for the hours attended.

ARTICLE XXVI

DUES DEDUCTIONS

A. The City agrees to deduct from the salaries of its employees, subject to this Agreement, dues for the Association. Such deductions shall be made in compliance with Chapter 310, Public Laws of 1967, N.J.S.A. (RS 52:14-15.9(e)), as amended.

B. If, during the life of this Agreement, there shall be any change in the rate of membership dues, the Association shall furnish the City with written notice 30 days prior to the beginning of the season and shall furnish new authorizations from its members showing the authorized deduction for each employee.

C. The Association will provide the necessary "check-off authorization" form, and the Association will secure the signatures of its members on the forms and deliver the signed forms to the City Finance Director. The Association shall indemnify, defend and save the City harmless against any and all claims, demands, suits or other forms of liability that shall arise out of or by reason of action taken by the City in reliance upon salary deduction authorization cards submitted by the Association to the City of in reliance upon the notification on the letterhead of the Association and signed by the President and the Secretary of the Association, advising of such changed deduction.

D. The Association agrees that there shall be no discrimination, intimidation, restraint, coercion, harassment or pressure by it or by its officers, agents or members against any employee who refuses or fails to execute an authorization card.

E. Any such written authorization may be withdrawn at any time by the filing of notice of such withdrawal with the City Finance Director. Automatic deductions will begin at the start of the season, or at the date of hire if after July 1<sup>st</sup>, unless so notified by written authorization. The filing of "notice of withdrawal" shall be effective to halt deductions as of and filed by July 1<sup>st</sup> next succeeding the date on which notice of withdrawal is filed, in accordance with N.J.S.A. 52:14-15.9(e) as amended.

F. Any employee in the bargaining unit on the effective date of this Agreement, who does not join the Association within 30 days thereafter, and any new employee who does not join within 30 days of initial employment within the unit, and any employee who does not join within 10 days of re-entry into employment with the units shall, as a condition of employment, pay a representation fee to the Association by automatic payroll deduction. This representation fee shall be paid in an amount equal to 85% of the regular

Association dues, fees and assessments, as certified to the employer by the Association. The Association may revise its certification of the amount of the representation fee at any time to reflect changes in the regular Association membership dues, fees and assessments. The Association's entitlement to the representation fee shall continue beyond the termination date of this Agreement, as long as the Association remains the majority representative of the employees in the unit, provided that no modification is made in the provision by a successor agreement between the Association and the employer.

G. The Association agrees to furnish the City a copy of its "demand and return system," which must be established and maintained by the Association in accordance with the law.

H. The Association shall indemnify, defend and save the City harmless against any and all claims, demands, suits or other forms of liability that shall arise out of or by reason of any action taken in making deductions and remitting the same to the Association, pursuant to this Article.

ARTICLE XXVII

DURATION

A. This Agreement shall be in full force and effect as of January 1, 2005, and shall remain in effect to and including December 31, 2007, without any reopening date. This Agreement shall continue in full force and effect from year to year thereafter, unless one party or the other gives notice, in writing, no sooner than 180 days and no later than 150 days prior to the expiration of this Agreement of a desire to change, modify or terminate this Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hand and seals at the City of Ocean City, New Jersey, on this 2nd day of August, 2005.

FOR THE ASSOCIATION:

FOR THE CITY:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_



## Appendix A

### Policy For Handling Requests for Accommodations

#### **Light Duty vs. Accommodating Restrictions**

The City of Ocean City has no Light Duty Policy. Requests to accommodate medical restrictions, both temporary and indefinite (formerly called permanent) will be handled on an individual basis, in accordance with the Americans with Disabilities Act (ADA) and the New Jersey Law Against Discrimination (NJLAD). This policy for handling requests for accommodating medical restrictions will be managed by the Personnel Division.

The Personnel Director will ensure that the appropriate Department Head or their designee, the employee making the request, and the employee's bargaining unit (if the employee is represented and if the employee chooses to involve the bargaining unit) are involved in this process. If the employee does not want to involve their bargaining unit, the Personnel Director will inform the employee of the obligation to inform the bargaining unit, and the Personnel Director will contact the Union President by telephone.

#### **When A Request For An Accommodation Is Received**

When an employee makes a request for an accommodation, or when an employee with an occupational injury has been released to work modified duty:

1. The request must be substantiated by a note from their personal physician.
2. The request must be sent to the Department Head, who then sends a copy to the Personnel Director.
3. If the doctor's note does not list the restrictions, and/or Personnel determines that more information is required about the restrictions, Personnel will either call or write the employee's personal physician. A copy of the employee's job description may accompany any such communication with the employee's personal physician.
4. Personnel will also request a projected length of time for the restrictions.
5. Once Personnel has sufficient information on the restrictions, they will schedule a meeting with the employee and their union representative, if the employee is represented and if the employee chooses to have union representation present, and the employee's manager.

### **Meeting With The Employee**

The purpose for this meeting is to ask the employee how they want to be accommodated. Personnel will take notes and will communicate that they will respond to the employee after they have had a discussion with management. How the employee wants to be accommodated will be taken into consideration when making a decision on how to handle this request.

### **Meeting With Department/Division Management**

Once complete information is assembled on the nature of the medical restriction(s), the projected length of time the employee needs to be accommodated, and how the employee would like to be accommodated, Personnel will schedule a meeting with the employee's management. Personnel will ask if the Department/Division has work or a work assignment that can accommodate the employee's medical restrictions and that is a match for the employee's skills and abilities.

In the case of indefinite (permanent) restrictions, Personnel will ask if the Department/Division has a permanent vacancy that can accommodate the employee's medical restrictions and for which the employee is qualified. The law does not require that a job be created to provide such an accommodation, and the City of Ocean City does not want to create jobs for such purpose.

Personnel will also communicate with the other Department/Division Management to ask if they have any work or a work assignment for which the employee is qualified that would accommodate the employee's medical restriction(s).

### **If There Is No Accommodation**

If there is no work or no work assignment that is available to accommodate the employee's medical restriction(s), the employee will stay out (paid leave first, then unpaid) until their personal physician releases them back to work with no restrictions.

During this period of time, when the employee is out because their restriction(s) cannot be accommodated, Personnel will:

1. Send them postings for open seasonal positions for which they are qualified, if the restrictions are indefinite (permanent).
2. Call or write to them if they become aware of work or a work assignment for which the employee is qualified and which would accommodate their medical restrictions, if the restrictions are temporary.

### **If There Is An Accommodation**

If the Division/Department within which the employee works has work or a work assignment that can accommodate the employee's temporary work restriction(s), and for which the employee is qualified, the employee will return to work on that basis. The employee is obligated to keep management apprised of their medical progress and to see their personal physician for re-evaluation prior to the conclusion of the period of time that their physician projected that their restriction(s) would be in effect.

### **If There Is An Accommodation But In A Different Bargaining Unit**

If work or a work assignment exists for which the employee is qualified and would accommodate their restriction(s), but it is governed by a different collective bargaining agreement from that covering the employee requesting the accommodation, the Personnel Director will schedule a meeting with representatives of both bargaining units. The purpose of the meeting is to begin to negotiate an agreement that will be satisfactory to both bargaining units, to management, and to the employee.

### **Ensuring That The Accommodation Is Within The Employee's Restriction(s)**

If there is any question as to whether the work, that is about to be assigned in order to provide the accommodation, is permissible within the employee's medical restrictions, the work assignment can be sent to the employee's personal physician and/or a City Physician for approval.

### **Special Situations**

An employee, for whom work in the Police Division is being considered as an accommodation, must fulfill the employment requirement of a background check and investigation.

The Pregnancy Disability Act is part of Title VII and provides that women, who are unable to work as a result of pregnancy, will be treated as any employee with a temporary disability and will not face employment discrimination.

(Date)

(Employee Name)  
(Employee Address)

Dear :

RE: Accommodated Work Assignment

This will confirm our meeting of \_\_\_\_\_. In accordance with the attached medical restrictions, you will be accommodated effective (date) in the following manner:

This assignment is temporary and will be reviewed periodically. Please report to (supervisor) at (location) at (time) on (date) for further instructions.

This accommodated work assignment will be re-evaluated whenever one of the following occurs:

1. your work restrictions change.
2. your work assignment changes or ends.
3. the department/division's ability to accommodate you changes.
4. you are released to full duty.
5. you reach Maximum Medical Improvement.

Your work hours will be from \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_ days/week. Requests to leave work early or to come in late must be submitted and approved by (accommodation supervisor). Please keep your (accommodation supervisor) informed of your schedule regarding doctor appointments, physical therapy, etc. If you will not be coming in to work for the day, you must call \_\_\_\_\_.

(Your normal work supervisor) will handle the paperwork involved with your accommodated work assignment, such as time sheets, leave slips, and the authorized medical provider's return to work reports. Please be sure to submit all paperwork in a timely and accurate manner.

(The following paragraph is used in Workers' Compensation cases):

If you refuse this accommodated work assignment without a verifiable medical reason, your benefits under Workers' Compensation may be adversely affected. If you believe that the accommodated work assignment is in excess of the authorized medical provider's suggestion, or if you believe that the accommodated work assignment may aggravate your condition, please let me know.

Sincerely,

Joann Cioeta, Director  
Personnel and Labor Relations  
Attachment – Doctor's Note With Restrictions

C: Department Head  
Division Manager

Scibal Adjuster (if WC)