

AGREEMENT

Between

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

And

**OCEAN CITY BEACH PATROL
ADMINISTRATIVE ASSOCIATION**

January 1, 1999 through December 31, 2000

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PREAMBLE

THIS AGREEMENT entered into this 4th day of June 1999, 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 BEACH PATROL ADMINISTRATIVE 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 1999, 2000.

ARTICLE I

ASSOCIATION RECOGNITION

A. THE CITY hereby recognizes the Ocean City Beach Patrol Administrative Association for the purposes of collective negotiations as the exclusive representative of all seasonal, Lifeguard Lieutenants, Senior Lieutenants, Senior Lifeguards, Senior Medic and Assistant Captain, excluding the Lifeguard Captain and all other employees of the CITY.

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

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 judgement 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

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 four written copies of this contract to the ASSOCIATION on or before Memorial Day. There shall be a mutual, cooperative effort by the CITY and 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.

ARTICLE IV

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 contract modify existing local laws.

ARTICLE V

ASSOCIATION REPRESENTATIVES AND MEMBERS

A. Upon request and authorization of the Lifeguard Captain, or his designee, 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 so authorized by the ASSOCIATION, not to exceed two 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 VI

RETENTION OF CIVIL RIGHTS

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

ARTICLE VII

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 VIII

WORK WEEK, OVERTIME

A. The present working hours shall continue in effect: Monday through Friday 9:30 am to 5:00 pm; Saturday, Sunday and holidays 9:30 am to 5:30 pm.

B. An employee upon being personally notified of an emergency shall report to work within 30 minutes provided he/she is able to do so, otherwise he/she shall report as soon as possible.

C. An 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. An employee recalled for an emergency shall have the right to retain a partner for assistance.

D. All employees shall notify the Captain of the Beach Patrol where they can be reached in case of an emergency.

E. An employee that works before or after beach closing time, at the request of the Captain or his designee, is entitled to overtime pay 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.

F. All overtime duty shall be assigned on a fair and equitable basis.

G. Due to the extra hours that are required, the Lifeguard Captain shall authorize three compensatory days for the Assistant Captains and Lieutenants and two compensatory days for Senior Guards and Senior Medic.

ARTICLE IX

INJURY LEAVE

A. If an employee is incapacitated and unable to work because of a job-related injury, 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. CITY agrees to allow a Lifeguard Lieutenant or Medic to accompany an injured 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 Federal and State laws governing Worker's Compensation.

ARTICLE X

EXCHANGE OF DAYS OFF

A. The Captain or his designee 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 employees to receive overtime.

ARTICLE XI

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 Lifeguard Captain.

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 Lifeguard Captain or his designee.

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

ARTICLE XII

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 to and including the day of the funeral up to a maximum of five days, or seven days in the event of travel. The amount of time off is to be determined by the Lifeguard Captain or his designee.

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 XIII

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 Captain of the Beach Patrol and approved by the Director of Public Safety.

B. Leaves of absence shall be requested by the member in writing to the Captain by April 1, or later, if there is an emergency situation.

C. Upon return to service the member shall retain his position and shall be paid at the appropriate salary level.

ARTICLE XIV

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 XV

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 division.

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 an individual or the ASSOCIATION at the request of and on behalf of an individual or by 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 - BEACH PATROL CAPTAIN: The aggrieved party or the ASSOCIATION shall institute action under the provisions hereof within seven calendar days after the event giving rise to the grievance has occurred, and an earnest effort shall be made to settle the differences between the aggrieved employee and the Beach Patrol Captain or his designee for the purpose of resolving the matter informally. Failure to act within the said seven calendar days shall be deemed to constitute an abandonment of the grievance.

STEP TWO - DIRECTOR OF PUBLIC SAFETY: If no agreement can be reached orally within seven calendar days of the initial discussion with the Beach Patrol Captain, the employee or the ASSOCIATION may present the grievance in writing within five calendar days thereafter to the Director of Public Safety or his designated representative. The grievance at this step shall contain the relevant facts and a summary of the preceding oral discussion, including the applicable section of the contract violated and the remedy requested by the grievant. The Director of Public Safety or his designated representative will answer the grievance in writing within ten calendar days of receipt of the written grievance.

STEP THREE - BUSINESS ADMINISTRATOR: If the ASSOCIATION wishes to appeal the decision of the Director of Public Safety, or his designated representative, such appeal shall be presented in writing to the Business Administrator or his designated representative within ten calendar days accompanied by a brief outline of the material facts, the rationale for the grievance including the article of the contract that was violated. This presentation shall

include copies of all previous correspondence relating to the matter in dispute. The Business Administrator or his designated representative shall respond, in writing to the grievance within ten calendar days of the 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 Lifeguard Captain 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 XVI

COMMENDATION

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

ARTICLE XVII

WAGES AND SALARY SCALE

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A. During the term of this Agreement, the rates of pay for continuous service of the Assistant Captains, Lieutenants and Senior Guards shall be as follows:

| | <u>YEARS</u> | <u>1999</u> | <u>2000</u> |
|--------------------|--------------|--------------|--------------|
| SENIOR GUARDS | 1 | \$12.36/hour | \$12.62/hour |
| SENIOR MEDIC | 2 | 12.62 | 12.75 |
| | 3 | 13.65 | 13.02 |
| | 4 | 15.19 | 13.94 |
| | 5 | | 15.85 |
| LIEUTENANTS | 1 | 16.95 | 17.08 |
| | 2 | 17.24 | 17.75 |
| SENIOR LIEUTENANTS | 1 | 17.24 | 17.75 |
| STIPEND | | 2,250.00 | 2,500.00 |
| ASSISTANT CAPTAIN | | 15,000.00 | 15,500.00 |

The scale of pay for a Senior Lieutenant, Lieutenant and Senior Guard is based on the number of years serving as Lieutenant or Senior Guard, not based on the number of years on the Beach Patrol.

B. Assistant Captains, Senior Lieutenants, Senior Guards and Senior Medic will retain their seniority and for each year of service will increase their seniority accordingly.

ARTICLE XVIII

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 and the Director of Public Safety determines that the employee cannot be rehired for reasons other than the employee's work performance during his/her most recent employment period, the Director of Public Safety 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. The employee must notify the Lifeguard Captain of his/her intention to return for the next summer employment period, or the uncertainty of his/her availability to return for the next summer employment period, in writing on or before April 1. Failure to notify the Lifeguard Captain 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 make a reasonable attempt to hold an employment opening for any employee notifying the Lifeguard Captain prior to April 1 of his/her 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 Lifeguard Captain under Section C of the uncertainty of his/her availability to return for work must notify the Lifeguard Captain prior to the commencement of tryouts for the first year Lifeguards, May 1 for returning Medics, of his/her 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.

ARTICLE XIX

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 VIII - 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 XX

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, slowdown, 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, slowdown, walkout or job action, it is covenanted and agreed that participation in any such activity by an OCBPAA 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, slowdown 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 XXI

MEMBER RIGHTS

A. No member shall be disciplined, reprimanded, reduced in rank or compensation, or deprived of any professional advantage without cause.

B. Whenever a member is notified to appear before the Director of Public Safety concerning any violations of the rules and regulations serious enough to result in termination, the member shall be given prior written notice of the reasons for such meeting and shall be entitled to have a representative of the ASSOCIATION present to advise and represent the member during the meeting.

C. If a member is suspended and a hearing results in reinstatement, the member will be paid for time lost.

D. Members shall have access to their personnel file upon reasonable notice.

E. Members shall be made aware of any reports or charges made against him/her. He/she shall have the right to remain silent until he/she consults with the ASSOCIATION or an attorney.

F. Members shall be entitled to engage in outside employment during off-duty hours provided that such employment does not conflict with his/her employment responsibilities as an employee of Ocean City.

ARTICLE XXII

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 of other tribunal or competent jurisdiction, such provision shall be inoperative but all other provisions shall not be affected and shall continue in full force and effect.

ARTICLE XXIII

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 XXIV

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 to the CITY written notice 30 days prior to the beginning of the season and shall furnish new authorization from its members showing the authorized deduction for such 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 Treasurer. 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 in reliance upon the notification on the letterhead of the ASSOCIATION and signed by the President and 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 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 Treasurer. Automatic deductions at start of season or at date of hire if after July 1, 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 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, fee 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 XXV

LIAISON

The ASSOCIATION and the CITY recognize the desirability for continuing communication on the subjects relating to current Beach Patrol practices and problems. The ASSOCIATION President shall select a Liaison Committee of three members which shall meet periodically during the year with the Business Administrator and the Director of Public Safety to discuss and review all such matters in order that the quality of bather protection may be maintained and improved.

One of the meetings between the ASSOCIATION members and CITY officials must be held in July.

ARTICLE XXVI

DURATION

A. This Agreement shall be in full force and effect as of January 1, 1999 and shall remain in effect to and including December 31, 2000 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 seal at the City of Ocean City, New Jersey, on this 4th day of June, 1999.

FOR THE ASSOCIATION:

Angelo Balle
M. Baum

FOR THE CITY:

[Signature]
Angelo H. Pleggi
