

376

AGREEMENT

Between

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

And

OCEAN CITY LIFEGUARDS ASSOCIATION

January 1, 1999 through December 31, 2001

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PREAMBLE

THIS AGREEMENT entered into this 3rd 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 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 1999, 2000 and 2001.

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 Lifeguard Assistant Captains, Lifeguard Captain, Lifeguard Lieutenants, 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 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

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 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 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 authorized by the ASSOCIATION, not to exceed three 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 the New Jersey State Law and 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 lifeguard Captain or his designee.
- D. All employees shall notify their Lifeguard Captain 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 Captain or his/her designee may be entitled to overtime pay as determined by the Captain 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. CITY agrees to allow a Lifeguard Lieutenant or 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 Federal and State Laws governing Worker's Compensation.

ARTICLE XI

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 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 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. 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 \$325 at the end of the 1999, 2000 and 2001 seasons toward the individual costs 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 Captain of the Lifeguards.

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 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.

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

FAMILY LEAVE

A. The CITY agrees to meet with the ASSOCIATION on a monthly basis to develop an amendment to this agreement on this issue. The parties agree to use their best efforts to develop an amendment on this issue by September 30, 1999.

ARTICLE XV

MILITARY LEAVE

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

ARTICLE XVI

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 XVII

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 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 shall institute action under the provisions hereof within five 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 his immediate supervisor for the purpose of resolving the matter informally. Failure to act within the said five calendar days shall be deemed to constitute an abandonment of the grievance.

STEP TWO: If no agreement can be reached orally within five calendar days of the initial discussion with his supervisor, the employee may present the grievance in writing within five calendar days to the Lifeguard Captain 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 Lifeguard Captain or his designated representative will answer the grievance in writing within ten calendar days of receipt of the written grievance.

STEP THREE: If the ASSOCIATION wishes to appeal the decision of the Lifeguard Captain, such appeal shall be presented in writing to the Director of Public Safety within 10 calendar days. This presentation shall include copies of all previous correspondence relating to the matter in dispute. The Director shall respond, in writing, to the grievance within 20 calendar days of the submission.

STEP FOUR: If the ASSOCIATION wishes to appeal the decision of the Director, it may present such appeal in writing to the Business Administrator within 15 calendar days. This presentation shall include copies of all previous correspondence relating to the matter in dispute. The Business Administrator shall issue a written decision within 30 days of receipt of the appeal. Failure of the ASSOCIATION to file the appeal within 15 days shall constitute an abandonment of the grievance unless time limits are mutually extended in writing. Only those grievances relating to the express written terms of this Agreement and deemed

meritorious by the ASSOCIATION qualify for this step.

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 set forth herein 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 further 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 limited 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 therefor, 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 XVIII

COMMENDATION

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

ARTICLE XIX

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>1999</u>	<u>2000</u>	<u>2001</u>
LIFEGUARDS	1	7.75	8.00	8.15
	2-3	8.25	8.35	8.50
	4-5	8.50	8.75	9.00
	6-7	9.25	9.35	9.50
	8-9	9.80	10.00	10.25
	10-12	10.50	10.75	11.00
	13-15	11.50	11.75	12.00
	16-18	11.50	12.00	12.25
	19-20	11.50	12.00	12.50

	<u>YEARS</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>
MEDICS	1	8.50	8.50	8.50
	2	9.00	9.00	9.00
	3	9.50	9.50	9.50
	4	9.50	10.00	10.00
	5.	9.50	10.00	10.50

B. All Guards 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 10 of each year, and completes a minimum of 40 days of work during the season, will receive a stipend if they remain on staff from August 15 through Labor Day. The stipend will be equal to the total number of days worked between August 15 and Labor Day multiplied by twelve dollars (\$12.00). This provision will remain in effect after the 1999 season based on an analysis of its effectiveness, subsequent recommendation of the Management of the Ocean City Beach Patrol and acceptance by the Director of Public Safety. The ASSOCIATION will help develop the methodology of the analysis.

ARTICLE XX

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 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 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 that summer employment period.

D. The CITY will reasonably 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 1st 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.

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

ARTICLE XXI

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 XXII

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 XXIII

MISCELLANEOUS

A. Each employee shall have access to his/her personnel file at reasonable times.

B. All employees shall be notified in writing of any reports or charges made against him/her. He/she shall have the right to remain silent until he/she consults with an attorney or 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 his/her employment responsibilities as a Lifeguard in Ocean City.

D. Included in the physical examination provided by the CITY, complaints of skin abnormalities will be noted and recommendations for possible consultation conveyed.

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

F. The CITY will meet with the ASSOCIATION and use their best efforts to discuss issues of parking of lifeguard vehicles during duty hours.

G. The officers of the ASSOCIATION may request and be granted an annual meeting with the Business Administrator and Public Safety Director during the summer season to review the Lifeguard Manual and to discuss other concerns.

ARTICLE XXIV

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 XXV

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 XXVI

TRAINING OF ROOKIE LIFEGUARD

A. The CITY shall pay full tuition for all first year guards for an accredited CPR course. However, each employee shall be compensated the cost after successful completion of the approved course (maximum of eight hours). The location for the course will be determined mutually between the CITY and the Lifeguard Association.

B. The CITY shall compensate the first year guards attending the approved CPR course for the hours of attendance. However, each employee will be compensated after successful completion of the approved course.

ARTICLE XXVII

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 of 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, 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 XXVIII


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, 2001 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, of a desire to change, modify or terminate this Agreement. Such notification shall be given no later than the following January of the date this Agreement expires.

IN WITNESS WHEREOF, the parties have hereunto set their hand and seals at the City of Ocean City, New Jersey, on this 3rd day of June, 1999.

For The Lifeguard Association:

For The City of Ocean City:



Angela H. Pileggi

