

AGREEMENT

Between

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

And

**OCEAN CITY BEACH PATROL
ADMINISTRATIVE ASSOCIATION**

January 1, 2007 through December 31, 2009

PREAMBLE

THIS AGREEMENT entered in this 1st day of January 2007, 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 "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 condition 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 2007, 2008, and 2009.

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 Medics, and the Chief of Operations excluding 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 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 furtherance thereof, and the use of judgment and discretion in connection therewith shall be limited only by the specific and express terms of the 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 the 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 provision of this contract modify existing local laws.

ARTICLE V

ASSOCIATION REPRESENTATIVES AND MEMBERS

- A. Upon request, 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 period 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 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 provision 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 plus extended hours for designated beaches as agreed to by the parties.
- 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 Chief of the Fire Department or his designee where they can be reached in case of emergency.
- E. An employee who is authorized to work before or after beach closing time is entitled to overtime pay according to the time recorded on the City's Timetrak system.
- F. All overtime duty shall be assigned on a fair and equitable basis.
- G. Due to extra hours that are required annually, the Fire Chief may authorize up to three compensatory days for the Operations Chief, Senior Lieutenants, Lieutenants, Training Officer. Senior Guards and Senior Medics may have up to two compensatory days authorized by the Fire Chief.

ARTICLE IX

INJURY LEAVE

- A. If an employee is incapacitated and unable to work because of a job-related injury, he/she be entitled to injury leave with full pay during the period in which he/she is unable to perform his/she 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 Chief of the Fire Department or his designee may grant a reasonable, timely written request of any employee to exchange hours or days off. Such a 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 an exchange would entitle either employee 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 Chief of the Fire Department or his designee.
- 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 Fire Chief or his designee. 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 a list of approved articles, as developed by the ASSOCIATION, and the Fire Chief.

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 three days, or five days in the event of travel. The amount of time off is to be determined and approved by the Chief of the Fire Department 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 Fire Chief. A leave of absence may only be approved by the Chief of the Fire Department.
- B. Leaves of absence shall be requested by the member in writing to the Chief of the Fire Department.
- 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 the action 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 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 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: 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 seven calendar days, excluding Sunday, 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 the 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 all relevant facts and a summary of the preceding oral discussion, the applicable section of the contract violated and the remedy requested by the grievant or the officers of the ASSOCIATION. The Fire Chief or his designated representative will answer the grievance in writing within five calendar days, excluding Sunday, of the receipt of the written grievance. The aggrieved party's grievance will be considered upheld at Step Two, if the Fire Chief or his designated representative does not answer the grievance in writing within five calendar days, excluding Sunday, of receipt of the written grievance. In the event that the Fire Chief is the party with whom the situation concerns then the aggrieved party or the officers of the ASSOCIATION shall seek resolution with the Fire Chief's designated representative. If the Fire Chief does not appoint a designated representative, the aggrieved party or the officers of the ASSOCIATION at the end of the five calendar days, excluding Sunday, shall pass Step Two of the grievance procedure and immediately go to Step Three.

STEP THREE: If the aggrieved party or the officers of the ASSOCIATION wish to appeal the decision of the Fire Chief, or his designed representative, such appeal shall be represented in writing to the Business Administrator within five calendar days, excluding Sunday. This presentation shall include copies of all previous correspondence relating to the matter in dispute. The Business Administrator or his designated representative may agree to meet with the aggrieved party and/or the officers of the ASSOCIATION upon request to resolve such grievance. The Business Administrator or his designated representative shall respond in writing, to the grievance within ten calendar days, excluding Sunday, after a meeting with the aggrieved party and/or officers of the ASSOCIATION. If no meeting is held, the Business Administrator or his designated representative shall respond in writing, with ten calendar days, excluding Sunday, after the date of submission. The aggrieved party's grievance will be considered upheld at Step Three if the Business Administrator or his designated representative does not respond in writing within ten calendar days, excluding Sunday, of receipt of the written grievance.

E. The officers of the ASSOCIATION shall be permitted as members of the aggrieved party, 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. Nothing herein shall prevent the parties from mutually agreeing to extend or contract the time limits provided for processing the grievance at any step of 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

- A. During the term of this Agreement, the rates of pay for continuous service of the Chief of Operations, Senior Lieutenants, Lieutenants, Training Officer, Senior Guards, and Senior Medic, shall be as follows:

<u>Senior Guards/ Senior Medic</u>		
<u>2007</u>	<u>2008</u>	<u>2009</u>
\$20.34	\$20.95	\$21.58

Stipend (Year End)

\$15.00 per day shall be paid for all days worked between August 15th and Labor Day inclusive.

<u>Lieutenants/Training Officer</u>		
<u>2007</u>	<u>2008</u>	<u>2009</u>
\$22.66	\$23.34	\$24.04

Stipend (Year End)

\$15.00 per day shall be paid for all days worked between August 15th and Labor Day inclusive.

<u>Senior Lieutenants</u>		
<u>2007</u>	<u>2008</u>	<u>2009</u>
\$24.72	\$25.46	\$26.23

<u>Chief of Operations</u>		
<u>2007</u>	<u>2008</u>	<u>2009</u>
\$22,660.	\$24,885.	\$26,661.

- B. The Chief of Operations, Senior Lieutenants, Lieutenants, Training Officer, 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. Each employee must notify the Fire Chief or his designee 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 May 1. Failure to notify the Fire Chief or his designee 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.

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 action 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 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 Fire Chief concerning any violations of the rules and regulations serious enough to result in termination, the member shall be given prior written notice of the reason 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 hearing results in reinstatement, the member will be paid for time lost.
- D. Members shall have access to their personnel files upon reasonable notice. Said notice shall be in writing and directed to the Fire Chief.
- 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, by a Court of other tribunal or competent jurisdiction, such provision shall be inoperative but all other provision 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 the start of the season or at the date of hire if after July 1st, unless so notified by written authorization. The filing of notice of withdrawal shall be effective to halt deductions as of and filed by July 1st 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 of the effective date of the 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 the 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 Fire Chief 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 and the CITY officials must be held in July.

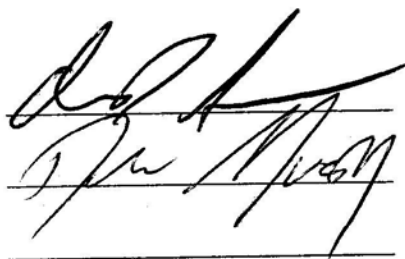
ARTICLE XXVI

DURATION

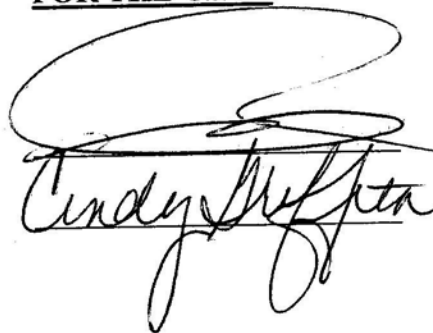
A. This agreement shall be in full force and effect as of January 1, 2007 and shall remain in effect up to and including December 31, 2009 without any reopening date. This Agreement shall continue in full force and effect from year to year thereafter, unless one party or the other gives notice, in writing, no sooner than 180 days and no later than 150 day prior to expiration of this Agreement of a desire to change, modify or terminate this Agreement.

IN WITNESS WHEREOF, the parties hereunto set their hand and seal at the City of Ocean City, New Jersey on this 25th day of March, 2008.

FOR THE ASSOCIATION:

A handwritten signature in black ink, appearing to be "John A. ...", written over a horizontal line.

FOR THE CITY:

A handwritten signature in black ink, appearing to be "Cindy ...", written over a horizontal line.