

New York. The failure of a party to promptly enforce a right hereunder shall not constitute a waiver of such right and the waiver of a right by a party upon the breach of this Agreement by the other party shall not constitute a waiver with respect to subsequent breaches. If any provision, paragraph, or subparagraph of this Agreement is adjudged by any court to be void or unenforceable in whole or in part, this adjudication shall not affect the validity of the remainder of the Agreement, including any other provision, paragraph, or subparagraph. Each provision, paragraph, and subparagraph of this Agreement is separable from every other provision, paragraph, and subparagraph, and constitutes a separate and distinct covenant. The provisions of this Agreement, and the documents and instruments referred to herein, have been examined, negotiated, drafted and revised by counsel for each party hereto and no implication shall be drawn nor made against any party hereto by virtue of the drafting of this Agreement.

By: _____
Mayor Joanne D. Yepsen

By: _____

Date: _____

Date: _____

As per City Council approval on _____

Nothing in this section shall be construed to alter the Consultant's responsibilities under any applicable State Law. Since monetary damages may not be a sufficient remedy with respect to any violation of this section, the Client shall be entitled to specific performance and injunctive relief, in addition to any other remedy.

8. Except as specifically authorized in this Agreement or as otherwise approved by CLIENT in accordance to this Agreement, information and data furnished to or by the Consultant, or developed or acquired by the Consultant in connection with the performance of this Agreement is confidential information of CLIENT and the Consultant shall use such information only in connection with the work under this Agreement. Consultant has been retained, in part, in order to develop materials that will be tailored to CLIENT's unique operations and will be used by CLIENT in its day-to-day operations, and Consultant understands that such materials are to be developed as a "work for hire." CLIENT has full rights to copyright, use, display and duplicate these materials; provided, however, CLIENT claims no rights or ownership in template materials developed by Consultant.

9. CLIENT may terminate performance under this Agreement by notifying the Consultant in writing at least thirty (30) days in advance of the effective date of termination specified in such notice, which effective date shall be the end of the next successive full month following such notice. Upon such termination, the Consultant shall be paid for all services satisfactorily rendered to the date of such termination in accordance with Schedule B and shall return all documents, records and work products to CLIENT. Upon such termination,

(a) The Consultant will comply promptly with any requests by CLIENT relating to the emphasis or relative emphasis to be placed on various aspects of the work or with such other matters pertaining to said work as are indicated of concern to CLIENT.

(b) No payment for reimbursable expenses shall be made unless such reimbursable expenses have been authorized in advance in writing by CLIENT.

10. The Consultant agrees that CLIENT shall have access to and the right to examine and/or audit any directly pertinent records, books, documents and papers of the Consultant involving transactions related to this Agreement for a period of six (6) years after final payment under this Agreement.

11. The Consultant agrees to indemnify and hold harmless CLIENT, its officers and employees from any claim, damage, liability, injury, expense or loss, including defense costs and attorneys' fees, arising out of the Consultant's actions or omissions. CLIENT agrees to indemnify and hold harmless the Consultant from any claim, damage, liability, injury, expense or loss, including defense costs and attorneys' fees, arising out of CLIENT's actions or omissions.

12. CLIENT has designated Mayor Joanne D. Yepsen, or his designee, as CLIENT's representative authorized to act in CLIENT's behalf with respect to the services under this Agreement and to provide the Consultant with information regarding CLIENT's objectives with respect to the services under this Agreement.

13. This Agreement contains the entire understanding among the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings, inducements or conditions, express or implied, oral or written, except as herein contained. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms hereof. This Agreement may not be modified or amended other than by an agreement in writing. This Agreement shall be construed in accordance with and governed by the laws of the State of

3. Insurance – Consultant has provided the Client with proof of existing insurance and has executed the City of Saratoga Springs Hold Harmless Agreement and will continue to maintain this insurance throughout the term of this Agreement.

4. The Consultant agrees to perform his or her services with that standard of care, skill and diligence normally provided by a professional in the performance of similar services. CLIENT shall have final authority over any decisions which will materially affect CLIENT's operations, management, corporate mission or objectives.

5. The terms, conditions, representations and warranties contained in this Agreement shall survive the termination or expiration of services and the payment of compensation.

6. The work or services specified in Schedule A shall be performed by and on behalf of the Consultant. CLIENT may, in its sole discretion; request that person currently providing services be removed and that Consultant provide another person to perform the services hereunder, within seven (7) days after written notice to Consultant. Given the sensitive nature of the services, no other person or organization shall be engaged on such work or services unless written approval by CLIENT is obtained in advance of each instance of subcontracted work. This Agreement is not assignable without prior written consent of CLIENT. Any attempt to assign any rights, duties or obligations which arise under this Agreement without such consent shall be void.

7. CONFIDENTIAL INFORMATION

In connection with the provision of products and/or services to the Client by Consultant, the Client may disclose to Consultant information that is proprietary or confidential information. Any and all Client communications, records, documents, written, oral or electronic communication or other information of any kind shall be deemed and treated as confidential by the Consultant. The Consultant shall not copy, transmit, deliver or communicate in any way to any other person or entity any such communications and/or information without the prior written consent of the Client. The Consultant agrees to use such confidential information solely for the purpose of performing services hereunder for the Client.

The term "confidential information" does not include information that (i) is or becomes generally available to the public other than as a result of disclosure by the Consultant, (ii) is or becomes available to the Consultant on a non-confidential basis from sources other than the Client, provided that such source is not bound by a written confidentiality agreement with the Client, or (iii) was lawfully within the Consultant's possession prior to its being furnished to the Consultant by the Client, provided that the source of such information was not bound by a written confidentiality agreement with the Client, or (iv) is required under applicable law or by deposition, interrogatory, request or demand for information or documents, subpoena, investigative demand, court order or other similar legal process. In such cases the Consultant shall provide the Client with written notice that such information is not deemed confidential. Such notice shall provide the Client sufficient time to seek a protective order or other legal remedy.

All written confidential information (and all copies, extracts or other reproductions in whole or in part thereof) obtained by the Consultant from the Client shall be returned to the Client and have the status of Client work papers (or, with the Client's written permission, shall be destroyed and such destruction certified in writing to the Client by an authorized Consultant representative supervising such destruction). Except as set forth herein, no confidential information shall be retained by the Consultant. The Consultant shall be permitted to retain one copy of internal memoranda and other documents, developed by the Consultant during the term of this Agreement, which contain or refer to confidential information, subject to the confidentiality provisions of this paragraph.

**AGREEMENT BETWEEN
The City of Saratoga Springs and
Pinnacle Human Resources, LLC
for the Provision of Human Resource Services to the
City of Saratoga Springs**

This Agreement is entered into between the City of Saratoga Springs (hereinafter "Client") and Pinnacle Human Resources, LLC (hereinafter "Consultant") for the provision of services to the City of Saratoga Springs.

WHEREAS, the City of Saratoga Springs requires representation in the discipline of Human Resources; and

WHEREAS, the City Council has agreed to engage the services of the Consultant to provide such representation on behalf of the City; and

WHEREAS, Pinnacle Human Resources, LLC has agreed to provide services to the City of Saratoga Springs;

WHEREAS, the Consultant has special professional and/or technical qualifications which are of assistance to CLIENT in interpreting and implementing policies and procedures for human resources matters and responding to day-to-day human resources related issues, and Consultant is willing and able to provide such services under the terms and conditions set forth herein;

NOW, THEREFORE, the parties do mutually agree as follows:

1. This agreement shall commence as of April 1, 2014 and remain in effect on a month to month basis. For satisfactory performance of the services described in the attached Schedule A - Scope of Work, CLIENT shall pay the Consultant the compensation provided for in the attached Schedule B - Compensation. Services shall be performed by the Consultant at the Consultant's office, at CLIENT's offices or at such locations as shall be reasonably necessary to complete the services.
2. In performing services under this Agreement, the Consultant shall be deemed an independent contractor. All of the Consultant's activities will be at his or her own risk and the Consultant is hereby given notice of the responsibility for arrangements to guard against physical, financial and other risks as appropriate. The Consultant represents and warrants to CLIENT that the services to be provided under this Agreement do not conflict with any applicable laws or regulations, nor with any policies or other agreements to which the Consultant is bound. The Consultant shall have no claim under this Agreement or otherwise against CLIENT for any worker's compensation, vacation pay, sick leave, retirement benefits, social security benefits, disability insurance benefits, unemployment insurance benefits, or any other employee benefits, all of which shall be the sole responsibility of the Consultant. CLIENT will not withhold on behalf of the Consultant any sums for income tax, unemployment insurance, social security, or any other withholding. The Consultant shall observe and abide by all applicable laws and regulations relative to the conduct of services under this Agreement.