

CITY OF SARATOGA
MEMORANDUM OF UNDERSTANDING FOR
WAGES, EMPLOYEE BENEFITS
AND CONDITIONS OF EMPLOYMENT

I. INTRODUCTION

This Memorandum of Understanding (MOU), or "AGREEMENT", dated August 1, 2007, is between the City of Saratoga through its designated representatives, hereinafter referred to as "CITY" and the Saratoga Employees Association (SEA), hereinafter referred to as "ASSOCIATION."

This MOU complies with the provisions of the Meyers-Miliias-Brown Act, as contained in Section 3500, et seq., of the Government Code of the State of California in that the employer-employee representatives noted herein did meet in good faith and did reach an understanding on those matters within the scope of representation.

This MOU also complies with Resolution No. 509-2 relating to employer-employee relations, and Resolution No. 489-2, establishing the procedure for meeting and conferring with recognized employee organizations.

II. GENERAL CONDITIONS

A. Total Agreement

This Agreement sets forth the full and entire understanding of the parties for the period beginning July 1, 2007, and continuing through September 30, 2011. This Agreement shall remain in effect until a new Agreement is signed by both parties. This Agreement supersedes any prior understandings, representations, agreements or promises of any kind, whether written, oral, express, or implied between the parties (including all prior Memoranda of Understanding) with respect to the subject matter of the Agreement. No verbal statement or other amendments, except an amendment mutually agreed upon between the parties and in writing attached to this Agreement designated as an amendment to this Agreement, shall supersede or vary the provisions in this Agreement. If any provision of this Agreement is adjudged to be void or unenforceable, the remainder of the Agreement shall nevertheless remain in effect.

Except as specifically provided in this Agreement, it is agreed and understood that the ASSOCIATION waives its right, and agrees that the CITY shall not be required to negotiate with respect to any subject or matter covered in this Agreement or with respect to any other matters within the scope of negotiations, during the term of this Agreement.

The waiver of any breach, term, or condition of this Agreement by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

B. City Council Approval

City Council approval of the terms of this MOU is incorporated in Resolution No. _____ adopted on August 1, 2007.

C. Validity of Memorandum

Should any article, section, or portion of this Agreement be held unlawful and unenforceable by any court of competent jurisdiction, the court's decision shall only apply to the specific article, section, or portion of this Agreement directly specified in the decision, and the remainder of this Agreement shall not be affected by the decision.

D. CITY Rights

The CITY reserves, retains, and is vested with any management rights not expressly granted to the ASSOCIATION by this Agreement. These CITY rights include but are not limited to the right to:

1. Determine and modify the organization of City government and its constituent work units;
2. Determine the nature, standard, levels, and mode of delivery of City services;
3. Determine the methods, means, number, and kind of personnel by which City services are provided;
4. Determine the procedures and standards for selection for employment and promotions;
5. Establish employee performance standards including, but not limited to, quality standards, and to require compliance with those standards;
6. Discharge, suspend, demote, reprimand, withhold salary increases and benefits, or otherwise discipline workers in accordance with applicable laws, the Personnel Ordinance and the Personnel Rules; and
7. Relieve employees from duty because of lack of work or lack of funds, or for inability to perform the job as required, subject to the Personnel Rules and Policies.

E. Meyers-Milias-Brown Act (MMBA)

Nothing in this Article shall relieve the CITY of its obligation to meet and confer on the impact of the exercise of those rights, which are mandatory subjects of bargaining under the Meyers-Milias-Brown Act.

III. SALARY ADMINISTRATION

A. Salary Ranges

Salary data for each position represented by ASSOCIATION is periodically collected from the following list of comparable cities:

Los Altos	Menlo Park
San Carlos	Cupertino
Los Gatos	Morgan Hill
Campbell	

The CITY will be adjusting the salary ranges administratively effective July 1, 2008 as a result of the fiscal year 2007-08 compensation study and administratively every two years thereafter according to salary survey compensation data, ensuring that the CITY pays the average of its comparable cities.

The CITY classifies all miscellaneous positions according to duties and responsibilities, and a salary range is established for each job classification.

Adjustments to Salary Range as the result of a Salary Survey and Anniversary Date - Any salary range adjustments for a classification implemented by the CITY will not establish a new salary anniversary date for employees serving in that classification.

Adjustments to Salary Range as the result of a Salary Survey and Retention of Step - Whenever the schedule of compensation for a classification is revised, each incumbent in a position to which the revised schedule applies shall be paid at the same step in the revised range as the step at which the employee was paid in the previous range.

See Exhibit A for fiscal year 2007-08 range table.

B. 5-Step Salary Plan and Cost of Living Adjustment

For fiscal year 2007/08, salary increases will be retroactive to July 1, 2007.

Cost of Living Adjustment - For fiscal year 2007-08, each ASSOCIATION member shall receive a cost-of-living adjustment of three percent (3%), retroactive to July 1, 2007. For each subsequent year of this MOU, each ASSOCIATION member shall receive an annual cost-of-living adjustment of no less than one percent (1.0%) and no greater than two and one-half percent (2.5%). If the United States Bureau of Labor and Statistics Average Consumer Price Index for "All Urban Consumers (CPI-U)" for the months of December to December for the "San Francisco-Oakland-San Jose" region falls below one percent (1.0%), each ASSOCIATION member shall nevertheless receive a minimum one percent (1.0%) cost-of-living adjustment; if the above Index increases above two and one-half (2.5%), each ASSOCIATION member shall nevertheless receive a maximum two and one-half (2.5%) cost-of-living adjustment.

Base Salary – Employees occupying a position in a classification covered by this MOU shall be paid a base salary within the range established for that position’s classification.

Placement Within Range –The CITY will determine salary placement consistent with the Personnel Rules and Policies.

Progression Within Range – Salary advancement within an established salary range is customarily considered at one (1) year intervals. Each employee who is employed after July 1, 2006 will be eligible to receive a salary increase to the next higher step within the range of their assigned classification upon the individual employee’s original employment anniversary date (established anniversary date).

Each employee who was hired on or prior to July 1, 2006 will be eligible to receive a salary increase to the next higher step within the range of their assigned classification upon July 1 of each year, (as a result of the CITY moving from a broad range pay-for-performance system to a step system effective July 1, 2007). July 1 of each year will be the established anniversary date for each employee who was hired on or prior to July 1, 2006.

Eligibility for Progression within Range - All regular employees will be evaluated on an annual basis and will be eligible to advance in their salary range based on annual performance evaluation results.

No increase in salary shall be automatic solely upon completion of a specified period of service. All increases shall be contingent upon a satisfactory annual evaluation of the employee’s performance, and shall require recommendation of the Department Head. In the case that an employee receives a cumulative rating of less than three (3) points on the annual performance evaluation, indicating a cumulative rating less than “meets expectations”, the employee will not receive a salary increase other than an approved and budgeted cost-of-living increase. An employee who is denied an increase in salary may discuss such denial with his/her Department head and the City Manager (or his/her designee). The decision of the City Manager (or his/her designee) shall be final.

An employee who has received a cumulative rating of three (3) points or greater during the annual employee performance evaluation will be eligible to receive a salary increase of five percent (5%) (1 step) above their existing salary as of the employee’s established anniversary date, until such time as the employee reaches the top of his/her salary range, at which time the employee shall not advance beyond the top of the established range, except as provided for in Article III. SALARY ADMINISTRATION, Section C. Performance Incentive Compensation.

Promotion - Promotion is the movement of an employee from one classification to another classification having a higher salary range. At the time an employee is promoted, his or her salary shall be adjusted as follows:

If the first step in the salary range for the employee's new position is at least five percent (5%) greater than the employee's current salary range, the employee shall be moved to the first step of the new salary range.

If the first step in the salary range for the employee's new position is less than five percent (5%) greater than the employee's current salary range, the employee shall be moved to the step which would provide, at minimum, a five percent (5%) increase in salary.

If no step in the salary range for the new position would provide the employee with at least a five percent (5%) salary adjustment, the employee shall be moved to the top step of the new salary range.

NOTE: If an employee is promoted on their anniversary date, the employee shall first receive a salary increase to the next higher step within their existing salary range, following by a promotional salary adjustment as described in this section.

All promotional appointments shall be subject to a probationary period of one year. During probation, a supervisor may evaluate an employee every three months. At six months, a written evaluation will be prepared. Upon completion of the twelve-month probationary period, a second written evaluation will be prepared. At the completion of a successful probationary period, the employee shall be granted regular employment status and may advance in his/her salary range as part of the citywide annual evaluation process.

If it is determined through employee performance evaluation that an employee subject to a promotional appointment does not pass probation, the probationary employee shall be reinstated to the position from which he or she was promoted provided that position is vacant and funded. If no vacancy exists, the employee may ask to be placed on a re-employment list.

C. Performance Incentive Compensation

Employees represented by ASSOCIATION who have remained at the top of the same salary range for five (5) years may be eligible for an additional step increase of five percent (5%) following receipt of a cumulative rating of three (3) points or greater during the annual employee performance evaluation. Five (5) years after meeting the criteria for the initial performance incentive compensation described above, a qualified employee -- that is an employee who has remained at five percent (5%) above the top of his/her same salary range -- may be eligible for an additional salary increase of five percent (5%) following receipt of a cumulative rating of three (3) points or greater during the annual employee performance evaluation.

D. Annual Performance Review

The CITY administers an Annual Performance Review (APR) process. The APR includes a Self Evaluation prepared by the employee and a Performance Evaluation prepared by the employee's supervisor/manager. Ratings on the Performance Evaluation are tied to the following numerical scores:

<u>Score</u>	<u>Rating Description</u>
1	Unsatisfactory
2	Below Expectations
3	Meets Expectations
4	Exceeds Expectations
5	Outstanding

The employee is rated on his/her performance in up to eight (8) categories:

Customer Service	Ability to Work Well with Others
Quality of Work	Accountability
Initiative	Communication Skills
Flexibility	Supervision – if applicable

The employee receives a composite score based upon individual ratings received under each category. This composite score forms the basis for a potential salary increase awarded by the CITY.

IV. WORKING CONDITIONS

The CITY will continue to operate on a 9/80 work schedule to be determined by the City Manager and Directors where a full-time work week constitutes forty (40) hours within seven consecutive 24 hour days, also defined as one hundred sixty-eight (168) hours. Employees on a 9/80 schedule are scheduled to work 8 nine hour days, 1 eight hour day, and have one day off every two weeks. An employee's workweek begins in the middle of the employee's 8 hour day and the employee's day off is on the same day of the week in the following week. For example, the standard 9/80 work schedule for most ASSOCIATION members is as follows:

AGREEMENT BETWEEN THE CITY OF SARATOGA AND SEA

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
off	9	9	9	9	4 (end)	off
					4 (start)	
off	9	9	9	9	off (end)	off
					off (start)	
off	9	9	9	9	4 (end)	off
					4 (start)	
off	9	9	9	9	off (end)	off
					off (start)	

The City Manager and Directors have discretion to require some employees to work a schedule different from the standard 9/80 schedule including a schedule that is not 9/80. Fridays when the CITY is not open for business are referenced as “off-Fridays.”

The work period (pay period) is the period encompassing two consecutive workweeks.

A holiday furlough will exist whereby the CITY operations are closed from December 24 through January 1 of every year. Employees shall utilize their available balances (annual leave, compensatory time), if applicable. Employees that utilize unpaid leave due to insufficient leave balance shall maintain regular benefit status.

V. OVERTIME WORK

Those employees eligible through the Fair Labor Standards Act for overtime shall receive it in the following way:

- (1) Overtime for all eligible ASSOCIATION members shall be defined as any time worked beyond the standard workday or beyond the standard work week as described above. The 9/80 work schedule may not be used in any application that requires entitlement to FLSA overtime as the CITY and ASSOCIATION agree to the 9/80 work schedule;
- (2) Overtime compensation shall be computed at one-and-a-half times the employee’s regular rate of pay for hours in excess of 9 hours in one day or for time worked over 40 hours in one workweek and two times the employee’s regular rate of pay for hours in excess of 13 hours in one day or 60 hours in one work week;
- (3) CITY agrees to include paid leave time taken as time worked for purposes of calculating eligibility for overtime pay for all regular non-exempt positions in the CITY service;
- (4) All overtime is to be approved in advance and in writing by the Department Head and accepted in writing by the employee. This written confirmation is to be turned in with the employee’s time sheet for each pay period.

VI. CALL OUT PAY

Non-exempt employees who are called out to perform work of an emergency nature after the regularly scheduled workday are compensated at their regular rate of pay for a minimum three (3) hours for each occurrence at one and one-half times (1.5) the employee's regular hourly rate of pay. Employees will be compensated from the time they leave their residence until their direct return home after being released from the assignment. A second callout while responding to the first does not restart the clock.

VII. STANDBY PAY

Non-exempt employees may be assigned to standby duty as determined by the City Manager or Department Head. Anticipated events or seasons that would trigger standby duty include storms/storm season or the period of holiday work furlough. Employees assigned to standby duty must report for duty within one hour of notification and be able to perform the duties as assigned. Employees assigned to standby duty will be issued City cell phones and must respond with a telephone call. Employees are compensated \$ 37.50 for each weeknight, defined as from the end of the work day's shift to the beginning of the next day's shift, and \$ 75.00/day for each weekend, defined as the end of the workday Thursday or Friday to the beginning of the next workday (off-Friday, Saturday, Sunday), or holiday assigned to stand-by status.

VIII DIFFERENTIAL FOR SPLIT SHIFT

ASSOCIATION members in the Facilities Maintenance classification shall receive an additional \$25.00 for each day when required to work a split shift.

IX. MEAL REIMBURSEMENT

The CITY will provide a meal or reimburse the cost of a meal up to \$10.00 for each employee who is required to work extended overtime or who is required to work on extended emergency call out. Meal reimbursement is available if the employee works in excess of ten (10) consecutive hours during a scheduled work day or if the employee works in excess of four (4) hours during an emergency call out. Two meals will be provided if work is required in excess of eight (8) hours during an emergency call out.

X. PRODUCTIVITY/GOALS

Employees and Management agree to cooperate and assist in improving productivity through assistance in developing:

- A. A more positive work environment.
- B. Innovative techniques for improving operational activities.
- C. Increased accuracy.

- D. Methods to maximize time usage.
- E. More effective communication with the public and other departments.

XI. BENEFITS

A. Health and Dental Premium Contributions and In-Lieu Payments

The CITY contributes 100% of the medical premium for regular, full-time employees who elect either the Kaiser, Blue Shield, or PERS Choice plans. Each plan includes eligibility for employee only, employee & 1 dependent, and employee & 2+ dependents. For employees who elect to enroll in the PERS Care Plan, the CITY will contribute the amount equal to the Kaiser, Blue Shield, or PERS Choice plan premium, whichever is greater, depending on the plan choice (i.e. employee only, employee & 1 dependent, or employee & 2+ dependents).

The CITY contributes 100% of the dental premium for regular, full-time employees.

Any employee who declines to accept coverage in the PERS Health Program, evidenced by signing a waiver form, shall receive a monthly Benefits Allowance of \$118.75.

Any employee who declines to accept coverage in the Delta Dental Plan, evidenced by signing a waiver form, shall receive a monthly Benefits Allowance of \$25.00.

The monthly Benefits Allowance for regular part-time employees and full time employees working less than full time will be pro-rated in proportion to the number of hours worked or accrued leave hours paid.

B. Life and Accidental Death Insurance

The CITY provides \$50,000 of life and accidental death and dismemberment insurance for all non-management, and \$100,000 of life and accidental death and dismemberment insurance for mid-management employees. ASSOCIATION members designated mid-management include the Human Resources Manager, City Clerk, Senior Recreation Supervisor, Facilities Maintenance Supervisor, Building Official and Accounting Supervisor. Coverage shall begin on the first day of the month following date of hire and ends on the date of separation. Employees may purchase additional life insurance for themselves and/or their dependents; however, availability of additional insurance is subject to the group carrier's requirements.

C. Confidential Employees

The CITY may designate certain employees as "Confidential." Confidential employees are privy to management decisions and related confidential information regarding employer/employee relations. Confidential employees designated with an asterisk (*) in front of their position title on the list below shall be restricted from representing ASSOCIATION on matters within the scope of representation.

Effective on the date of this agreement, employees occupying the following positions are designated as “Confidential”:

<u>Position</u>	<u>Department</u>
*City Clerk	City Manager’s Office
*Human Resources Manager	City Manager’s Office
*Executive Assistant to the City Manager	City Manager’s Office
*Account Clerk I/II	Administrative Services
Accountant	Administrative Services
*Accounting Supervisor	Administrative Services
IT Analyst	Administrative Services
IT Technician	Administrative Services

D. Administrative Leave

Administrative Leave is compensated time off given to regular, full-time exempt employees of the CITY. This leave shall be taken in a manner consistent with Paid Time Off (PTO). Use of administrative leave is a privilege and is provided in recognition that CITY projects often require employees to devote whatever hours are necessary, irrespective of a regular scheduled workweek, to fulfill the obligations of the job.

CITY shall grant ASSOCIATION members in exempt classifications, on a fiscal year basis, twenty (20) hours of administrative leave. Such leave shall be taken in a manner consistent with the use of PTO. Administrative leave cannot be carried over from year to year, and must be used by June 30th of the fiscal year in which it was accrued. Administrative Leave must be exhausted prior to using PTO

Administrative Leave must be taken by exempt employees only in increments of (4) hours or more in a workday (29 CFR 541.710 Employees of Public Agencies). For example, when the employee leaves work for four or more hours early to take care of personal business.

E. Leave Payout

There is a cap on the amount of PTO time an employee can accumulate. Employees may carry over up to 600 unused PTO hours from calendar year to calendar year. Any hours in excess of 600 on the books as of December 31 each year will be automatically paid out to the employee at the employee’s regular rate of pay, based on length of service at the following rates:

Service Length	% Payout
Years 0 thru 5	50%
After 5 years	75%
After 10 years	100%

Employees may be paid at the employee's regular rate of pay, at their request, each January for their accrued leave in excess of 160 hours as of December 31, based on length of service at the rates above.

Payout at Separation (excluding retirement). Upon separation from the CITY service, the CITY agrees to pay 100% of the employee's accrued annual leave at the employee's regular rate of pay.

When an employee voluntarily resigns from employment, no annual leave may be used between the time notice of resignation is given and the employee's last day of work unless authorized by the City Manager.

Payout at Retirement. Upon retirement from the CITY, an employee must use at least half of their accrued annual leave for the purpose of obtaining additional service credit under PERS. Employees may choose to use all of his/her accrued annual leave as sick leave for service credit. If an employee chooses to apply less than 100% of his/her leave toward PERS service credit, then the remaining accrued annual leave is paid out at the employee's regular rate of pay.

The CITY shall comply with State and Federal Family Leave Laws and affords employees all the rights thereof. Family Medical leave and California Family Rights Act leave will run concurrent with all applicable use of accrued leave and unpaid leave of absences.

XII. RETIREMENT (PERS)

The CITY is a contracting agency of the California Public Employees Retirement System (PERS). Regular employees become members immediately upon employment and become vested after five years. The CITY pays one hundred percent (100%) of the employees' required contribution in addition to the CITY's contribution as a contracting employer. PERS law states that compensation means remunerations paid out of funds controlled by the employer.

The CITY through its contract with PERS provides for retirement benefits including 2% at 55 (effective September 1, 1999), one year final compensation, service credit at retirement for unused sick leave, survivor continuance, and 1959 survivor benefits (Level 3) if death occurs prior to retirement. In addition, employees may be eligible to purchase additional years of service credit under specific circumstances listed under the CITY's PERS contract. On an annual basis, the CITY will provide ASSOCIATION members a list of benefits included in the PERS contract.

The CITY maintains a Retirement Reserve Fund on its books to ensure sufficient funds exist to provide this benefit to all current employees through age 55, (i.e. for 35 years or through the year 2034). Funds deposited into the Retirement Reserve Fund by the CITY, along with all interest accruing thereto, shall belong to the CITY and shall be commingled with the CITY's investment portfolio. In October of each year, the CITY shall review the past and projected performance of the Retirement Reserve Fund, along with actuarial data provided by PERS, in order to determine the amount to be deposited into the Retirement Reserve Fund on July 1. By May 1 of each year,

the CITY shall report to ASSOCIATION the amount of its next contribution to the Retirement Reserve Fund along with the assumptions used to determine the contribution amount.

The parties agree to a scheduled reopener in 2009 for the purpose only of discussing the financial feasibility of enhancing the CITY's retirement package with PERS (i.e., moving from the current 2% at 55 to 2.5% at 55). The discussion will be limited to (1) PERS financial situation and whether it will become superfunded and, therefore, require a smaller contribution from the CITY; and (2) the CITY's financial situation and whether the CITY can afford to fund all or part of an enhanced retirement package for employees. The parties will schedule a time for the reopener in 2009 within 60 days after the CITY receives an actuarial valuation from PERS of the cost of 2.5% at 55, and the discussions will not extend beyond 60 days of the reopening.

XIII. UNIFORM AND CLOTHING ALLOWANCES

Each regular full-time Facilities Maintenance employee shall receive an allowance of \$350.00 (three-hundred-fifty dollars) per fiscal year for the purchase of pants and safety boots, and for uniform cleaning. Three shirts per employee per year are purchased directly by the CITY, in colors designated by the Department Head. Community Service Officers shall receive an allowance of \$500.00 (five-hundred dollars) per fiscal year for purchasing and cleaning their uniforms. Building Inspectors (including Building Official) shall receive an allowance of \$150.00 (one-hundred-fifty dollars) per fiscal year for protective clothing. The Uniform and Clothing Allowances shall be paid on the second pay date in July. The Uniform and Clothing Allowances shall be prorated from the date of hire for a newly hired employee.

Uniform and clothing allowances are reported to PERS as salary earned.

XIV. TUITION REIMBURSEMENT

All regular employees of the CITY who have been employed continually for at least three (3) months prior to the commencement of an approved or required course are eligible for the CITY's tuition reimbursement program.

A. Coursework for Degree or Certificate

If the course(s) taken is/are job related or in fulfillment of the requirements for a degree or certificate, one-hundred percent (100%) reimbursement will be afforded for tuition, fees and books by the CITY up to a maximum of one thousand dollars (\$1,000) per employee per fiscal year. The Department Head and City Manager will determine job-relatedness.

B. Coursework for Professional Development

If the course(s) is/are not specifically related to the employee's current position, and does not fulfill the requirements for a degree or certificate, but does provide for professional development related to the worker's position of employment or a higher position in the CITY, reimbursement will be afforded for tuition, fees and books by the CITY at one-hundred percent (100%), up to a maximum five hundred dollars (\$500) per employee per fiscal year.

Reimbursement will be afforded after successful completion of the course(s) requirements. Successful completion is defined as a "C" grade or a "Pass" on a pass-fail system.

XV. GRIEVANCE PROCEDURE

A. Policy - The goal of this grievance procedure is to make every reasonable effort to resolve applicable complaints as near as possible to the point of origin.

B. Eligibility to File a Grievance - A grievant is a regular employee who is personally affected by an act or omission that occurred no more than 14 days prior to the reporting of the grievance, provided that the act or omission comes within the definition of "grievance" as described herein.

C. Definition of "Grievance" - Subject to the exclusions listed in this Policy, a grievance is defined as any dispute that: (1) is job-related, (2) is wholly or partially within the province of the CITY to rectify or remedy, (3) concerns terms and conditions of employment, (4) involves the interpretation, application, or alleged violation of these Policies or a current MOU between the CITY and a recognized employee organization representing CITY employees, and (5) is not subject to any other CITY dispute resolution process or procedure that is provided by statute, ordinance, resolution or agreement.

D. Exclusions from the Grievance Procedure - The following matters are excluded from the definition of "grievance":

1. Requests for changes in wages, hours, or working conditions, including any impasse or dispute in the meeting and conferring process or matter within the scope of representation;
2. Requests for changes in the content of employee evaluations or performance reviews, oral or written warnings, reprimands or counseling;

3. Challenges to a reclassification, layoff, transfer, denial of reinstatement, or denial of a step or merit increase;
 4. Challenges to any disciplinary action;
 5. Challenges to examinations or appointment to positions;
 6. Management of the CITY generally, or issues of CITY or Department policy;
 7. Determination of the nature, necessity or organization of any service or activity conducted by the CITY, including the decisions to expand or reduce services or the workforce, and/or to impose layoffs;
 8. Methods of financing;
 9. Determination of and/or change in facilities, equipment, methods, technology, means or size of the work force;
 10. Determination of or change in the location, number of locations, relocations and types of operations, processes or materials to be used in carrying out CITY functions;
 11. Determination of work assignments and schedules;
 12. Determination of productivity or performance programs and standards;
 13. Determination of standards, policies, and procedures for selection, training, and promotion of employees; and
 14. Establishment, implementation, and modification of Department organizations, supervisory assignments, chains of command, and reporting responsibilities.
- E. Arbitration and Grievance Procedure - If the ASSOCIATION believes that the CITY has violated this Agreement, such matters arising during the term of this MOU (“grievances”) will be resolved through this Grievance Procedure, which is the sole and exclusive method of doing so.
1. STEP (1) - The ASSOCIATION Representative will attempt to resolve the matter with the supervisor. If the matter is not resolved the ASSOCIATION will file a written grievance with the CITY’s Human Resources representative within fifteen days after the employee or ASSOCIATION is aware or reasonably should be aware of the act or omission that caused the grievance. The grievance shall specify the date(s) of the alleged violation(s) and the provisions of the Agreement applicable to the dispute. A grievance not filed in writing within the above time shall be invalid, excepting any complaint relative to wages shall not be deemed invalid until thirty (30) days subsequent to origin of cause of the complaint and in no event shall an employee be deprived of actual wages due. The Company shall notify the ASSOCIATION of the name, address, telephone number and fax number of the CITY’s designated Human

Resources representative no later than five (5) working days after this Agreement has been ratified and no later than five (5) working days from the date the CITY assigns the Human Resources representative duties to a different individual

2. STEP (2) - The CITY shall answer the grievance in writing within ten (10) working days after the written grievance is filed. The Company Human Resources representative and the ASSOCIATION will discuss the grievance during this period. If the grievance is not settled, the ASSOCIATION may advance it to Step 3 by giving written notice to the City Manager within five (5) working days after the CITY answers the grievance in writing. If the CITY does not timely file an answer, the grievance will automatically advance to Step 3 and the ASSOCIATION may deliver written notice of arbitration immediately. The CITY shall notify the ASSOCIATION of the name, address, telephone number and fax number of the City's Manager no later than five (5) working days after this MOU has been ratified and no later than five (5) working days from the date the CITY assigns the City Manager representative duties to a different individual.
3. STEP (3) - During the five (5) working days after a grievance advances to Step 3, the City Manager and the ASSOCIATION will attempt to settle it. If it is not settled during that five (5) day period, the ASSOCIATION may advance it to Arbitration by delivering written notice to the City Manager within ten (10) working days after the end of the five (5) working day period. In the absence of such written notice, the grievance will be settled on the basis of the CITY's answer.

The time limits in this Grievance Procedure may be extended by written agreement. Each party will provide the other with a current address of that party's representatives identified above.

4. ARBITRATION

- (a) Upon filing by the Union of an appeal to arbitration as provided in Step 3 of the Grievance Procedure, the parties will promptly attempt to agree on an independent arbitrator to hear and resolve the grievance.
- (b) If the parties are unable to agree on an arbitrator within five (5) working days after the ASSOCIATION delivers the notice of appeal to arbitration, either party may apply to the State Mediation and Conciliation Service (SMCS) for a panel of seven arbitrators who are members of the National Academy of Arbitrators. The party applying for the list will request that the list be sent by the SMCS to both parties.
- (c) Upon receipt of the list, the parties will promptly select an arbitrator to hear and decide the grievance by alternately striking names from the list (coin toss for first strike) until only one remains, and s/he will be the arbitrator for the case.

- (d) The arbitrator will decide the case by a written opinion following the hearing. The arbitrator’s decision will be final and binding provided that the arbitrator’s decision is based on the provisions of this Agreement as written and does not add to, subtract from or ignore any provision of this Agreement. Either party may have a transcript of the hearing made, but in that event that party will pay for the transcript.
- (e) The fees and expenses of the arbitrator will be paid one-half by each party. Each party’s own expenses will be paid by that party.

XVI. SCOPE OF AGREEMENT

This MOU represents the entire and complete understanding reached between the representatives of the CITY and the representatives of the ASSOCIATION for the period designated, and applies to all positions represented by the ASSOCIATION.

XVII. RATIFICATION

This MOU is subject to ratification by a majority vote of the members of the ASSOCIATION. City Council adoption of Resolution No. _____ and ratification by the ASSOCIATION will commence the terms of this MOU.

Representative of the
City of Saratoga:

Representative of the
Saratoga Employees Association:

Dave Anderson, City Manager

Morgan Kessler, President

Date: _____

Date: _____