

**FUNDING AGREEMENT BETWEEN
CITY OF CATHEDRAL CITY AND
THE CATHEDRAL CENTER**

This Funding Agreement (“Agreement”) is executed as of June 22, 2015, by and between the **CITY OF CATHEDRAL CITY**, a California municipal corporation (“City”) and the **THE CATHEDRAL CENTER**, a California non-profit organization (“Cathedral Center”).

RECITALS

WHEREAS, the City desires to promote the activities of the Cathedral Center (hereinafter, the “Cathedral Center Services”), which seeks to improve the quality of life for seniors and to assist all seniors, from the active to the homebound, by providing services that channel energy, relieves suffering and protects their health, happiness and well-being; and

WHEREAS, the City wishes to provide funding to the Cathedral Center under certain specified conditions in order to promote the Cathedral Center’s mission.

NOW, THEREFORE, IT IS AGREED as follows:

1. City’s Obligations. In consideration of the items identified below to be provided by the Cathedral Center, the City will do the following:

a. The City will make an annual contribution to the Cathedral Center for the Cathedral Center Services of an amount not to exceed \$50,000.00 per fiscal year. The payment shall be made annually by no later than _____ of each year.

b. In addition to the annual funding provided by the City specified in subsection (a) above, the City will make a one-time loan to the Cathedral Center in the amount of \$50,000.00, subject to the conditions and repayment schedule specified in Section 2 below. This \$50,000.00 loan shall be disbursed by the City to the Cathedral Center by no later than _____, 2015.

2. The Cathedral Center’s Obligations. In consideration of the City’s contribution, the Cathedral Center will do the following:

a. With respect to the \$50,000 loan from the City to the Cathedral Center referenced in Section 1 above, the loan shall be repaid at the rate of \$10,000.00 per annum, without interest. The repayment shall be due by no later than _____ of each year for a total of five (5) years, with the first payment being due prior to that date in the year 2016.

b. If contributions to the Cathedral Center from individuals, grants, foundations, and other sources exceed \$60,000.00 in the fiscal year immediately preceding the date on which each repayment for the loan is due as provided in subsection (a) of this Section 2 above, then \$5,000.00 of the repayment due for that year shall be forgiven. If such contributions exceed \$75,000.00, the entire \$10,000.00 repayment due for that year shall be forgiven.

c. The City shall be permitted to designate a member of its City Council who shall act as an ex-officio member of the Board of Directors of the Cathedral Center during the term of this Agreement. The Cathedral Center agrees that it shall be required to amend its Articles of Incorporation and/or Bylaws to allow such ex-officio member from the City to serve in this capacity, if necessary.

d. The Cathedral Center shall be required to provide quarterly reports to the City during the term of this Agreement, which shall include detailed information concerning the Cathedral Center's financial status, fundraising progress, operational data, and strategic plan progress.

3. No Continued Funding. In the event that the Cathedral Center ceases to operate, any remaining installments due to the Cathedral Center shall not be paid by the City. Further, the City shall review this Agreement in April, 2016, or at the soonest reasonable date thereafter at the City's sole discretion, to determine whether the City wishes to continue its participation in the Agreement.

4. Term. This Agreement shall become effective upon the date of execution hereof and shall expire five (5) years after the date of execution.

5. Administration of Agreement. The City Manager or his designee is hereby designated to administer this Agreement on behalf of City and is hereby authorized to make any determination on behalf of the City necessary for implementation of the provisions of this Agreement.

6. Reviews. The City shall have the right to monitor the Cathedral Center's performance under this Agreement, as to progress and performance. Records and supporting documents pertaining to the use of City funds as paid to the Cathedral Center shall be retained by the Cathedral Center and made available to the City.

7. Suspension and Termination. This Agreement may be suspended or terminated by the City at any time upon ten (10) days written notice provided to the Cathedral Center. Any such suspension or termination initiated by the City shall not effect the repayment requirements pursuant to Section 2 above. The requirement for the delivery to the City of a written report shall also remain in effect, regardless of the reason for termination. Termination or suspension of this Agreement, as provided herein, shall not cancel, suspend or otherwise affect the liability of the Cathedral Center nor impair any other remedy for breach of this Agreement the City may have. Such suspension or termination, in total or in part, may be, but is not limited to the following:

a. Suspension or termination with cause, as a result of the Cathedral Center's materially failing to comply with any term of this Agreement, undertaking or permitting to be undertaken any action that is contrary to any established plan, policy, regulation, rule or other statement of direction of the City, or undertaking or permitting to be undertaken any action that attracts undue, adverse or negative publicity of such a nature and duration as to affect or potentially affect the City.

b. Suspension or termination for convenience.

c. Suspension or termination in the event of any proceedings, voluntary or involuntary, by or against the Cathedral Center, related to solvency or management of the nonprofit organization, dissolution of the Cathedral Center by its governing body, or loss of nonprofit status.

8. Compliance with Law. This Agreement shall be governed and construed in accordance with the laws of the State of California.

9. Force Majeure. Either party to this Agreement is excused from default of performance because of conditions beyond the control of the parties, such as war, insurrection, strikes, riots, civil insurrection, acts of God and any other such similar cause beyond either party's control.

10. Hold Harmless. Between the parties hereto, the Cathedral Center is solely liable to its employees, agents, volunteers and independent subcontractors and third parties for all losses, costs, damages or injuries, including wrongful death, caused by any act or omission of the Cathedral Center, its employees, agents, volunteers or independent subcontractors relating to the services or activities performed or to be performed by the Cathedral Center hereunder, and the Cathedral Center shall defend, indemnify and hold harmless the City, its officers, agents, volunteers and employees, on any claim of liability arising out of any act or omission by the Cathedral Center as regards any work, service, or activity to be performed by or authority delegated to the Cathedral Center. It is understood and agreed that no official, employee or agent of the City shall be personally liable to any third party as to any obligation or obligations under the terms of this Agreement requiring application of any federal and state prevailing wage requirements. The Cathedral Center shall hold the City, its officers and employees harmless from all claims, demands, causes of action, expenses, and liability of whatsoever kind or nature which may arise out of, because of, concerning, or incident to the performance of the Cathedral Center under this Agreement, including all court actions, costs and expenses and attorney's fees relative to the City being a party to this Agreement as may be initiated by any third party for any alleged violation of any federal or state prevailing wage requirements.

11. Comprehensive General and Automobile Liability Insurance. The Cathedral Center shall procure and maintain at its own expense, during the term of the Agreement, commercial general liability insurance and automobile liability insurance,

each of not less than One Million Dollars (\$1,000,000.00) combined single limit per occurrence, and Two Million Dollars (\$2,00,000.00) in the aggregate, for bodily injury, personal injury and property damage. The City Manager, subject to consent of the City Attorney, may waive or modify the insurance requirements, or reduce the amounts of liability coverage, upon a finding that such waiver or modification poses no significant risk of liability to the City and imposes an undue financial burden on the other party relative to the cost of their services and the goods, supplies and/or equipment to be provided to the City.

12. Worker's Compensation. The Cathedral Center shall procure and maintain at its expense, during the term of this Agreement, workers' compensation insurance, providing coverage as required by the California State Workers' Compensation Law. If any class of employees employed by the Cathedral Center pursuant to this Agreement is not protected by the California State Workers' Compensation Law, the Cathedral Center shall provide adequate insurance for the protection of such employees to the satisfaction of the City. This provision shall not apply if the Cathedral Center has no employees performing work under this Agreement. If the Cathedral Center has no employees for the purposes of this Agreement, the Cathedral Center shall sign the Certificate of Exemption from Worker's Compensation Insurance, attached hereto and incorporated herein by this reference as Exhibit "A."

13. Additional Named Insured. Notwithstanding any inconsistent statement in any required insurance policies or any subsequent endorsements attached thereto, the protection offered for general liability and automobile liability insurance shall bear an endorsement whereby it is provided that the City is named as an additional insured.

14. Waiver of Subrogation Rights. The Cathedral Center shall require the carriers of all required insurance policies to waive all rights of subrogation against the City and its officers, volunteers, employees, contractors and subcontractors.

15. Proof of Insurance Coverage. The Cathedral Center shall secure from a good and responsible company or companies authorized to do insurance business in the State of California, and possessing a Best's rating of no less than A:VII, the policies of insurance required by this Agreement and furnish to the Contract Specialist of the City certificates of said insurance on or before the commencement of the term of this Agreement. The certificates of insurance shall bear an endorsement whereby it is provided that the respective insurance policy shall not be terminated or expire without first providing thirty (30) days' written notice to the City of such termination or expiration. The certificates of insurance shall indicate that the respective insurance policies will be maintained throughout the term of this Agreement. Prior to execution of this Agreement, the Cathedral Center shall furnish to the City certified copies of all required insurance policies and endorsements.

16. Notice. Under this Agreement, whenever provision is made for notice of any kind, it shall be deemed sufficient notice, and service thereof, if the said notice is in writing, deposited in the mail in a properly stamped envelope to be delivered by certified mail, and addressed as indicated in this section. Changes in respective addresses to

which such notices shall be directed may be made from time to time by either party. Notice of change of address shall be accomplished in writing and sent certified mail fifteen (15) days in advance of delivery to the new address.

To the City: Charles McClendon, City Manager
City of Cathedral City
68-700 Avenida Lalo Guerrero
Cathedral City, California 92234

To Cathedral Center: Paul Padilla, President
The Cathedral Center
37-171 West Buddy Rogers Avenue
Cathedral City, California 92234

17. Waiver. One or more waivers of any covenant, warrant or term or condition of default of the provisions of this Agreement, by either the City or the Cathedral Center, shall not be construed as a waiver of a further breach of the same covenant, warrant, term or condition or the right of such party thereafter to enforce each and every provision.

18. Litigation Expenses and Attorney's Fees. In the event any action, suit or proceeding is brought for the enforcement of, or the declaration of any right or obligation pursuant to this Agreement or as a result of any alleged breach of any provision of this Agreement, the prevailing party in such suit or proceeding shall be entitled to recover its costs and expenses, including reasonable attorney's fees, from the losing party, and any judgment or decree rendered in such a proceeding shall include an award thereof.

19. No Third Party Beneficiaries. The parties do not intend the benefits of this Agreement to inure to any third party, nor shall any provision of this Agreement be so construed.

20. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original. Electronic and facsimile signatures shall be deemed to be one and the same as original signatures.

21. Complete Agreement. This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto. This Agreement supersedes all previous agreements, if any, between the parties.

22. Amendments. Any alterations, variation, modifications or waivers of provisions to the Agreement shall be valid only when reduced to writing, duly signed and attached to the original of this Agreement.

23. Assignability. The Cathedral Center shall not assign any interest in this Agreement without the prior written consent of the City, and any attempted assignment

without such consent shall be void. This Agreement binds the devisees, assigns and successors of the Cathedral Center.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto on the date first above written.

CITY OF CATHEDRAL CITY

THE CATHEDRAL CENTER

Charles McClendon, City Manager

Paul Padilla, President

ATTEST:

Gary Howell, City Clerk

APPROVED AS TO FORM:

Charles R. Green, City Attorney

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EXHIBIT "A"

**CERTIFICATE OF EXEMPTION
FROM WORKERS' COMPENSATION INSURANCE**

I certify that, in the performance of the work to be performed by the Cathedral Center of the Desert for the City of Cathedral City, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, and agree that if I should become subject to the workers' compensation provisions of the California Labor Code, I shall forthwith comply with those provisions.

Name & Signature

Date: _____, 2015