

**AGREEMENT BETWEEN THE CITY OF YUMA
AND CATHOLIC COMMUNITY SERVICES-YUMA
FOR USE OF CITY FACILITIES**

This agreement for use of City Facilities ("Agreement") is entered into by and between the City Of Yuma, an Arizona municipal corporation (hereinafter "CITY"), and Catholic Community Services of Southern Arizona, Inc. (d/b/a Catholic Community Services-Yuma), an Arizona non-profit corporation, (hereinafter "CCS-Y").

WHEREAS, CCS-Y has been providing a Senior Nutrition Program for senior and disabled members of the Yuma community at the City's North End Community Center ("Center") located at 160 East First Street; and

WHEREAS, CCS-Y wishes to continue its use of the CITY's Center to prepare and provide nutritious meals for the local senior and disabled population; and

WHEREAS, such services promote the health, safety and welfare of the community; and

WHEREAS, the CITY wishes to continue to make the Center available to CCS-Y for this valuable community service,

NOW THEREFORE, in consideration of the above recitals and the following mutual covenants and stipulations, the parties agree as follows:

I. CITY responsibilities:

- A. The CITY will make facilities available at the Center to CCS-Y to prepare and serve meals to senior and disabled residents of the community.
- B. The CITY is responsible for building maintenance and repair, including HVAC, electrical, plumbing, damages to the interior or exterior of the building, and utility costs including water, sewer, and trash; however, if the building is damaged such that the CITY, in its sole discretion, determines that repair costs would exceed the value of the building, the CITY has no obligation to repair or rebuild and this Agreement will terminate.
- C. The CITY will maintain fire insurance on the building.

II. CCS-Y responsibilities:

- A. CCS-Y will operate a Title III-C Senior Nutrition Program consistent with the goals of the Older Americans Act of 1965, as amended, including CCS-Y's Home Delivered Meals program.
- B. CCS-Y will provide meals containing at least 1/3 of the USDA dietary nutrition recommendations for the seniors and/or adults with disabilities, enrolled and residing within the CITY.

- C. CCS-Y will maintain all necessary food preparation certifications and licenses and ensure that all food preparation and serving staff will have the appropriate Yuma County Department of Public Health Services Food Handler's Card.
- D. CCS-Y is responsible for maintaining, repairing, and/or replacing any and all equipment owned or installed by CCS-Y, including but not limited to, food preparation and storage equipment, fixtures, and appurtenances.
- E. CCS-Y will maintain food preparation and storage areas in a clean and sanitary condition in compliance with the Yuma County Department of Public Health Services standards.
- F. CCS-Y shall pay the CITY \$1.00 annually for the use of the Center.
- G. CCS-Y will provide meals, as set forth in section II(C) of this Agreement, in both a congregate setting and/or through home delivered services;
- H. CCS-Y will adhere to all applicable federal, state and local laws, rules and regulations pertaining to the use of the Center;
- I. CCS-Y will adhere to all applicable contractual and licensure standards in the provisions of all services;
- J. CCS-Y will adhere with all applicable provisions of the Americans with Disabilities Act of 1990;
- K. CCS-Y will support a "Congregate Site Council", established by and for the clients of the congregate setting, to provide the clients with a voice about services;
- L. CCS-Y will conspicuously post, at the Center, all contact information that supports clients enacting their rights to file a grievance and/or contact the Program Coordinator, and/or Executive Director regarding service delivery;
- M. CCS-Y will continue to seek improvements in service delivery and program enhancement through continuous program evaluation and feedback through the use of surveys; and
- N. CCS-Y will insure its own personal property within the Center from any damage or destruction, whatever the cause.

III. TERM AND TERMINATION:

- A. The term of this Agreement shall be for five years commencing on July 1, 2019 and ending on June 30, 2024.
- B. This Agreement may be terminated by either party upon forty-five (45) days' written notice to the other party.

IV. INDEMNIFICATION:

To the fullest extent permitted by law, CCS-Y shall indemnify, defend, and hold harmless the CITY, its agents, employees, officers, officials, and volunteers from and against all claims, liabilities, allegations, damages, losses, expenses, and injury to property or persons (including death), including but not limited to attorney's fees, caused in whole or in part by any negligent or intentional acts, mistakes, errors, or omissions of CCS-Y, or anyone directly or indirectly employed by or volunteering for CCS-Y for whose acts any of them may be liable, whether authorized by CCS-Y or not, including theft by CCS-Y or any of its officers, agents, employees, guests, patrons, invitees or trespassers, arising out of or resulting from this Agreement.

V. INSURANCE:

CCS-Y shall, at its own cost expense, secure and maintain during the term of this Agreement commercial general liability insurance including bodily injury, property damage, contractual, personal injury, and products/completed operations. Liability limits shall be no less than \$1,000,000, per occurrence/per location, combined single limit. Certificates of Insurance shall be delivered to the CITY prior to the commencement of this Agreement. Policies shall include endorsements naming the CITY and its employees as additional insureds.

CCS-Y must carry Worker's Compensation Insurance to cover obligations imposed by federal and state statutes having jurisdiction of employees engaged in the performance of the work or services, and Employer's Liability Insurance of not less than \$100,000.00 for each accident, \$100,000.00 disease for each employee, and \$500,000.00 disease policy limit.

CCS-Y must carry Commercial/Business Automobile Liability with a combined single limit for bodily injury and property damages of not less than \$1,000,000.00 for each occurrence on all vehicles CCS-Y uses, whether owned or leased, in the performance of the work or services under this Agreement. Certificates of Insurance shall be delivered to the CITY prior to the commencement of this Agreement. Policies shall include endorsements naming the CITY and its employees as additional insureds.

The policies of insurance required under Section V of this Agreement are to be primary insurance policies and any insurance policy maintained by the CITY is considered excess insurance. The existence of excess insurance policies should in no way be construed to limit the requirements of insurance described herein.

Failure to provide required coverage and failure to comply with the terms and conditions of this Agreement shall not waive the contractual obligations herein. If the policy or policies are canceled or not renewed, the insurance company shall provide thirty (30) days written notice to the CITY prior to the effective date of such cancellation or termination.

VI. GENERAL CONDITIONS:

- A. Nondiscrimination. CCS-Y shall not discriminate against any person on the basis of race, religion, color, age, sex, disability, or national origin in the performance of this Agreement, and shall comply with the terms and intent of Title VII of the Civil Rights Act of 1964, P.L. 88-354 (1964), and with the Americans with Disability Act of 1990. In addition, CCS-Y shall include similar requirements of subcontractors in any contracts entered into for performance of obligations under this Agreement.
- B. Compliance With Law. CCS-Y shall comply with all federal, state, and local laws and ordinances applicable to its performance under this Agreement. In addition, CCS-Y shall include similar requirements of subcontractors in any contracts entered into for performance of obligations under this contract.
- C. Binding on Successors. The covenants and conditions herein contained apply to and bind the heirs, successors, executors, administrators, and assigns of all the parties hereto.
- D. Attorney Fees and Costs. In the event any action, suit or proceeding is brought for failure to observe any of the terms, covenants, or conditions of this Agreement, the prevailing party shall be entitled to recover as part of such action or proceeding, all litigation, arbitration and collection expenses, including, but not limited to, witness and expert fees and costs, court costs, and reasonable attorney fees.
- E. Laws Governing. This Agreement shall be governed by the laws of the State of Arizona, as to validity, interpretation and performance.
- F. Venue. Any and all suits for any and every breach of this Agreement, or other judicial proceeding for the enforcement or interpretation of this Agreement shall be instituted and maintained in any court of competent jurisdiction in the County of Yuma, State of Arizona.
- G. Waiver. The failure of either party to insist upon strict performance of any of the provisions of this Agreement, or to exercise any of the rights or remedies provided by this Agreement, or any delay in the exercise of any rights or remedies, shall not release either party from any of the responsibilities or obligations imposed by law or by this Agreement, and shall not be deemed a waiver of any right of either party to insist upon strict performance of this Agreement.
- H. Severability. If any court finds or holds that any part, term or condition of this Agreement is illegal or in conflict with any law of the State of Arizona, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.
- I. Integration. This Agreement contains the entire Agreement between the parties. Any oral or written statement, promises, or inducements made by either party or agent of either party that is not contained in this Agreement, or specifically referred to in this Agreement

shall not be valid or binding; and this contract may not be enlarged, modified, or altered except in writing signed by the parties and endorsed hereon.

- J. No Partnership. Nothing in the Agreement is intended or shall be construed to constitute a partnership or joint venture between the parties, and neither party shall be deemed the principal, agent, officer, or member of the other.
- K. Time of the Essence. Time is of the essence in this Agreement. Unless otherwise specifically provided in this Agreement, any consent to delay in the performance of any obligation shall be applicable only to the particular transaction to which it relates, and it shall not be applicable to any other obligation or transaction.
- L. Conflict of Interest. This Agreement shall be subject to the Conflict of Interest provisions of A.R.S. § 38-511, as amended.
- M. Environmental Conditions. CCS-Y shall take all steps necessary to ensure compliance with all applicable federal, state, and local environmental laws, regulation and ordinances, and shall indemnify and hold the CITY harmless for any remediation required and from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death to any person or damage to any property or the environment of any nature whatsoever arising out of violations of such laws, regulations and ordinances.
- N. Notices. All notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly delivered upon personal delivery, or mailing by United States mail, postage prepaid, registered or certified, return receipt, addressed as follows:

To CITY:
City of Yuma
Attn: City Administrator
One City Plaza
Yuma, Arizona 85364

To: CCS-Y
Catholic Community Services of
Southern Arizona
Attn: Eva J. Mendez-Counts
Executive Director
690 E. 32nd Street
Yuma, Arizona 85365

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IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2019.

CITY OF YUMA, an Arizona
municipal corporation

CATHOLIC COMMUNITY SERVICES
OF SOUTHERN ARIZONA, INC. DBA
CATHOLIC COMMUNITY SERVICES-YUMA,
an Arizona non-profit corporation

By _____
John D. Simonton,
Interim City Administrator

By _____
Eva J. Mendez-Counts
Executive Director

ATTEST:

Lynda L. Bushong
City Clerk

Date

APPROVED AS TO FORM:

Richard Files
City Attorney