

COTTONWOOD HEIGHTS

RESOLUTION No. 2018-33

A RESOLUTION APPROVING A PERFORMANCE CONTRACT WITH DAN PAULUS FOR 2018 BUTLERVILLE DAYS

WHEREAS, the city council (the "Council") of the city of Cottonwood Heights (the "City") met on 12 June 2018 to consider, among other things, approving a performance contract (the "Agreement") with Dan Paulus ("Provider") whereunder the City would engage Provider to provide a performance at the City's 2018 "Butlerville Days" community celebration on the terms and conditions specified in the Agreement; and

WHEREAS, the Council has reviewed the form of the Agreement, a photocopy of which is annexed hereto as an exhibit; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to approve the City's entry into the Agreement as proposed;

NOW, THEREFORE, BE IT RESOLVED by the city council of Cottonwood Heights that the attached Agreement with Provider is hereby approved, and that the City's mayor and recorder are authorized and directed to execute and deliver the Agreement on behalf of the City.

This Resolution, assigned no. 2018-33, shall take effect immediately upon passage.

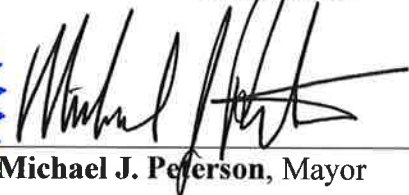
PASSED AND APPROVED this 12th day of June 2018.

ATTEST:

By: 
Paula Melgar, Recorder



COTTONWOOD HEIGHTS CITY COUNCIL

By: 
Michael J. Peterson, Mayor

VOTING:

| | | |
|-------------------------|---|---|
| Michael J. Peterson | Yea <input checked="" type="checkbox"/> | Nay <input type="checkbox"/> |
| Michael L. Shelton | Yea <input checked="" type="checkbox"/> | Nay <input checked="" type="checkbox"/> <i>absent</i> |
| J. Scott Bracken | Yea <input checked="" type="checkbox"/> | Nay <input type="checkbox"/> |
| Tali C. Bruce | Yea <input checked="" type="checkbox"/> | Nay <input type="checkbox"/> |
| Christine Watson Mikell | Yea <input checked="" type="checkbox"/> | Nay <input type="checkbox"/> |

DEPOSITED in the office of the City Recorder this 12th day of June 2018.

RECORDED this 12th day of June 2018.

Performance Contract

THIS PERFORMANCE CONTRACT (this "*Agreement*") is made effective 22 May 2018 between **DAN PAULUS** individually and on behalf of, or doing business as, artist **DAN PAULUS, COMEDY MAGICIAN**, whose address is c/o Green Light Booking, 1891 Glendon Circle, Pleasant Grove, UT 84062 ("*Artist*"), and the city of **COTTONWOOD HEIGHTS**, a Utah municipality whose address is 2277 East Bengal Blvd., Cottonwood Heights, UT 84121 ("*City*"). This Agreement concerns a musical production to be staged by Artist at City's 2018 Butlerville Days community celebration (the "*Event*") scheduled for 23-24 July 2017 at 7500 South 2700 East in Cottonwood Heights, UT. This Agreement constitutes the entire contractual relationship between City and Artist concerning the Performance.

Section 1. **Setup Time.** Artist shall deliver its equipment to the stage area at the Event no later than 6:30 p.m. on 23 July 2018. City anticipates that the stage (the "*Stage*") will be erected and ready for use by 6:30 p.m. on that date, whereupon Artist may set up its equipment on the Stage and conduct a sound check. A final sound check may be conducted between 7:45 p.m. and 8:00 p.m. on July 23.

Section 2. **Performance Times.** Artist shall perform (the "*Performance*") between 8:00 p.m. and 9:00 p.m. (i.e., 60 minutes) on 23 July 2018. Artist's performances will consist of a comedy magic show appropriate for a family-oriented, community event.

Section 3. **Total Compensation.** The total compensation to be paid by City for the Performance and all of Artist's services under the Agreement shall be a flat fee of \$800 (the "*Contract Price*"). City shall pay a deposit of 50% of the Contract Price (the "*Deposit*") upon the parties' joint entry into this Agreement.

Section 4. **Equipment; Supplies; Personnel.** City only is required to (a) provide an elevated stage at an outdoor venue, equipped with lighting and at least two electrical connections within 50 feet of the stage; (b) use reasonable diligence to assure that all City-provided equipment is in good working order for the Performance; (c) assure easy access to the stage area for loading and unloading of Artist's equipment; (d) provide several 12-oz. bottles of water for Artist's use during the set-up and performance; and (e) parking for Artist's van, bus, and/or trailer in convenient distance to the stage (Artist shall inform City in writing of Artist's parking needs at least five business days before the Event). City is not required to provide any other facilities, equipment, supplies or personnel under the Agreement.

Section 5. **Nonperformance.** If the Performance cannot occur due to force majeure events (natural disaster, extreme weather conditions, war, riot, or similar events beyond the reasonable control of either party) notwithstanding that Artist is ready, willing and able to stage the Performance, then City shall pay one-half the Contract Price. If the Performance cannot occur due to death, illness, injury or other reasons affecting Artist such that Artist cannot stage the Performance, then City shall be excused from any obligation to pay any of the Contract Price and the Deposit shall be promptly refunded to City.

Section 6. **Advertising.** City controls all advertising and publicity for the Event, provided that if any such advertising or publicity does more than name Artist and/or its artist for purposes of publicizing the Performance, Artist shall have the right to review and pre-approve such advertising, etc., which approval shall not be unreasonably withheld, conditioned or delayed. Artist consents to City's use of Artist's image in City publications, video recordings, photographs, images or the like advertising or memorializing the Event.

Section 7. **Recording, Etc.** City has no control over Event attendees choosing to record, broadcast, photograph or otherwise reproduce any part of the Performance.

Section 8. **No Right to Sell Goods or Merchandise.** Artist may erect and operate a display table in a position convenient to the Stage as specified by City, and may sell programs, photographs, records, posters, T-shirts and similar Artist-related merchandise from one hour before until one hour after the Performance. Otherwise, Artist may not sell goods or merchandise of any type or description at the Event.

Section 9. **Cancellation.** Either party's right to cancel the Performance, and this Agreement, shall expire on 1 June 2018.

Section 10. **Change of Artist.** Artist is not entitled to substitute another performer for the artist designated above.

Section 11. **Other Artists.** City may freely allow other artists, performers, etc. selected by City to perform on the Stage before and after the Performance.

Section 12. **Immunity Act.** City is a governmental entity that is covered by the provisions of the Governmental Immunity Act of Utah, UTAH CODE ANN. 63G-7-101 et seq. (the "Immunity Act"). By entering into the Agreement, City does not waive any rights or protections to it under the Immunity Act.

DATED effective the date first-above written.

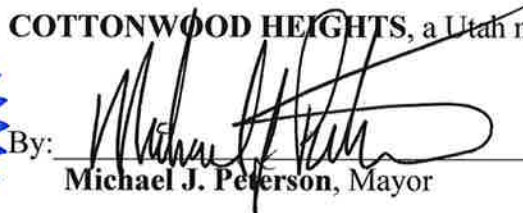
ATTEST:

By: 
Paula Melgar, Recorder



CITY:

COTTONWOOD HEIGHTS, a Utah municipality

By: 
Michael J. Peterson, Mayor

ARTIST:

DAN PAULUS, individually and on behalf of, or
doing business as, **DAN PAULUS, COMEDY
MAGICIAN**