

AMENDED and RESTATED AGREEMENT

This agreement (“Agreement”) is made this _____ day of July 2023 and is effective July 1, 2023. This Agreement amends and restates the agreement passed by San Luis City Council on May 24, 2023 and is between:

Comité De Bienestar, Inc. for Cancer Support Group of Yuma County (“Group”) 963 East B Street (Physical Address) San Luis, Arizona P.O. Box 7170 (Mailing Address) San Luis, Arizona 85349 a non-profit corporation, organized under the Law of Arizona (“Comité ”)	The City of San Luis City Hall 1090 East Union Street (Physical Address) San Luis, Arizona P.O. Box 1170 (Mailing Address) San Luis, Arizona 85349 a municipal corporation, organized under the laws of Arizona (“City”)
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Comité and the City may be referred to singularly as the “Party” and collectively as the “Parties.”

“San Luis” means San Luis, Arizona.

RECITALS.

A. The Group was formerly under the Yuma Regional Medical Center. The members are now under the umbrella of the non-profit corporation, Comité De Bienestar, Inc.

B. The Group’s volunteer labor coordinates a cancer survivor support group which is vital to the spirits, health, and welfare of the San Luis residents battling cancer and their families.

C. The City desires to support the Group’s services through Comité.

In consideration of the matters described above and the mutual benefit and obligations in this Agreement, the Parties agree:

SECTION ONE.

COMITÉ'S DUTIES

Comité shall use the City funds solely for the following:

1.1 Comité shall conduct outreach to inform San Luis residents who are battling cancer of the Cancer Support Group of Yuma County and of the benefits of participating in the Group.

1.2 Comité shall coordinate eligible San Luis residents to participate in the Group, conduct regular Group meetings, and provide activities for the Group.

1.3 Comité shall use City funds towards morale boosting for the Group through meetings regular meetings with others battling cancer and their families.

1.4 Therapeutic events.

SECTION TWO.

BOOKS, RECORDS, AND REPORTS

Comité shall keep accurate and current books showing disbursements and the purpose of disbursements and retain all receipts to account for the City's funds. Such books shall be kept in a place convenient for City, and City shall have access to and the right to examine such books at any and all reasonable times. Comité shall provide the City Manager an accounting of the City's funds no later than the third Monday in April of 2024 unless a therapeutic event is held after that date and then no later than May 1, 2024. The accounting shall include receipts for all purchases, proof of payment for services such as catering, and other services necessary to comply with this contract. Comité shall organize this proof in chronological order the expenses were incurred and provide a spreadsheet of the expenses with columns for the "date" the expense was incurred, the name of the "provider" of the goods or services, the description of "item or service" purchased, and the "cost." The spreadsheet shall include a total amount at the bottom of the cost column. Other information may be provided, but the above list is the minimum information required for the accounting.

Comité shall prepare a report for presentation to City Council, which shall include the activities and services provided benefiting San Luis, Arizona residents and the number of San Luis, Arizona residents served. At all times, the privacy of the cancer survivors shall be respected. If

a survivor wishes to participate in the presentation or wishes to have the name and image presented to City Council, the City must receive a notarized, signed consent from the survivor.

Comité shall obtain from San Luis, Arizona residents who participate in the group proof that they live in San Luis, Arizona, such as utility bills, rent receipts, and proof of home ownership. Comité shall maintain these records for ten years for independent auditing purposes. Comité shall provide to the City Manager certification, signed under the penalty of perjury, the number of participants in the Group who live in the City of San Luis, Arizona.

SECTION THREE.

CITY'S DUTIES

City shall pay Comité \$5,000.00 solely for the purposes described in SECTION ONE above. The City shall pay no later than four (4) weeks after receiving itemized receipts or itemized quotes attached.

SECTION FOUR.

INDEPENDENT CONTRACTOR AND OBEY ALL LAWS

4.1 Rights of Comité as an independent contractor include but are not limited to control of the work, manner, and methods of the work, and the right to contract with other employers.

4.2 Rights of the City include but are not limited to inspection and approval of the work.

4.3 Comité is responsible for its equipment, materials, and personal property.

4.4 The Parties agree that Comité, its employees, agents, and subcontractors shall be independent contractors. Comité's employees, agents, and subcontractors shall not be considered employees or agents of the City for any purpose. They will not be entitled to the City's employee benefits.

4.5 Employment Law. Comité shall be responsible for all employment laws and for its employees or individuals who are part of Comité's Group, including but not limited to safe work conditions, all wages, payroll tax withholding, workers' compensation coverage, and unemployment compensation coverage.

4.6 Employment Eligibility. Under A.R.S. § 41-4401, e-verify:

(a) Comité warrants its compliance with all federal immigration laws and regulations that relate to its employees and its compliance with A.R.S. § 23-214(A).

(b) That a breach of a warranty under paragraph (a) shall be deemed a material breach of the Agreement subject to penalties, including contract termination.

(c) That the City retains the legal right to inspect the papers of any contractor or subcontractor who works on this Agreement to ensure that the contractor or subcontractor complies with the warranty under paragraph (a).

4.7 Conflict of Interest. This Agreement is subject to the cancelation provisions of A.R.S. § 38-511 due to a conflict of interest.

4.8 Obey all Laws. Comité shall comply with and obey all laws that affect the work of Comité under this Agreement.

SECTION FIVE.

INDEMNIFICATION

Comité and its agents, employees, successors, and assigns agree to indemnify, hold harmless, protect, and defend the City and its agents and employees from all claims, reasonable attorneys' fees and court costs, out-of-pocket expenses, damages (including compensatory, punitive damages and reasonable attorneys' fees) and liabilities, arising from or relating to Comité 's Outreach Events and Comité 's other obligations under this Agreement. This indemnification provision shall survive the expiration or termination of this Agreement. The Comité shall provide a Certificate of Insurance and endorsements showing the City as additionally insured.

SECTION SIX.

TERMINATION

6.1 Without Cause. Either Party may terminate this Agreement and the services to be rendered without liability, with written notice to the other Party at least 30 days before the termination.

6.2 With Cause. Either Party may terminate this Agreement immediately for cause. For this purpose, "cause" means a material breach of this Agreement that the breaching Party does not cure within ten (10) days of receiving notice of the alleged breach from the non-breaching.

6.3 Expiration and Duration. This Agreement starts July 1, 2022, and expires June 30, 2023.

SECTION SEVEN.

MISCELLANEOUS PROVISIONS

7.1 Notices. Notice required in this Agreement shall be in writing and delivered personally to the other Party, or sent by any commercially reasonable means of receipted delivery, addressed to that Party at the address most recently provided in writing. Either Party may change the address to which notice is to be sent by written notice to the other under any provision of this paragraph.

7.2 No Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof. No waiver by the Parties of the breach of any provision of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other provision of this Agreement. No waiver and no modification shall be effective unless it is in writing, signed by the Parties, and then only to the extent expressly set forth in such writing.

7.3 Amendment. Neither Party shall change or add to this Agreement except by written amendment executed by the Parties.

7.4 Severability. If any provision of this Agreement is declared void or unenforceable by a court of competent jurisdiction or by operation of legislation, such provision shall be severed from this Agreement. The remainder of this Agreement will not be affected by that invalidity or unenforceability. Each remaining provision of this Agreement will be valid and enforced to the extent permitted by the law.

7.5 Governing Law. The laws of Arizona shall govern the interpretation and enforcement of this Agreement.

7.6 Venue. Venue for any action commenced in connection with this Agreement shall be proper only in a court of competent jurisdiction in Yuma County, Arizona. In such legal action, the Parties shall waive any right to object to such venue. Nothing in this paragraph shall be deemed to have authorized the bringing of any legal action in a court without jurisdiction to adjudicate it.

7.7 Attorney Fees and Costs. If either Party finds it necessary to bring any action at law, arbitration, or other proceedings against the other Party to enforce any of the terms, covenants, or conditions in this Agreement, the non-prevailing Party shall pay all reasonable costs, reasonable financial services fees, and reasonable attorney's fees. If the prevailing Party secures a judgment, all such costs and fees shall be included in the judgment, set by the court and not by jury.

7.8 No Assignment. The Comité shall not assign the benefits nor delegate the obligations under this Agreement to any person or entity.

7.9 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement. No person or entity not a Party shall have any right or cause of action under this Agreement.

7.10 No Agency Created. Nothing in this Agreement shall create any agency, partnership, joint venture, or other similar arrangements between the Parties.

7.11 No Personal Liability. In carrying out any of the provisions of this Agreement or in exercising any power or authority granted to them by this Agreement, there shall be no personal liability on the City, its agents, elected officials, officers, and employees. The Parties understand that they act as agents and representatives of the City in such matters.

7.12 Time is of the Essence. Time is of the essence in this Agreement. The Comité shall use the utmost diligence to provide the services in this Agreement before June 30, 2023.

7.13 Further Acts. The Parties shall execute and deliver all documents and perform all acts as reasonably necessary to carry out the matters contemplated by this Agreement.

7.14 Force Majeure. If either Party or both Parties are prevented or materially restricted from performing any of their obligations under this Agreement due to an event of *force majeure*, then the obligations of both Parties shall be suspended or reduced to the extent made necessary by the event. As used in this subsection, “*force majeure*” means any act or cause not reasonably within the control of the Party whose ability to perform is impaired if that Party could not have prevented the cause by the exercise of reasonable diligence. In this Agreement, *force majeure* includes, but is not limited to, natural or man-made disasters, epidemics, pandemics, public health orders, emergency orders, material changes in the law or regulation.\ or any other legitimate condition beyond the City’s or the Comité ’s control.

7.15 Headings. The headings in this Agreement are inserted for convenience only. They shall not control or affect the meaning or construction of this Agreement.

7.16 Authority. The undersigned represent to each other that they:

- have full power and authority to enter into this Agreement and
- have ensured that all necessary actions have been taken to give full force and effect to this Agreement.

7.17 Entire Agreement. This Agreement, including its incorporated Exhibit A, constitutes the entire Agreement between the Parties. All prior and contemporaneous agreements, representations, and understanding of the Parties, oral or written, are superseded and merged in this Agreement.

7.18 Counterparts. This Agreement may be executed in counterparts, each of which shall be

deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts. Such signature pages may all be attached to a single instrument so that the signatures of all Parties may be physically attached to a single document.

[Intentionally left blank, signature page follows]

The Parties have executed this Agreement in Yuma County, Arizona, on the day and year first set forth above, which is the date of the signature of the last Party to sign.

City of San Luis, Arizona

Nieves Riedel, Mayor

Date:

ATTEST:

Sonia Cornelio, City Clerk

APPROVED AS TO FORM:

Kay Marion Macuil, City Attorney

Comité De Bienestar, Inc.

Signature of the authorized representative

Date:

Print the name of the authorized representative

Title of the authorized representative