

## AGREEMENT

This intergovernmental agreement ("Agreement") is made this \_\_\_\_\_ day of June 2024. This Agreement is between:

Gadsden Elementary School District No. 32 1350 E. Cesar Chavez Blvd. San Luis, Arizona P.O. Box 6870 (Mailing Address) Yuma, Arizona 85349 an Arizona school and political subdivision ("GESD")	The City of San Luis City Hall 1090 East Union Street San Luis, Arizona P.O. Box 1170 (Mailing Address) San Luis, Arizona 85349 an Arizona municipal corporation ("City")
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Gadsden Elementary School District (GESD) and the City may be referred to singularly as the "Party" and collectively as the "Parties."

In consideration of the mutual benefits and obligations in this Agreement, the Parties agree:

### **SECTION ONE. - GESD DUTIES**

GESD shall use the City funds under this agreement solely for the GESD Marching Band ("GESD MARCHING BAND") for its trip to London and representation of San Luis, Arizona, in the 2025 New Year's Day Parade in London. GESD shall ensure that GESD MARCHING BAND uses the funds to defray the expenses of the trip to London.

### **SECTION TWO. - BOOKS, RECORDS, AND REPORTS**

- A. GESD 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 the City, and the City shall have access to and the right to examine such books at any and all reasonable times.
  
- B. The GESD shall promote the City of San Luis during their visit to London, and they will present a video or slide show with photographs of the trip as a report to the City Council at its regular meeting on March 10, 2025.

### **SECTION THREE. - CITY'S DUTIES**

City shall pay GESD \$5,000.00 solely for the purposes described in SECTION ONE above. The City shall pay upon GESD invoice, submitted to the attention of "San Luis Administration" to the Post Office Box in the first paragraph of this Agreement.

### **SECTION FOUR. - MUTUAL INDEMNIFICATION**

- A. To the fullest extent permitted by law, each Party (as "Indemnitor") agrees to defend, indemnify, and hold harmless the other Party and its officers, officials, employees, agents (collectively "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims that result in liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.
- B. This indemnification provision shall survive the expiration or termination of this Agreement. Each Party shall name the other and its officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by the indemnifying Party or its officers, officials, agents, and employees.

### **SECTION FIVE. - TERMINATION**

Should the GESD Marching Band for any reason not travel to London for the 2025 New Year's Day Parade, the GESD Marching Band will return the \$5,000.00 to the City of San Luis within ten days with written notice to the address listed in the first paragraph.

### **SECTION SIX. - MISCELLANEOUS PROVISIONS**

- A. 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.
- B. 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 and signed by the Parties and then only to the extent expressly set forth in such writing.

- C. Amendment. Neither Party shall change or add to this Agreement except by written amendment executed by the Parties.
- D. 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.
- E. Governing law. The laws of Arizona shall govern the interpretation and enforcement of this Agreement.
- F. 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.
- G. 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 to the fullest extent permitted by law, 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.
- H. No Assignment. GESD shall not assign the benefits nor delegate the obligations under this Agreement to any person or entity.
- I. 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.
- J. No Agency Created. Nothing in this Agreement shall create any agency, partnership, joint venture, or other similar arrangements between the Parties.
- K. No Personal Liability. In carrying out any of the provisions of this Agreement or exercising any power or authority granted to them, 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.
- L. 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.

- M. 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 GESD's control.
- N. Headings. The headings in this Agreement are inserted for convenience only. They shall not control or affect the meaning or construction of this Agreement.
- O. 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.
- P. Entire Agreement. This Agreement 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.
- Q. 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.

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 last Party's signature.

**City of San Luis, Arizona**

\_\_\_\_\_  
Nieves Riedel, Mayor

**ATTEST:**

\_\_\_\_\_  
Sonia Cornelio, City Clerk

Under A.R.S. § 11-952(D), I certify that I have determined that this Agreement is in proper form, and it is within the powers and authority granted to the City of San Luis under the laws of Arizona.

\_\_\_\_\_  
Kay Marion Macuil, City Attorney

**GESD**

\_\_\_\_\_  
Signature of the authorized representative

\_\_\_\_\_  
Print Name and Title

Under A.R.S. § 11-952(D), I certify that I have determined that this Agreement is in proper form, and it is within the powers and authority granted to GESD under the laws of Arizona.

\_\_\_\_\_  
GESD's Attorney

\_\_\_\_\_  
Print Name