



INTERGOVERNMENTAL AGREEMENT
BETWEEN
MARICOPA COUNTY
ADMINISTERED BY ITS
HUMAN SERVICES DEPARTMENT
AND
CITY OF GOODYEAR

Agreement Number: _____
Agreement Amount: \$2,000,000
Agreement Start Date: December 6, 2023
Agreement Termination Date: June 30, 2026
ALN; 21.027 American Rescue Plan Act
Unique Entity ID: KRJRN8WVGH3

1.0 PARTIES

This financial Intergovernmental Agreement ("Agreement") is between City of Goodyear ("City" or "Subrecipient") and Maricopa County ("County") administered by its Human Services Department, ("Department"), The County and the Subrecipient collectively are referred to as the "Parties" and individually as the "Party."

2.0 PURPOSE

Through this Agreement, affordable rental opportunities in Maricopa County will be expanded. The County shall provide the City of Goodyear with American Rescue Plan Act ("ARPA") Funds to be used for construction costs of rental apartment homes for seniors in the Goodyear area.

3.0 TERM OF AGREEMENT

- 3.1 The term of this Agreement is from December 6, 2023 through June 30, 2026.
- 3.2 This Agreement may be extended, but not beyond December 31, 2026, with the condition the Subrecipient is in compliance with the terms and conditions of this Agreement. Extensions shall be process as identified in section 4.0 (Amendment).
- 3.3 This Agreement shall be effective upon approval and signature by both Parties.

4.0 AMENDMENTS

Any changes to this Agreement shall be effective only by a written amendment signed by both Parties.

5.0 ADMINISTRATIVE CHANGE ORDERS

- 5.1 The Chairman of the Board of Supervisors is authorized upon the recommendation of the County's Human Services Department Director and Legal Counsel to make changes within the general scope of the Agreement on behalf of the County through Administrative Change Orders. Administrative Change Orders will be effective upon approval and execution by both the Chairman of the Board of Supervisors and the City. Administrative Change Orders may address any of the following areas:
 - 5.1.1 Modifications to the project timeline if the last day of the project timeline is within the Agreement term;
 - 5.1.2 Modifications to budget line items if the Agreement amount remains unchanged;
 - 5.1.3 Modifications required by federal, state, or County regulations, ordinances, or policies; and/or
 - 5.1.4 Modifications to administrative requirements such as changes in reporting periods, frequency of reports, or report formats required by the U.S. Department of Treasury or local regulations, policies, or requirements.

6.0 FUNDING

The County shall provide the Subrecipient with \$2,000,000 in ARPA Funds under Assistance Listing Number (ALN) 21.027 and provided to the County through the U.S. Department of Treasury.

7.0 AVAILABILITY OF FUNDS

- 7.1 This Agreement and the Parties' obligations under it shall become effective when funds assigned for the purpose of compensating the Subrecipient are available to the County for disbursement. The County shall be the sole authority in determining the availability of funds under this Agreement, and the County shall keep the Subrecipient fully informed as to the availability of funds.
- 7.2 If any action is taken by any federal, state, local agency, or any other agency or instrumentality other than the County to amend, suspend, or terminate its fiscal obligation under or provided in connection with this Agreement, then the County may amend, suspend, or terminate this Agreement. In the event of termination, the County shall be liable for payment only for services rendered prior to the effective date of the termination, provided that such services were performed in accordance with the provisions of this Agreement. Furthermore, upon termination Subrecipient shall be released from all pending responsibilities and shall have no further obligation to perform under the Agreement unless it is expressly provided for herein as an obligation that survives termination. The County shall give written notice of their intent to suspend performance or their intent to terminate this Agreement under this Section at least ten (10) calendar days in advance.

8.0 RESPONSIBILITIES OF ORGANIZATIONS

- 8.1 The Subrecipient shall:
 - 8.1.1 Complete the project description in Exhibit A, Statement of Work.
 - 8.1.2 Ensure compliance with federal, state, and County requirements as they relate to the federal ARPA requirements.
 - 8.1.3 Ensure compliance with all laws, rules, and regulations.
 - 8.1.4 Maintain a sufficient number of qualified and trained staff to provide services under this Agreement.
 - 8.1.5 Complete Quarterly Reports that contain the following information

- 8.1.5.1 Status and updates on project timelines;
- 8.1.5.2 Current quarter expenditures;
- 8.1.5.3 Expenditure forecasting;
- 8.1.5.4 Anticipated delays or issues;
- 8.1.5.5 Any recent significant disruptions or issues;
- 8.1.5.6 Other information the Department should be aware of;
- 8.1.5.7 Quarterly Reports will be due no later than 30 days after the end of the reporting quarter.

8.2 The County shall:

- 8.2.1 Review invoiced costs related to costs associated with this project on a monthly basis.
- 8.2.2 Report to the U.S. Department of Treasury on the Subrecipient's use of funds.

9.0 **COMPENSATION**

- 9.1 This agreement is on a cost reimbursement basis. Subrecipient shall submit monthly invoices to the County for all costs associated with the projects.
- 9.2 Subrecipient must submit a Request for Reimbursement to the County of all expenditures within the same fiscal year in which the expenditures are incurred. The fiscal year is July 1st through June 30th each year. Therefore, reimbursement must be submitted no later than July 30th for the preceding fiscal year.
- 9.3 Final Reimbursement Upon Agreement Termination.
 - 9.3.1 Prior to termination of this Agreement, at the date identified on page 1 of this Agreement, or as may be amended, the Subrecipient shall submit the final reimbursement request.
 - 9.3.2 This request shall be submitted no later than 30 calendar days after the termination date except as noted immediately below.
 - 9.3.2.1 If the termination date is between June 10 and June 30, of any fiscal year, then the final Reimbursement Request shall be submitted by July 10th.
 - 9.3.3 The final progress report, and any other required reports that may be applicable, such as the program income report, shall be submitted with the Final Reimbursement Request.
 - 9.3.4 Late receipt of the Final Reimbursement Request (e.g., not received within 45 days following the termination date) may result in forfeiture of payment.

10.0 **METHOD OF PAYMENT**

- 10.1 The Subrecipient shall submit invoices for project activities to hsdfinance@maricopa.gov
- 10.2 Funds not expended in implementing the Statement of Work or upon completion of the Statement of Work shall be returned to the ARPA unprogrammed funds account.
- 10.3 The County shall reimburse the Subrecipient on a net zero (0) payments standard.
- 10.4 Payment by the County is not to be construed as final in the event the Department of Treasury disallows payment for the activity or any portion thereof.

11.0 **DISALLOWED COSTS**

- 11.1 The cost principles set forth in the Code of Federal Regulations, 2 C.F.R. Part 200 Subpart E (2 C.F.R.) including later amendments and editions on file with the Arizona Secretary of State and incorporated herein by reference, shall be used to determine the allowability of incurred reimbursable costs under this Agreement.

- 11.2 Further, the Subrecipient shall follow cost principles as outlined in Office of Management and Budget (OMB) Uniform Guidance, 2 C.F.R. §§ 200, et seq.
- 11.3 Costs defined as unallowable in 2 C.F.R. shall not be submitted by the Subrecipient and will not be reimbursed by the County.

12.0 TERMINATION

- 12.1 Under A.R.S. § 38-511, the Parties may cancel this Agreement without penalty or further obligation within three years (3) after execution of this Agreement, if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of one Party at any time while this Agreement or any extension of this Agreement is in effect, is or becomes an employee or agent of any other Party to this Agreement in any capacity or consultant to any other party to this Agreement with respect to the subject matter of this Agreement. Additionally, pursuant to A.R.S. § 38-511, either Party may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting, or creating this Agreement on behalf of the one Party from the other Party to this Agreement arising as the result of this Agreement. A cancellation notice made under this Subparagraph shall be effective when the recipient receives a written notice of cancellation unless the notice specifies a later date.
- 12.2 Either Party may terminate this Agreement at any time by giving the other Party at least sixty (60) calendar days prior notice in writing (unless terminated by a Party under the Availability of Funds provision). Any notice shall be given by either personal delivery or registered or certified mail, postage prepaid and return receipt requested, to the persons at the addresses set forth in Section 13.0 of this Agreement. In the event of termination, the Parties shall be liable for payment only for reimbursable costs incurred prior to the effective date of the termination, provided that such services were performed in accordance with the provisions of this Agreement. Neither Party shall be liable for any incomplete or additional performance under the Agreement unless expressly stated herein as an obligation that survives termination.
- 12.3 The County may suspend or terminate this Agreement if the Subrecipient violates any term or condition of this Agreement or if the Subrecipient fails to maintain a good-faith effort to carry out the purpose of this Agreement.

13.0 NOTICES

Notifications and communications concerning this Agreement shall be directed to the following:

Subrecipient:
City of Goodyear
Jenna Goad, Assistant to the City Manager
(623) 882-7069
jenna.goad@goodyearaz.gov
1900 N Civic Square
Goodyear, AZ 85395

Maricopa County
Human Services Department
Jamie Macfarlane, Housing and
Community Development Manager
(602) 506-5813
jamie.macfarlane@maricopa.gov
234 N. Central Avenue 3rd Floor
Phoenix, AZ 85004

14.0 EMPLOYMENT DISCLAIMER

- 14.1 This Agreement is not intended to constitute, create, give rise to, or to otherwise recognize a joint venture, partnership, or other formal business association or

organization of any kind, and the rights and obligations of the Parties shall be only those expressly set forth in this Agreement.

- 14.2 The Subrecipient agrees that no individual performing under this Agreement on behalf of the Subrecipient shall be considered a County agent, employee, or representative and those individuals are not entitled County civil service rights, County retirement rights, or any other rights provided under the County personnel rules, nor shall those rights accrue or apply to any such individual. The Subrecipient shall have total responsibility for all salaries, wages, bonuses, retirement, withholdings, workers' compensation, occupational disease compensation, unemployment compensation, other employee benefits, and all taxes and premiums appurtenant thereto concerning such individuals shall indemnify, defend and hold harmless the County with respect to the foregoing.
- 14.3 The County agrees that no individual performing under this Agreement on behalf of County may be considered a Subrecipient agent, employee, or representative and that no rights of Subrecipient civil service, Subrecipient retirement, or Subrecipient personnel rules shall accrue or apply to any such individual. The County shall have total responsibility for all salaries, wages, bonuses, retirement, withholdings, workers' compensation, occupational disease compensation, unemployment compensation, other employee benefits, and all taxes and premiums appurtenant thereto concerning such individuals and the County shall indemnify, defend and hold harmless the Subrecipient with respect to the foregoing.

15.0 GENERAL REQUIREMENTS

- 15.1 The terms of this Agreement shall be construed in accordance with Arizona law and the applicable laws and regulations of ARPA. Any lawsuit arising out of this Agreement shall be brought in the superior court of Maricopa County, Arizona.
- 15.2 The Subrecipient shall, without limitation, obtain and maintain all licenses, permits and authority necessary to do business, render services and perform work under this Agreement, and shall comply with all laws regarding unemployment insurance, disability insurance and worker's compensation.
- 15.3 The Subrecipient shall comply with the regulations prohibiting a conflict of interest. The Subrecipient shall not make any payments, either directly or indirectly, to any person, partnership, corporation, trust, or other organization that has a substantial interest in Subrecipient's organization or with which the Subrecipient (or any of its directors, officers, owners, trust certificate holders, or a relative thereof) has a substantial interest, unless the Subrecipient has made full written disclosure of the proposed payments to the County and has received written approval for the payments.
- 15.4 For purposes of this provision, the terms "substantial interest" and "relative" shall have the meanings prescribed by A.R.S. § 38-502.

16.0 ASSIGNMENT AND SUBCONTRACTING

- 16.1 No right, liability, obligation, or duty under this Agreement may be assigned, delegated, or subcontracted, in whole or in part, without the prior written approval of the County. The Subrecipient shall bear all liability under this Agreement, even if it is assigned, delegated, or subcontracted, in whole or in part, unless the County agrees otherwise.
- 16.2 In accordance with 2 C.F.R. §200.331, the Subrecipient may make a "Subaward" as a pass-through entity for the purpose of carrying out a portion of the federal award and General Funds. The Subrecipient will make determinations classifying recipients of federal funds as a subrecipient.

- 16.3 Subrecipient shall ensure compliance by any subcontractor with all ARPA requirements, including reporting requirements.

17.0 DISPUTES

- 17.1 Except as otherwise provided for in this Agreement, the Parties may attempt to informally resolve any dispute arising out of this Agreement for a reasonable period of time, but which shall not exceed one hundred twenty (120) calendar days. Disputes which are not resolved in that time period, shall be submitted in accordance with the following formal dispute resolution process.
- 7.1.1 Notice of the specific grounds of a dispute shall be in writing and filed with the County Representative listed in the Notices paragraph, within ten (10) business days from the date the Subrecipient knew or should have known of the basis of the dispute.
- 7.1.2 The County Representative shall respond in writing to the Subrecipient within fourteen (14) business days. The decision of the County Representative shall be final and conclusive unless, within seven (7) business days after the date the Subrecipient is served with the decision, the Subrecipient files a written notice of appeal with the Human Services Department Director.
- 7.1.3 The Department Director shall provide the Subrecipient with a written response within fourteen (14) business days following receipt of the notice of appeal. The decision of the Director shall be final and not appealable.
- 7.1.4 Pending a final decision of the Director, the Subrecipient shall diligently proceed with its performance of this Agreement in accordance with the County Representative's decision.
- 7.1.5 In the event Subrecipient disagrees with the Director's decision, Subrecipient shall have every existing and future right or remedy available by law or in equity to resolve the dispute.

18.0 SEVERABILITY

Any provision of this Agreement that is determined to be invalid, void, or illegal by a court that determination shall in no way affect, impair, or invalidate any other provision of this Agreement, and the remaining provisions shall remain in full force and effect.

19.0 STRICT COMPLIANCE

One Party's acceptance of the other Party's performance that is not in strict compliance with the terms of this Agreement shall not be deemed to waive the requirements of strict compliance for all future performance. All changes in performance obligations under this Agreement shall be in writing and signed by both Parties.

20.0 SINGLE AUDIT ACT REQUIREMENTS

The Subrecipient is in receipt of federal funds through the County and is subject to the federal audit requirements of the Single Audit Act of 1984, as amended (Pub. L. No. 98-502) (codified at 31 U.S.C. § 7501, *et seq.*). The Subrecipient shall comply with 2 C.F.R. 200, Subpart F. Upon completion, such audits shall be made available for public inspection. Audits shall be submitted to the County within the twelve (12) months following the close of the fiscal year. The Subrecipient shall take corrective actions within six (6) months of the date of the receipt of audit findings. The County shall consider sanctions as described in 2 C.F.R. § 200.505 if it is determined by ARPA or the County that the Subrecipient is not in compliance with the audit requirements.

21.0 AUDIT DISALLOWANCES

- 21.1 The Subrecipient shall, upon written notice, reimburse the County for any payments made under this Agreement that are disallowed by a federal, state, or County audit. Court costs and attorney and expert fees incurred will be specifically identified as applicable to the recovery of the disallowed costs in question.
- 21.2 If the County determines that a cost for which payment has been made is a disallowed cost, then the County will notify the Subrecipient in writing of the disallowance and identify the required course of action, which shall be at the option of the County, either to adjust any future claim submitted by the Subrecipient by the amount of the disallowance or to require immediate repayment of the disallowed amount by the Subrecipient issuing a check payable to the County.

22.0 LIMITATION ON LIABILITY

- 22.1 The County and its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, and commissions shall not be liable for any act or omission by the Subrecipient or any and all of its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, or commissions occurring in the performance of this Agreement, nor shall the County and its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, and commissions be liable for purchases or contracts made by the Subrecipient or any and all of its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, or commissions in connection with this Agreement, except as otherwise provided by law.
- 22.2 The Subrecipient and its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, and commissions shall not be liable for any act or omission by the County or any and all of its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, or commissions occurring in the performance of this Agreement, nor shall the Subrecipient and its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, and commissions be liable for purchases or contracts made by the County or any and all of its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, or commissions in connection with this Agreement, except as otherwise provided by law.

23.0 GENERAL INDEMNIFICATION

Each Party (as "Indemnitor") agrees to indemnify, defend, and hold harmless the other Party and its officers, officials, employees, and agents (collectively, "Indemnitees") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney and expert fees) (collectively referred to as "Claims") either arising from or related to breach of this Agreement, but only to the extent that such Claims are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor and any and all of its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, and commissions. The obligations under this Section 23 shall survive termination of this Agreement.

24.0 INSURANCE

24.1 The Subrecipient is a public entity and shall provide the County with a Certificate of Self-Insurance equal to:

General Aggregate \$3,000,000

Each Occurrence Limit \$1,000,000

24.2 Certificate of Insurance shall be sent to:

Maricopa County
c/o Risk Management
301 W Jefferson St., Suite 910
Phoenix, AZ 85003

25.0 OFFSHORE PERFORMANCE OF WORK PROHIBITED

Due to security and identity protection concerns, direct services under this Agreement shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve State of Arizona residents and may involve access to secure or sensitive data or personal client data or development or modification of software shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or "overhead" services, redundant back-up services, or services that are incidental to the performance of the Agreement. This provision applies to work all performed by Subrecipients or subcontractors at all tiers.

26.0 TECHNICAL ASSISTANCE

The County will provide reasonable technical assistance to the Subrecipient to assist in complying with state and federal laws, and regulations, and accountability for diligent performance and compliance with the terms and conditions of this Agreement and all applicable laws, regulations, and standards. However, this assistance in no way relieves the Subrecipient of full responsibility and accountability for its actions and performance in compliance with the terms of this Agreement.

27.0 STAFF AND VOLUNTEER TRAINING

The County may make available to the Subrecipient the opportunity to participate in any applicable training activities conducted by the County.

28.0 CLEAN AIR ACT

The Subrecipient agree to comply with all regulations, standards and orders issued pursuant to the Clean Air Act of 1970, as amended (42 U.S.C. §§ 7401, *et seq.*), to the extent any are applicable by reason of performance of this Agreement.

29.0 LOBBYING

29.1 No federal appropriated funds have been paid or will be paid by or on behalf of the Subrecipient to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal agreement, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal agreement, grant, loan, or cooperative agreement.

29.2 If any funds, other than federal appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee

of a member of Congress in connection with any federal agreement, grant, loan or cooperative agreement, then the Subrecipient shall complete and submit OMB Form-LLL, titled "Disclosure of Lobbying Activities," in accordance with its instructions and 31 U.S.C. § 1352.

30.0 RELIGIOUS ACTIVITIES

The Subrecipient warrants that none of its costs incurred will include any expense related to any religious activities.

31.0 POLITICAL ACTIVITY PROHIBITED

None of the funds, materials, property, or services contributed by the County under this Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

32.0 COVENANT AGAINST CONTINGENT FEES

The Subrecipient warrants that no persons or entities have been employed or retained by it to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. For breach or violation of this warranty, the County may immediately terminate this Agreement without liability.

33.0 RIGHTS IN DATA

The Parties shall each have the use of data and reports resulting from this Agreement without cost or other restriction, except as otherwise provided by law or applicable regulation. Each Party shall supply to the other Party, upon request, any available information that is relevant to this Agreement and to the performance under it, except to the extent prohibited by law.

34.0 COPYRIGHTS

If this Agreement results in a book or other written material, the author is free to copyright the work, but the Parties reserve a royalty-free, nonexclusive, perpetual and irrevocable license to reproduce, publish, and otherwise use and to authorize others to use, all copyrighted material and all material that may be copyrighted as a result of this Agreement.

35.0 AGREEMENT COMPLIANCE MONITORING/AUDITING

35.1 The County will monitor the Subrecipient's compliance as needed for fiscal and programmatic performance under the terms and conditions of this Agreement and applicable regulations promulgated by ARPA and Maricopa County. On-site visits for compliance monitoring may be made by the County and/or its grantor agencies at any time during the Subrecipient's normal business hours, announced and/or unannounced. For auditing purposes, the County shall provide the Subrecipient with 30-days' advance notice of any proposed on-site visit. During an on-site visit(s), the Subrecipient shall reasonably make all of its records and accounts related to work performed or services provided under this Agreement available to the County for inspection and copying.

35.2 The County shall request information for fiscal monitoring/audit per OMB Uniform Guidance 2 C.F.R. § 200, to include as applicable:

35.2.1 Financial Management 2 C.F.R. § 200.302

35.2.2 Internal Controls 2 C.F.R. § 200.303

35.2.3 Bonds 2 C.F.R. § 200.304

35.2.4 Payment and Financial Reporting 2 C.F.R. § 200.305

35.2.5 Cost Sharing or Matching 2 C.F.R. § 200.306

- 35.2.6 Program Income 2 C.F.R. § 200.307
- 35.2.7 Revision of Budget and Program Plans 2 C.F.R. § 200.308
- 35.2.8 Period of Performance 2 C.F.R. § 200.309
- 35.2.9 Insurance Coverage 2 C.F.R. § 200.310
- 35.2.10 Record Retention and Access 2 C.F.R. §§ 200.334 – 200.338
- 35.2.11 Procurement Standards 2 C.F.R. § 200.318
- 35.2.12 Indirect Costs 2 C.F.R. § 200.414
- 35.2.13 Compensation-Personal Services 2 C.F.R. § 200.430
- 35.2.14 Audit Requirements 2 C.F.R. §§ 200.501-200.517

36.0 CONTINGENCY RELATING TO OTHER AGREEMENTS AND GRANTS

- 36.1 The Subrecipient shall, during the term of this Agreement, within fifteen (15) business days from acceptance, inform the Director in writing of the award of any other agreement or grant, including any other agreement or grant awarded by the County, where the award may affect either the direct or indirect costs being paid or reimbursed under this Agreement. The Subrecipient's failure to notify the County of any such agreement shall be a breach of this Agreement and the County may immediately terminate this Agreement without liability.
- 36.2 The Director may request, and Subrecipient shall provide within a reasonable time, which shall not exceed ten (10) business days, a copy of all such other agreements or grants, when, in the opinion of the Director, the award of the agreement or grant may affect the costs being paid or reimbursed under this Agreement, except to the extent prohibited by law.
- 36.3 If the Director determines that the award to the Subrecipient from such other agreements or grants has affected the costs being paid or reimbursed under this Agreement, then the Director shall prepare an amendment to this Agreement effecting a cost adjustment. If the Subrecipient disputes the proposed cost adjustment, then the dispute shall be resolved pursuant to the "Disputes" paragraph of this Agreement.

37.0 MINIMUM WAGE REQUIREMENTS

The Subrecipient warrants that it shall pay all of its employees who are engaged in either performing work or providing services under the terms of this Agreement not less than the minimum wage specified under Section 206(a)(1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §§ 201, et seq.), by law and regulation, and, as applicable, Executive Order 13658, as amended, and as specified by Arizona law.

38.0 RECOGNITION OF COUNTY SUPPORT

The Subrecipient shall give recognition to the County and the funding source for its support when the Subrecipient publishes materials or releases public information that is paid for in whole or in part with funds received by the Subrecipient under this Agreement.

39.0 NONDISCRIMINATION, EQUAL OPPORTUNITY AND EQUAL ACCESS

The Subrecipient, in connection with any services or other activities under this Agreement, shall not in any way discriminate against any person on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief. The Subrecipient shall include this clause in all its Subcontracts.

40.0 DISABILITY REQUIREMENTS

The Subrecipient agrees that any electronic or information technology offered under this Agreement shall comply with A.R.S. §§41-2531 and 41-2532 and Section 508 of the

Rehabilitation Act of 1973, which requires that employees and members of the public shall have access to and use of information technology that is comparable to the access and use by employees and members of the public who are not individuals with disabilities.

41.0 EQUAL EMPLOYMENT OPPORTUNITY

- 41.1 The Subrecipient shall not discriminate against any employee or applicant for employment because of race, age, disability, color, religion, sex, sexual identity, gender identity, or national origin.
- 41.2 The Subrecipient shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, disability, color, religion, sex, sexual identity, gender identity, or national origin. Such action shall include, but is not limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- 41.3 The Subrecipient shall and shall cause their respective subcontractors to comply with:
 - 41.3.1 Title VI and VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §§ 2000a, *et seq.*);
 - 41.3.2 the Rehabilitation Act of 1973, as amended (29 U.S.C. §§ 701, *et seq.*);
 - 41.3.3 the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. §§ 621, *et seq.*);
 - 41.3.4 the Americans With Disabilities Act of 1990 (42 U.S.C. §§ 12101, *et seq.*); and
 - 41.3.5 Arizona Executive Order 2009-09, *et seq.* as amended, which mandates that all persons shall have equal access to employment opportunities.

42.0 UNIFORM ADMINISTRATIVE REQUIREMENTS

The Subrecipient agree to comply with all applicable provisions of Title 2, Subtitle A, Chapter II, Part 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS contained in Title 2 C.F.R. §§ 200, *et seq.*

43.0 FINANCIAL MANAGEMENT

The Subrecipient shall establish an accounting system that assures the safeguarding and accountability of all money and assets provided under this Agreement. No part of the money deposited in the bank account shall be commingled with other funds or money belonging to the Subrecipient. All interest earned on the account shall be disbursed in the manner specified by the County in accordance with applicable State of Arizona and federal regulations. If an accounting system is used, then it shall be in accordance with generally accepted accounting principles.

44.0 RETENTION OF RECORDS

- 44.1 This provision applies to all financial and programmatic records, supporting document, statistical records, and other records of the Subrecipient that are related to this Agreement.
- 44.2 The Subrecipient shall retain all records relevant to this Agreement for six (6) years after final payment or until after the resolution of any audit questions which could be more than six (6) years, whichever is longer, and the County, federal and state auditors and any other persons duly authorized by the County shall have full access to, and the right to examine, copy, and make use of any and all of the records.

45.0 ADEQUACY OF RECORDS

If the Subrecipient's books, records and other documents related to this Agreement are not sufficient to support and document that allowable services were provided to eligible participants as determined by a court of competent jurisdiction, then the Subrecipient shall reimburse the County for the services not supported and documented.

46.0 IMMIGRATION LAWS AND REGULATIONS

46.1 Federal Immigration and Nationality Act

46.1.1 The Subrecipient understand and acknowledge the applicability of the Immigration Reform and Control Act of 1986 (IRCA). The Subrecipient agrees to comply with the IRCA in performing under this Agreement and to permit the County to reasonably inspect personnel records to verify such compliance, to the extent required by law.

46.1.2 By entering into this Agreement, the Subrecipient warrants compliance with the Federal Immigration and Nationality Act (FINA) and all other federal immigration laws and regulations related to the immigration status of its employees. The Subrecipient shall obtain statements from their subcontractors certifying compliance and shall furnish the statements to the County upon request. These warranties shall remain in effect through the term of the Agreement. The Subrecipient and their subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the U.S. Department of Labor's Immigration and Control Act for all employees performing work under the Agreement. I-9 forms are available for download at USCIS.GOV.

46.1.3 The County may request verification of compliance for any employee or subcontractor performing work under the Agreement. Should the County suspect or find that the Subrecipient or any of its subcontractors are not in compliance, then the County may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Agreement for default, and suspension or debarment (or both) of the Subrecipient. All costs necessary to verify compliance are the responsibility of the subrecipient or its subcontractor.

46.2 **Arizona Law:** The Subrecipient warrants that it is in compliance with A.R.S. § 41-4401 (e-verify requirements) and further acknowledges that:

46.2.1 That the Subrecipient and their Vendors, if any, warrant their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214;

46.2.2 A breach of a warranty under this Subparagraph 48.2.2 shall be deemed a material breach of this Agreement and the County may immediately terminate this Agreement without liability; and

46.2.3 The County and any contracting government entity retain the legal right to inspect the papers and employment records of the Subrecipient or their Vendor's employees who works on this Agreement to ensure that such Party or Vendor is complying with the warranty provided under this Subparagraph 46.2.3 and that the Subrecipient agrees to make all papers and employment records of those employees available during normal working hours in order to facilitate such an inspection.

47.0 DRUG FREE WORKPLACE ACT

The Subrecipient shall comply with the Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 701, *et seq.*), which requires that Subrecipients and grantees of federal funds must certify that they will provide Drug-Free workplaces. This certification is a precondition to receiving a grant or entering into this Agreement.

48.0 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

48.1 The undersigned, by signing this Agreement, represents that he/she has the authority to bind the Subrecipient to the terms of this Certification. The Subrecipient, as the primary participant in accordance with 2 C.F.R. Part 180, certifies to the best of its knowledge and belief that it and its principals:

48.1.1 Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

48.1.2 Have not within a 3-year period preceding the Start Date of this Agreement, been convicted of or had a civil judgment rendered against them for (1) the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State, or local) transaction or a contract under a public transaction; (2) the violation of any federal or State antitrust statutes or (3) the commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

48.1.3 Are not presently indicted or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with the commission of any of the offenses enumerated in Sub-subparagraph 48.1.2 above; and

48.1.4 Have not, within a three-year period preceding the Start Date of this Agreement, had one or more public transactions (federal, state, or local) terminated for cause or default.

48.2 The Subrecipient agrees to include, without modification, this clause in all lower tier covered transactions (i.e., transactions with subcontractors) and in all solicitations for lower tier covered transactions related to this Agreement.

49.0 SUBRECIPIENT EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS:

49.1 The Subrecipient agrees that this Agreement and its employees working on this Agreement will be subject to the whistleblower rights and remedies in the federal pilot program established at 41 U.S.C. § 4712 by Section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239) and Section 3.908 of the Federal Acquisition Regulation;

49.2 The Subrecipient shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. § 4712, as described in Section 3.908 of the Federal Acquisition Regulation. Documentation of such employee notification must be kept on file by the Subrecipient and copies provided to County upon request; and

49.3 The Subrecipient shall insert the substance of this clause, including this Paragraph 49.0, in all subcontracts over the agreed upon simplified acquisition threshold (\$250,000 as of June 2021).

50.0 WRITTEN CERTIFICATION PURSUANT TO A.R.S. § 35-393.01

If the Subrecipient engages in for-profit activity and has 10 or more employees, and if this Agreement has a value of \$100,000 or more, then the Subrecipient certifies it is not currently engaged in, and agrees for the duration of this Agreement not to engage in, a boycott of goods and services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.

51.0 SURVIVAL

The indemnification, hold harmless, defense, and non-liability provisions of this Agreement shall have full force and effect notwithstanding any other provisions in this Agreement and shall survive the termination or expiration of this Agreement.

52.0 DEFAULT AND REMEDIES FOR NONCOMPLIANCE

52.1 Notwithstanding anything to the contrary, this Section shall not be deleted or superseded by any other provision of this Agreement.

52.2 This Agreement may be immediately terminated by a Party if the other Party defaults by failing to perform any objective or breaches any obligation under this Agreement, or any event occurs that jeopardizes the other Party's ability to perform any of its obligations under this Agreement.

52.3 Failure to comply with the requirements of this Agreement and all the applicable federal, state, or local laws, rules, and regulations may result in suspension or termination of this Agreement, the return of unexpended funds (less just compensation for work satisfactorily completed that, to date, had not been reimbursed), the reimbursement of funds improperly expended, or the recovery of funds improperly acquired. Noncompliance includes, but is not limited to:

52.3.1 Non-performance of any obligations required by this Agreement.

52.3.2 Noncompliance with any applicable federal, state, or local laws, rules, or regulations.

52.3.3 Unauthorized expenditure of funds.

52.3.4 Noncompliance with applicable financial record requirements, accounting principles, or standards established by OMB circulars and 2 C.F.R. §§ 200 *et seq.*

52.3.5 Noncompliance with recordkeeping, record retention, or reporting requirements.

52.4 Notwithstanding the suspension or termination of this Agreement, or the final determination of the proper disposition of funds, the Subrecipients, without intent to limit or with restrictions, be subject to the following:

52.4.1 Acknowledge that suspension or termination of this Agreement does not affect or terminate any rights against that Party at the time of suspension or termination, or that may accrue later. Nothing herein shall be construed to limit or terminate any right or remedy available under Agreement.

52.4.2 Waiver of a breach or default of any term, covenant, or condition of this Agreement or any federal, state, or local law, rule, or regulation shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, condition, law, rule, or regulation.

52.5 The Subrecipient shall, upon notice or with knowledge obtained by itself or others, take any and all proactive actions necessary, and provide any and all applicable remedies to address and correct any act by itself, and any and all of its agents, representatives, officers, officials, directors, employees, volunteers, successors, assigns, or subcontractors that resulted in any wrongdoing (intentional or unintentional); misuse or misappropriation of funds; the incorrect or improper

disposition of funds; any violation of any federal, state, or local law, rule, or regulation; or the breach of any certification or warranty provided in this Agreement.

53.0 ADMINISTRATIVE REQUIREMENTS

- 53.1 Accounting Standards - The Subrecipient agrees to comply with this Agreement and to adhere to the accounting principles and procedures required to utilize adequate internal controls and maintain necessary source documentation for all costs incurred, as well as any applicable federal laws and regulations. The Subrecipient further agrees to maintain an adequate accounting system that provides for appropriate grant accounting (including calculation of program income).
- 53.2 Repayment of Funds – The Subrecipient agrees to repay funds provided under this Agreement for noncompliance with the terms of this Agreement. Repayment shall be in accordance with the terms of this Agreement or the requirement of applicable laws and regulations, including continuing use compliance. The County shall specify in writing, the terms of the repayment or alternative terms in lieu of repayment. However, in no case shall repayment or compliance with the alternative terms be complete any later than sixty (60) calendar days following the written determination of noncompliance by the County.
- 53.3 Documentation and Record Keeping - The Subrecipient agrees to comply with this Agreement and the following record keeping requirements:
 - 53.3.1 Records to be maintained - The Subrecipient shall maintain all financial records as required by 2 C.F.R. § 200, and OMB Circulars;
 - 53.3.2 System for Award Management -The Subrecipient and all subcontractors or subrecipients shall have a valid Unique Entity Identifier (UEI) number and an active profile in the federal System for Award Management, or SAM.gov. Documentation of the UEI Number must be included in all project files.
 - 53.3.3 Records Retention - The Subrecipient shall retain all records pertinent to this Agreement for a period of six (6) years after all requirements have been met. In the event of litigation, a claim, or an audit is begun before the expiration of this retention period, said records shall be retained until all such action or audit findings involving the records have been resolved.
 - 53.3.4 Disclosure - The Subrecipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the County's or the Subrecipient's responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service.
 - 53.3.5 Property Records - The Subrecipient shall maintain property and equipment inventory records that clearly identify properties and equipment purchased, improved, or sold. Properties and equipment retained shall continue to meet eligibility criteria and shall conform to the use of property and equipment.

54.0 UYGHUR FORCED LABOR PREVENTION ACT (UFLPA)

- 54.1 The Subrecipient warrants and certifies that it does not currently, and agrees for the duration of the agreement that it will not, use:
 - 54.1.1 The forced labor of ethnic Uyghurs in the People's Republic of China.

- 54.1.2 Any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.
- 54.1.3 Any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.
- 54.2 If the Subrecipient becomes aware during the term of the Agreement that the Subrecipient is not in compliance with this paragraph, the Subrecipient shall notify the County within five business days after becoming aware of the noncompliance. Failure of the Subrecipient to provide a written certification that the Subrecipient has remedied the noncompliance within one hundred eighty (180) days after notifying the public entity of its noncompliance, this Agreement shall terminate unless the Term of this Agreement shall end prior to said one hundred eighty (180) day period.

55.0 FORCE MAJEURE

- 55.1 The Subrecipient shall be liable for failure of performance, nor incur any liability to the other Party on account of any loss or damage resulting from any delay or failure to perform all or any part of this Agreement if such delay or failure is caused by events, occurrences, or causes beyond the reasonable control and without negligence of the Parties. Such events, occurrences, or causes will include Acts of God/Nature (including fire, flood, earthquake, storm, hurricane, or other natural disaster), war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, riots, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, lockout, blockage, embargo, labor dispute, strike, pandemic, and interruption or failure of electricity or telecommunication service.
- 55.2 The Subrecipient, as applicable, shall give the other Party notice of its inability to perform and particulars in reasonable detail of the cause of the inability. Each party must use best efforts to remedy the situation and remove, as soon as practicable, the cause of its inability to perform or comply.
- 55.3 The Party asserting Force Majeure as a cause for non-performance shall have the burden of proving that reasonable steps were taken to minimize delay or damages caused by foreseeable events, all non-excused obligations were substantially fulfilled, and the other Party was timely notified of the likelihood or actual occurrence that would justify such an assertion, so that other prudent precautions could be contemplated.

[Signatures contained on following page]

IN WITNESS, the Parties have approved and signed this Agreement:

APPROVED BY:
CITY OF GOODYEAR

APPROVED BY:
MARICOPA COUNTY

Mayor Date

Clint Hickman Date
Chairman Board of Supervisors

Attested to:

Attested to:

City Clerk Date

Juanita Garza, Clerk of the Board Date

IN ACCORDANCE WITH A.R.S. §§ 9-240 AND 11-952, THIS AGREEMENT HAS BEEN REVIEWED BY THE UNDERSIGNED ATTORNEY WHO HAS DETERMINED THIS AGREEMENT IS PROPER IN FORM AND WITHIN THE POWERS AND AUTHORITY GRANTED TO THE CITY OF GOODYEAR UNDER THE LAWS OF THE STATE OF ARIZONA.

IN ACCORDANCE WITH A.R.S. §§ 11-201, 11-251, AND 11-952, THIS AGREEMENT HAS BEEN REVIEWED BY THE UNDERSIGNED ATTORNEY WHO HAS DETERMINED THIS AGREEMENT IS PROPER IN FORM AND WITHIN THE POWERS AND AUTHORITY GRANTED TO MARICOPA COUNTY UNDER THE LAWS OF THE STATE OF ARIZONA.

APPROVED AS TO FORM:

APPROVED AS TO FORM:

City Attorney Date

Kim Miles, Deputy County Attorney Date

EXHIBIT A - STATEMENT OF WORK

1.0 Project Description:

- 1.1 By agreeing to act as the Subrecipient of Maricopa County ARPA funds, the City of Goodyear agrees to partially fund Suncrest Vista (Project), which will provide 261 affordable rental apartment homes for seniors on an 9.44-acre parcel of undeveloped land in Goodyear, AZ directly south of the southeast corner of Loop 303 and Van Buren Street. Future residents will benefit from the proximity to retail, grocers, and access to a variety of services. The community includes 76 one-bedroom apartments, 153 two-bedroom apartments, and 32 three-bedroom apartments. The in-unit amenities will include hardwood-style flooring, gourmet kitchen cabinets, walk-in closets, and central air. All ground floor units will include patios and the remaining units will have balconies.
- 1.2 The total development cost of the project is estimated to be \$120,000,000. ARPA funds are estimated to be \$2,000,000. Additional construction phase funding sources include a tax-exempt construction mortgage from Deutsche Bank, equity bridge financing from both Deutsche Bank and Bremer Bank, and a Surplus Cash Flow Bond originated by Colliers Securities. Investments in both Low-Income Housing Tax Credits and Solar Tax Credits from US Bank Community Development Corporation, along with a Freddie Mac Forward Tax-Exempt Loan will be used to repay a majority of the construction phase financing.
- 1.3 Maricopa County will provide \$2,000,000 of ARPA funds which will be used to pay construction hard costs, including but not limited to, substantial cost escalations in electrical equipment and wall finishes. The ten (10) ARPA-assisted unit composition will be as follows:
 - 4 one-bedroom units
 - 4 two-bedroom units
 - 2 three-bedroom units
- 1.4 The Project will carry a 30-year affordability period, per ADOH requirements, 20 years of which will apply to the ARPA-assisted units. The income and restrictions of the ARPA-assisted units will match HOME Low Rent Limits (i.e. 50% of Area Median Income (AMI), with rent limits as established by the Arizona Department of Housing as published for the applicable year for the 50% AMI low-income tenants.). The remaining non-ARPA assisted units will be restricted to residents earning at or below 60% of AMI. Gross rents for non-ARPA assisted units shall be restricted to no more than the allowable rent limit as established by the Arizona Department of Housing as published for the applicable year for the 60% AMI low-income tenants.
- 1.5 No on-site supportive services are planned for this development.

2.0 Subrecipient contributions:

Goodyear agrees to serve as the subrecipient for the ARPA funds and to monitor the ARPA-assisted units for compliance for a period of 20 years.

3.0 Project Eligibility:

- 3.1 Property Standards - Housing that is constructed or rehabilitated with ARPA funds must meet all applicable local codes, rehabilitation and construction standards,

ordinances, and zoning ordinances, including Section 504 of the Rehabilitation Act of 1973 and Fair Housing Act, as amended, at the time of project completion. All work shall meet decent, safe and sanitary housing standards consistent with HOME regulations including HUD Housing Quality Standards and Maricopa County Housing Rehabilitation Standards. These standards are available on the Maricopa County website under Housing & Community Development or upon request. The property shall be maintained in such a way to continue meeting these standards and in accordance with all applicable local codes and ordinances.

- 3.2 Occupancy Requirements –The Developer shall determine and verify income eligibility of tenants for the ARPA assisted-units prior to occupancy of a unit. The occupancy of the ARPA-assisted units must be by households whose income is at or below 50% AMI throughout the Period of Affordability; Updated HOME Income and Rent Limits are available on the Maricopa County website under Housing & Community Development or upon request. The Project shall define “Annual Income” as it is defined at 24 C.F.R. Part 92 and shall document sources of income and examine eligibility on an annual basis in order to meet requirements of HOME regulations at 24 C.F.R. Part 92.203.
- 3.3 Rental Requirements - The ARPA-assisted units shall be designated as Low HOME units, which are outlined in the HOME Income and Rent Limits. The Low HOME rent limit is the maximum rent allowed for an ARPA-assisted unit; the maximum rent amount includes the utility allowance. Any increase in the lesser of these rent limits must be approved by HUD and the State of Arizona Department of Housing. The Developer shall provide Goodyear notice of planned rent increases and supporting documentation from HUD and the State of Arizona Department of Housing authorizing the increase. ARPA-Assisted units will require a minimum lease term of one year.
- 3.4 Affordability Period – The Subrecipient shall ensure all housing assisted under this Agreement meets the affordability requirements set forth within this agreement for a period of 20 years. This period will be secured and enforced through a Promissory Note, as well as a Deed of Trust, and Covenants, Conditions and Restrictions (CC&Rs) between the City and the Developer that will be recorded at the Maricopa County Recorder's Office.
- 3.5 Program Income – Program income will be defined as any principal and interest payments made on the \$2,000,000 loan from the City of Goodyear to the developer. Any program income generated through completion of this activity will be recoverable by Maricopa County to reallocate to one or more future affordable housing projects. ARPA funds will be provided from the City to the developer as a 20-year, deferred loan with a zero percent interest rate. Program income payments shall be made to Maricopa County by the subrecipient annually on June 1, commencing upon completion of the project. The subrecipient will be required to submit an annual certification to document program income activity.

4.0 Deliverables:

Beneficiaries			
	ARPA Assisted	Non-ARPA Assisted	Total Assisted
Number of households (units)	10	251	261
Number of people served annually (approximate)	18	377	392

5.0 Budget:

Fund Sources	
Sources	Total
Maricopa County – ARPA	\$2,000,000

	ARPA Funds
Construction Hard Costs- Residential	\$2,000,000
TOTALS	\$2,000,000

6.0 Proposed Project Schedule:

Project Milestone	Estimated Completion Date	Comments
Site Acquisition	May 13, 2021	Land was purchased by Sponsor in 2021
Construction Loan (Closing Date)	July 27, 2023	
Partnership Closing (Closing Date)	July 27, 2023	
Permanent Loan Commitment	June 30, 2023	
Permanent Loan Closing	June 30, 2026	Freddie Mac Commitment will contain 36-month forward period. Date shown is the conversion to perm financing
Other Funds Firm Commitment	April 11, 2023	
Other Funds Firm Commitment	April 12, 2023	Surplus Cash Flow Note
Environmental Review Completion	February 6, 2023	Date of the latest Phase 1 ESA.
Authority to Use Grant Funds	September 15, 2023	
Zoning Entitlements	October 14, 2022	Date of Site Plan Approval
Plans Submitted to the Municipality	March 29, 2023	The development has provided one set of comments to the plans, and re-submittals were made on March 29.
Civil Permits Issued	August 1, 2023	
Building Permits Issued	August 28, 2023	
Contractors Notice to Proceed Issued	August 1, 2023	
Construction Mobilization	August 16, 2023	
25% Completion	June 1, 2024	
50% Completion	September 1, 2024	
75% Completion	March 1, 2025	
Certificate of Occupancy	October 1, 2025	
ARPA-Assisted Units Occupied	October 15, 2025	
100% Occupancy	February, 2026	