

**INTERGOVERNMENTAL AGREEMENT BETWEEN MARICOPA COUNTY AND THE CITY
OF GOODYEAR FOR RIGHT-OF-WAY ASSISTANCE FOR: ROADWAY IMPROVEMENTS:
SARIVAL AVENUE, YUMA ROAD TO ELWOOD STREET PROJECT (42048)**

(C-64-22-213-X-00)

This Intergovernmental Agreement (**Agreement**) is between the County of Maricopa, a political subdivision of the State of Arizona (**County**) and the City of Goodyear, an Arizona municipal corporation (**City**). County and City are collectively referred to in this Agreement as the **Parties** or individually as a **Party**.

STATUTORY AUTHORIZATION

1. A.R.S. § 12-1111(6) authorizes County to exercise the right of eminent domain to obtain property for roads and streets.
2. A.R.S. § 12-1111(6) authorizes City to exercise the right of eminent domain to obtain property for roads and streets.
3. A.R.S. § 11-951 et seq. authorizes public agencies to enter into Intergovernmental Agreements for the provision of services or for joint or cooperative action.

BACKGROUND

4. City has designated Sarival Avenue as a minor arterial and has proposed to improve the west half of Sarival Avenue including improvements to the intersection at Lower Buckeye Road and Sarival Avenue (**Project**) from Yuma Road to Elwood Street (**Project Area**) pursuant to the approved plans for City's Capital Improvement Project. Portions of the Project Area are within unincorporated Maricopa County.
5. The City has authorized the acquisition of the right-of-way necessary for the Project by purchase, grant, or eminent domain in Resolution 2024-2419, passed and adopted on July 8, 2024.
6. County will authorize the acquisition of the rights-of-way and appurtenant easements within unincorporated Maricopa County necessary for the Project by purchase, grant, or eminent domain pursuant to Road File No A0755 which is scheduled to be heard and approved at the February 25th, 2026, Board of Supervisor's Meeting.
7. City plans to construct the Project in Fiscal Year 2026 and to annex or accept the transfer of the Project Area located within unincorporated Maricopa County upon acquisition of all Project rights-of-way (existing and acquired) within unincorporated Maricopa County.
8. City is to be lead agency on acquiring all permanent and temporary land rights from property owners for the Project.
9. Each Party has determined that acquisition of additional property to allow for the completion of the Project is for the benefit of the public.

PURPOSE OF THE AGREEMENT

10. The purpose of this Agreement is to identify and define the responsibilities of each Party for right-of-way acquisitions related to the Project.
11. The City, in consultation with and approval from the County, will retain Outside Counsel to represent the Parties as necessary to acquire properties from owners within unincorporated Maricopa County for the Project. Each Party agrees that the retained Outside Counsel will jointly represent the City and the County with respect to the acquisition of acquired properties from owners within unincorporated Maricopa County.

TERMS OF THE AGREEMENT

12. County responsibilities:

12.1 Maricopa County Real Estate Department (**MCRED**) staff will review City's proposed project scope to ensure understanding of the Project and how it impacts unincorporated Maricopa County residents. A MCRED representative may attend Project meetings and public meetings as requested by City.

12.2 Permit Outside Counsel retained in accordance with this agreement to jointly represent the County and City in the acquisition of the rights of way required for the Project upon City's request (**ROW Assistance**) and if Outside Counsel determines it to be necessary, execute a Joint Representation Agreement for the acquisition of properties under this Agreement.

12.3 When a property to be acquired extends into both City and County jurisdiction, County and City shall confer and attempt to develop a plan whereby all the needed property can be acquired in a single action, rather than have separate litigation proceed at the same time against the same owner.

12.4 If City is unsuccessful in acquiring the required right-of-way by agreement from an owner, Outside Counsel, under the joint direction of City and County, may proceed to acquire the property by the power of eminent domain with County named as plaintiff with the following stipulations:

- a. County will communicate with City and Outside Counsel appointed to represent the County in the acquisition of the property.
- b. Outside Counsel shall keep County and City apprised of the status of each condemnation action for which Outside Counsel has been retained pursuant to this Section 12.4. Status updates should occur monthly and be sent via email to MCRED Director and MCRED ROW Supervisor.
- c. Outside Counsel shall communicate directly with the Maricopa County Attorney's Office ("**MCAO**") and the City Attorney's office concerning the status of any condemnation action and shall provide the MCAO and City Attorney or designee an opportunity to review and comment on a draft of the complaint and any amendments to the complaint or other filing.

- d. Outside Counsel shall copy the MCAO and the City Attorney or designee on significant pleadings filed in the case, including the complaint, answer, status reports, scheduling orders, motions, responses and similar briefs, as well as copies of any significant rulings from the Court.
- e. The joint defense and common interest privileges shall apply to all communications between MCAO and the City Attorney's office concerning any condemnation action filed or contemplated to be filed under this Agreement.

12.5 Invoice City, based on supporting documentation, monthly for County employees' time spent on tasks that directly relate to the Project.

12.6 Issue all necessary permits to City for the Project, and related work conducted within the County's jurisdictional boundaries, at no cost to City.

13. City responsibilities:

13.1 Provide remote meeting options for City's Project Meetings to facilitate attendance by MCRED team members. The City will offer Microsoft TEAMS as its remote meeting option.

13.2 Perform all duties as the lead agency for the Project, including without limitation, responsibility and liability for the design, all activities necessary to complete the acquisition of right-of-way, contracting with consultants and appraisers, utilities and utility relocation, construction and construction management, inspection, operation, maintenance, and all aspects of the Project.

13.3 Obtain County approval for the retention of Outside Counsel to represent the City and County in acquiring any property needed for the Project not acquired by agreement and, if Outside Counsel determines it to be necessary, execute a Joint Representation Agreement for the acquisition of properties under this Agreement. The City shall direct, administer, and pay for all costs arising out the acquisition and condemnation of the Project properties, including all fees and expenses of Outside Counsel. Outside Counsel shall invoice City for services rendered monthly in accordance with City guidelines for outside legal representation and the City will pay such invoices directly to Outside Counsel.

13.4 Provide draft copies of all settlement agreements and stipulated judgments to MCAO and MCRED ROW Supervisor for their review/comment period. All settlement agreements and stipulated judgements are subject to approval by the Maricopa County Board of Supervisors.

13.5 Provide MCRED ROW Supervisor with a project status on a quarterly basis.

13.6 Initiate the annexation or transfer of the Project right-of-way within six (6) weeks of having completed all acquisitions/obtained final judgments needed for the Project within unincorporated Maricopa County. Prior to adopting the ordinance for the area to be transferred/annexed, the City shall submit to MCRED, for review and approval, a draft ordinance with a legal description and exhibit defining the exterior boundary of the area to be transferred. The transfer of right-of-way from County to City shall be accomplished using a form approved by MCRED.

13.7 Perform its responsibilities in accordance with Federal Highway Administration (FHWA)/Arizona Dept. Of Transportation (ADOT) requirements and comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

GENERAL TERMS AND CONDITIONS

14. The Parties mutually consent to the transfer of the Project right-of-way when completed and shall fully cooperate to the extent permitted by law to achieve said transfer under A.R.S. § 9-471(O) pursuant to the procedures outlined in Section 13.6 above.

15. To the extent permitted by law, each Party will indemnify, defend and save the other Party, as well as its departments, agencies, officers, employees, elected officials, and/or agents, harmless from and against all loss, expense, damage or claim of any nature whatsoever, including without limitation all injuries or death of persons or damages to or destruction of property, which is caused by any activity, condition, or event arising out of the performance or nonperformance under this Agreement by the indemnifying Party. Indemnification shall not extend to any loss, expense, damage or claim caused or contributed to by the gross negligence or willful acts of the other Party. The obligation to indemnify shall include all costs, expenses of litigation, and reasonable attorneys' fees.

16. This Agreement shall become effective as of the date it becomes fully executed. The term of this agreement shall be for ten (10) years after the effective date or until all existing and acquired land rights within unincorporated Maricopa County have been transferred to the City, whichever occurs first. The Parties may extend the term for additional periods, up to ten (10) years each, by written agreement signed by both parties. Any Party may terminate this Agreement upon furnishing the other Party with a written notice at least thirty (30) days prior to the effective termination date, provided however if any acquisition of real property is in process under this Agreement or Outside Counsel has been retained, this Agreement may only be terminated by mutual written agreement of the Parties that addresses: (i) how the acquisition of real property will be completed; (ii) how representation of the Parties will be continued and/or terminated; and (iii) what the respective responsibilities of County and City will be in relation thereto.

17. This Agreement may only be amended upon written Agreement by both Parties.

18. This Agreement is subject to the provisions of A.R.S. § 38-511.

19. The Parties warrant they are following A.R.S. § 41-4401 and further acknowledge that:

19.1 Any contractor or subcontractor who is contracted by a Party to perform work on the Project shall warrant their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214(A), and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer.

19.2 Any breach of the warranty shall be deemed a material breach of contract that is subject to penalties up to and including termination of the Agreement.

19.3 The Parties retain the legal right to inspect the papers of any contractor or subcontractor employee who works on the Project to ensure that the contractor or subcontractor is complying with the warranty above and that the contractor agrees to make all papers and employment records of said employee available during normal working hours in order to facilitate such an inspection.

19.4 Nothing in this Agreement shall make any contractor or subcontractor an agent or employee of the Parties to this Agreement.

20. The Parties warrant that neither of them nor any contractor or vendor under contract to provide goods or services toward the accomplishment of the objectives of this Agreement is suspended or debarred by any federal agency which has provided funding that will be used in the Project.

21. Any non-performance shall be a default under this Agreement (**Default**). The non-defaulting Party may seek appropriate remedy for Default if the event causing the Default continues for a period of thirty (30) days after the defaulting Party receives written notice of such failure without the Default having been cured; provided however if the defaulting Party has commenced to cure the Default within such thirty (30) day period and thereafter is diligently pursuing such cure to completion, no recourse shall be available to the non-defaulting Party. The total aggregate cure period shall not exceed ninety (90) days unless the non-defaulting Party agrees in writing that additional time is reasonably necessary under all of the circumstances to cure such Default. In the event of a Default that is not cured as provided for herein, the non-defaulting Party, at its option, may exercise any remedies now or hereafter available to it at law or in equity, including the right to terminate this Agreement.

22. All notices required under this Agreement shall be given in writing sent to:

Maricopa County Real Estate Department
Attn: Director
2801 W. Durango Street
Phoenix, Arizona 85009
Alex.smith@maricopa.gov

The City of Goodyear
Attn: City Attorney's Office
Legal Services Department
1900 N. Civic Square
Goodyear, AZ 85395

and to:

The City of Goodyear
Attn: Real Estate Supervisor
Engineering Department
1900 N. Civic Square

A Party may by written notice to the other specify a different address for notice.

All notices required or permitted by this Agreement or applicable law may be delivered in person (by hand or courier) or may be sent by regular, certified mail or U.S. Postal Service Express Mail, with postage prepaid, or by commercial delivery service that guarantee next day delivery and shall be deemed sufficiently given if served in a manner specified in this paragraph. Any notice sent by certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail, the notice shall be deemed given 72 hours after the notice is addressed as required in this paragraph and mailed with postage prepaid. Notices delivered by United States Express Mail or commercial delivery service shall be deemed given 24 hours after delivery of the notice to the Postal Service or courier.

- 23.** Performance under this Agreement is contingent upon any funding, other than in the current fiscal year, being budgeted and appropriated by the governing body of each in the then current fiscal year. Termination by either Party due to non-appropriation of funds shall not constitute a Default under this Agreement.
- 24.** This Agreement and all Exhibits attached to this Agreement constitute the entire agreement between the Parties with respect to the subject matter of this Agreement. This Agreement shall be construed as a whole, in such a manner as to be valid under applicable law and in accordance with its fair meaning and without regard to any presumption or other rule requiring construction against the Party drafting this Agreement. If any part of the Agreement is deemed invalid by a court of proper jurisdiction, the remainder of the Agreement shall remain in effect.
- 25.** The Parties shall execute and/or deliver to each other such other instruments and documents as may be reasonably necessary to fulfill the covenants and obligations to be performed by such Party under this Agreement.
- 26.** This Agreement shall be governed by the laws of the State of Arizona. Venue for any claim arising out of or in any way related to this Agreement shall be in Maricopa County, Arizona.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties have executed this Agreement.

MARICOPA COUNTY

Recommended by:

Director of Real Estate Date

Approved and Accepted by:

Chairman Date
Board of Supervisors

Attest by:

Clerk of the Board Date

APPROVAL OF DEPUTY COUNTY ATTORNEY

The foregoing Agreement has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Deputy County Attorney, who has determined that it is in proper form and within the powers and authority granted to the Board of Supervisors under the laws of the State of Arizona.

Deputy County Attorney Date

City of Goodyear, an Arizona municipal corporation

By: Wynette Reed
Its: City Manager

Attest:

Jasmine Pernicano, City Clerk Date

APPROVAL OF CITY ATTORNEY

The foregoing Agreement has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Counsel, who has determined that it is in proper form and within the powers and authority granted to the City of Goodyear under the laws of the State of Arizona.

City Attorney Date