

# INTERGOVERNMENTAL AGREEMENT

Between

**COCHISE COUNTY**  
**(“COUNTY”)**

and

**CITY OF DOUGLAS, ARIZONA**  
**(“CITY”)**

for

## **Safety Net Hospital and Health System Funding Pursuant to S.B. 1357**

**WHEREAS**, the CITY and the COUNTY are political subdivisions of the State of Arizona;  
and,

**WHEREAS**, the CITY and the COUNTY have a shared desire to increase access to primary, specialty, and preventive health care services in order to improve the health care of its uninsured, underinsured, underserved and vulnerable residents; and

**WHEREAS**, Southeast Arizona Medical Center is a critical access hospital that provides primary, specialty, and preventive health care services to the citizens of southeast Arizona; and

**WHEREAS**, the Arizona legislature, during its Fiftieth Legislature, First Regular Session of 2011 enacted Senate Bill 1357 (“SB 1357”), which permits the CITY and the COUNTY, as political subdivisions of the State of Arizona, contingent upon the approval by AHCCCS and the Centers for Medicare and Medicaid Services (“CMS”), to contribute CITY and County (public) funds to be used as the Non-Federal Share of the Medicaid funding to further the purposes identified in SB 1357, which include but are not limited to funding for the Safety Net Care Pool (“SNCP”); and

**WHEREAS**, the CITY and the COUNTY are authorized to enter into agreements with AHCCCS to accomplish this purpose under A.R.S. §§ 11-952 and SB 1357; and

**WHEREAS**, AHCCCS is authorized to execute and administer agreements under SB 1357 and under A.R.S. § 36-2903 et seq., and is also authorized to make payments to certain health care providers funded in part by the CITY and the COUNTY pursuant to SB 1357; and

**WHEREAS**, AHCCCS and the CITY and COUNTY are authorized by A.R.S. § 11-951 et seq. as well as SB 1357 to enter into Intergovernmental Agreements for cooperative action pertaining to the advancements and reimbursement of public funds for services performed consistent with SB 1357; and

**WHEREAS**, the CITY and COUNTY have determined that it is in the best interest of both Parties to this Agreement that they provide the Non-Federal Share of the Medicaid payment to further the goals set forth in SB 1357 by enabling Southeast Arizona Medical Center to participate in the SNCP Program; and

**WHEREAS**, both the CITY and the COUNTY believe they have comparable interests in entering into agreements with AHCCCS in order to permit the CITY and COUNTY to provide the

Non-Federal Share of the Medicaid payment for the SNCP, which monies will be expended to further these goals; and

**WHEREAS** the COUNTY has already entered into such an agreement with AHCCCS under which it has agreed to transfer, in its sole discretion, an amount not to exceed \$480,366.03 to AHCCCS to be used in furtherance of the provisions of SB 1357 and the SNCP Program, funded by local tax revenues, through December 31, 2013; and

WHEREAS, as a result of this collaborative effort and upon approval by by AHCCCS and the Centers for Medicare and Medicaid Services ("CMS"), Southeast Arizona Medical Center (SAMC) is programmed to receive assistance in the anticipated amount of 1,406,069.65.

**NOW, THEREFORE**, the CITY and AHCCCS (collectively, the "Parties"), pursuant to the above and in consideration of the matters set forth herein, mutually agree as follows:

#### 1.0 DEFINITIONS:

- 1.1 AHCCCS: Arizona Health Care Cost Containment System, an agency of the State, which administers the Medicaid program under Title XIX and the Children's Health Insurance Program (CHIP) under Title XXI of the Social Security Act in Arizona.
- 1.2 CFR: Code of Federal Regulations, the official compilation of Federal rules and requirements.
- 1.3 CMS: Centers for Medicare and Medicaid Services, a federal agency within the U.S. Department of Health and Human Services.
- 1.4 Demonstration Project: The agreement between the State and CMS that includes: (1) a list of those provisions of Title XIX and Title XXI of the Social Security Act which have been waived by CMS with respect to the State's operation of programs under those Titles, (2) a list of expenditures which CMS has approved as claimable by the State for FFP notwithstanding the limitations on claims in those Titles, and (3) the Special Terms and Conditions associated with the waivers and expenditure authority.
- 1.5 Eligible Providers: Physicians or non-physician practitioners employed by Eligible Hospital, if any, as approved by CMS as part of the Demonstration Project.
- 1.6 FFP: Federal Financial Participation refers to the federal monies that AHCCCS claims from CMS for the Federal share of AHCCCS expenditures for the administration of and services paid for through the Medicaid and CHIP programs, Titles XIX and XXI of the Social Security Act.
- 1.7 Safety Net Care Pool ("SNCP Program"): Those programs, goods, and services that are authorized by SB 1357, this Agreement, and the Demonstration Project which includes but is not limited to funding to support payments to Eligible Hospitals, including the Southeast Arizona Medical Center, and Eligible Providers for uncompensated care via the Safety Net Care Pool.
- 1.8 Non-Federal Share: The portion of AHCCCS expenditures for the administration and services paid for through the State's Medicaid and CHIP programs, Titles XIX and XXI of the Social Security Act, which are authorized by SB 1357.

#### 2.0 PURPOSE:

The purpose of this Agreement is to provide for coordination of the financial commitment to be equally shared by the CITY and the COUNTY to, at their discretion, and upon AHCCCS and CMS approval, intergovernmentally transfer public funds as the Non-Federal Share of payments as authorized and permitted under SB 1357 and the Demonstration Project, in order to provide the monies necessary to qualify for federal matching monies in order to support safety net health

systems through supplemental payments for the costs incurred by the Southeast Arizona Medical Center and Eligible Providers for uncompensated care including, but not limited to, uncompensated care as referenced in SB 1357.

### 3.0 CONTACT INFORMATION.

THE CITY. Notices, questions, comments and concerns regarding the duties and responsibilities of the CITY are to be directed to:

Carlos de la Torre, City Manager  
City of Douglas  
425 E. 10th St.  
Douglas, AZ 85607  
Phone: 5204177303  
Fax:  
Email:

THE COUNTY. Notices, questions, comments and concerns regarding the duties and responsibilities of the COUNTY are to be directed to:

Michael Ortega, County Administrator  
Cochise County  
1415 Melody Lane, Building G  
Bisbee, AZ 85603  
Phone: 5204329200  
Fax:  
Email:

### 4.0 COUNTY RIGHTS AND OBLIGATIONS.

Notice of Distribution of Funds.

The COUNTY agrees to give notice in writing to the CITY within thirty (30) days of any transfer of funds to AHCCCS authorized by AHCCCS for purposes enumerated in this Agreement.

### 5.0 CITY RIGHTS AND OBLIGATIONS

The CITY agrees that, upon receipt of notice from the COUNTY that it has transferred funds to AHCCCS, pursuant to terms authorized by AHCCCS, for purposes enumerated in this Agreement, it shall reimburse the County for half of the aggregate commitment for which City's share shall not exceed \$240,183.02, according to the following proportional schedule: The CITY shall, within (30) days of notice from the County that the County has transferred funds to AHCCCS, reimburse the County in the amount of \$75,000 or roughly 31.25% of their share and, thereafter, it shall reimburse the County the balance of \$165,183.02 in two equal installments of \$82,591.51, each remaining payment representing approximately 34.4385% of their share that shall be due July 31, 2014, and July 31, 2015, respectively.

### 6.0 GENERAL PROVISIONS.

6.1 Entire Agreement. This document, its attachments and appendices, including any approved subcontracts, amendments and modifications made thereto, shall constitute the entire Agreement between the Parties, and supersedes all other understandings, oral or written.

6.2 Contract Term. The parties agree that the Term of this Agreement is for the period of time from the date this Agreement has been signed by all parties thereto, through July 31, 2015.

- 6.3 Compliance with Laws, Rules and Regulations. The CITY and COUNTY and their subcontractors must comply with all applicable Federal and state laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this Agreement. The laws and regulations, of the State of Arizona govern the rights of the Parties, the performance of this Agreement, and any disputes arising from the Agreement. Any action relating to this Agreement must be brought by arbitration to the extent required by A.R.S. § 12-1518 or in an appropriate court. Any arbitration award will be enforced in an appropriate court.
- 6.4 Non-Discrimination. The parties shall not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin in the course of carrying out their duties pursuant to this IGA. The Parties shall comply with the provisions of Executive Order 755, as amended by Executive Order 994, which is incorporated into this Agreement by reference, as if set forth in full herein.
- 6.5 ADA. The parties shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101336, 42 U.S.C. 1210112213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.
- 6.6 Amendments. This Agreement, including its term, may be modified only through a duly authorized written amendment, executed with the same formality as the Agreement.
- 6.7 Termination. This Agreement is subject to termination for conflict of interest pursuant to terms of A.R.S. § 38-511.
- 6.8 Records. The Parties agree to retain all financial books, records, and other documents and will contractually require each subcontractor to retain all data and other records relating to the acquisition and performance of the Agreement for a period of five (5) years after the completion of the Agreement. All records are subject to inspection and audit by the Parties at reasonable times. Upon request, the Parties will produce a legible copy of any or all such records.
- 6.9 Severability. The provisions of this Agreement are severable. If any provision of this Agreement is held by a court to be invalid or unenforceable, the remaining provisions continue to be valid and enforceable to the full extent permitted by law.
- 6.10 Indemnification. Each party (as Indemnitor) agrees to indemnify, defend and hold harmless the other party (as 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 which result in vicarious/derivative 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.
- 6.11 No Third Party Beneficiaries. Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to or Eligible Hospital under this Agreement or effect the legal liability of either party to the Agreement.
- 6.12 No Joint Venture. Nothing in this Agreement is intended to create a joint venture between or among the Parties, including the Eligible Hospital, and it will not be so construed. Neither AHCCCS' nor the CITY's employees will be considered officers, agents or employees of the other or be entitled to receive any employment related fringe benefits from the other.
- 6.13 REVIEW BY LEGAL COUNSEL

Pursuant to A.R.S. § 11-952 (D), an attorney for each party must review this IGA.

**NOW THEREFORE**, the CITY and the COUNTY agree to abide by the terms and conditions set forth in this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the date and year specified below.

CITY OF DOUGLAS  
("THE CITY")

COUNTY OF COCHISE  
("THE COUNTY")

\_\_\_\_\_  
Mayor Date

\_\_\_\_\_  
Chair, Board of Supervisors Date

The above Agreement, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952 by the undersigned legal counsel for each of the parties who has determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to each of the parties.

Approved:

Approved:

\_\_\_\_\_  
Juan Pablo Flores, City Attorney

\_\_\_\_\_  
Britt Hanson, Chief Civil Deputy  
Cochise County Attorney

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Brenda Aguilar, City Clerk