

# 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** the COUNTY has already entered into such an agreement with AHCCCS under which it has agreed to transfer, in its discretion subject to conditions outlined herein,, 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 the COUNTY has committed to the transfer to AHCCCS of an amount up to the sum referenced above, subject to reimbursement by the CITY pursuant to terms described below,

**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 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 A. De La Torre, City Manager  
City of Douglas  
425 E. 10th St.  
Douglas, AZ 85607  
Phone: 520.417.7302  
Fax: 520.417.7143  
Email: carlos.delatorre@douglasaz.gov

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

Michael Ortega, County Administrator  
Cochise County  
1415 Melody Lane, Building G  
Bisbee, AZ 85603  
Phone: 520.432.9200  
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 specific amount of funds to be authorized by the City, to AHCCCS authorized by AHCCCS for purposes enumerated in this Agreement.

### 5.0 CITY RIGHTS AND OBLIGATIONS

The CITY agrees that, upon issuance of formal specific amount approval by the City, the COUNTY may then transfer funds to AHCCCS, pursuant to terms authorized by AHCCCS, for purposes enumerated in this Agreement. The CITY shall reimburse the COUNTY in an amount not to exceed \$480,366.03, in equal payments over a period of five fiscal years starting the next fiscal year after the initial COUNTY disbursement.

### 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, 2020.

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

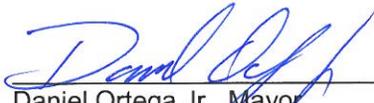
Pursuant to A.R.S. § 11-952 (D), an attorney for each party must review this IGA.

**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")

  
\_\_\_\_\_  
Daniel Ortega Jr., Mayor

\_\_\_\_\_  
Ann English, Chair, Board of Supervisors

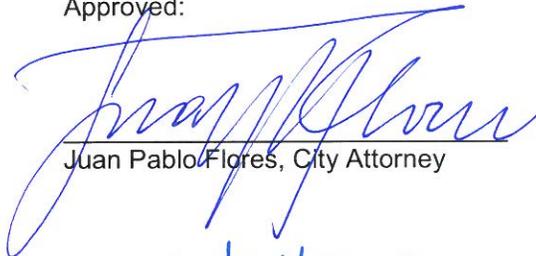
Date: 8/14/2013

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: 08/14/2013

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

Attest:

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



# THE CITY OF DOUGLAS

425 10<sup>TH</sup> STREET, DOUGLAS, ARIZONA 85607

TELEPHONE (520) 417-7303 FAX (520) 417-7143

*Barbara Rodriguez*

*Administrative Secretary*

*Barbara.Rodriguez@douglasaz.gov*

August 20, 2013

Mr. Jim Vlahovich  
Interim Clerk of the Board  
1415 Melody Lane, Building G  
Bisbee, AZ 85607

RECEIVED  
COCHISE COUNTY  
BOARD OF SUPERVISORS  
2013 AUG 22 P 2:14

Mr. Vlahovich:

Attached are (2) original IGA's (Resolution 13-965) that need Mrs. Ann English and Britt Hanson signature on the last page. Once the IGA's are signed we need to receive an original signed agreement for our records. I have included Resolution 13-965 for your file.

If you have any questions, please feel free to contact me at (520) 417-7303.

Thank you,

Barbara Rodriguez  
City of Douglas  
Adm. Secretary

*"Douglas - the premier southwestern border community."*

## CERTIFICATION

I, Brenda Aguilar, certify that I am the duly appointed and City Clerk of the City of Douglas, Arizona and I further certify that the foregoing Resolution is a true and correct copy of the original Resolution 13-965 passed at a Regular Meeting of the Douglas City Council held on the 14<sup>th</sup> day of August 2013, and further certify that said meeting was held pursuant to law and was in all aspects a true and lawful meeting and that all proceedings thereunder were held in accordance with the applicable law.

Dated this 14<sup>th</sup> Day of August, 2013.

-SEAL-

  
Brenda Aguilar, City Clerk

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**RESOLUTION No. 13-965**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF DOUGLAS, COCHISE COUNTY, ARIZONA, REPEALING RESOLUTION NO. 13-964, AND AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF DOUGLAS AND COCHISE COUNTY 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”), SAID FUNDING TO BENEFIT AND SUPPORT SOUTHEAST ARIZONA MEDICAL CENTER (SAMC) CURRENTLY UNDERGOING BANKRUPTCY REORGANIZATION; AND ESTABLISHING A SCHEDULE TO REIMBURSE THE COUNTY FOR THE CONTRIBUTION MADE FOR AND ON BEHALF OF THE CITY OF DOUGLAS, ARIZONA.**

**WHEREAS**, Cochise County the City of Douglas seek to enter into an Intergovernmental Agreement 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 in the region; and

**WHEREAS**, Southeast Arizona Medical Center (SAMC) is a critical access hospital that sought bankruptcy protection in the first quarter of 2013 due to financial insolvency, and said hospital provides primary, specialty, and preventive health care services to the citizens of southeast Arizona, and from the City’s current vantage point, the past and current financial position and future outlook management style and direction of SAMC may be in need of clarification; and

**WHEREAS**, the Intergovernmental Agreement will permit 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 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 pursuant to the reimbursement plan set forth herein to further the goals set forth in SB 1357 by enabling Southeast Arizona Medical Center to participate in the SNCP Program providing the terms and conditions of the subject agreement to be entered into by the parties are attached hereto as Exhibit “A”, and incorporated herein by reference; and

**WHEREAS**, the COUNTY has committed to the transfer funds in a specific amount to be formally approved by the City, to AHCCCS an amount not to exceed \$480,366.03 for and on behalf of the CITY, subject to full reimbursement by the CITY pursuant to terms described below,

**WHEREAS**, the COUNTY has already entered into such an agreement with AHCCCS under which it has agreed to transfer, in its discretion subject to conditions set forth in the subject IGA, 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 the CITY shall reimburse the COUNTY the full amount of their contribution, for and on behalf of the City of

1 City of Douglas, in an amount not to exceed \$480,366.03, in substantially equal payments over a  
2 three fiscal year period ending June 30, 2016; and

3 **WHEREAS**, the COUNTY has committed to transfer to AHCCCS, as part of their contribution for  
4 and on behalf of the City of Douglas, and as a result and upon approval by AHCCCS and the Centers  
5 for Medicare and Medicaid Services ("CMS"), and assuming the full contribution of \$480,366.03 is  
6 made, Southeast Arizona medical Center (SAMC) is programmed to receive assistance in the  
7 anticipated maximum amount of \$1,406,069.65; and

8 **WHEREAS**, both the CITY and the COUNTY believe they have comparable goals in benefiting the  
9 community at large and that it is in the parties' best interests to enter into and fulfill these agreements  
10 with AHCCCS in order to permit the CITY and COUNTY to provide the Non-Federal Share of the  
11 Medicaid payment for the SNCP, which monies will be expended to further these goals; and

12 **NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the City of Douglas,  
13 Arizona, as follows:

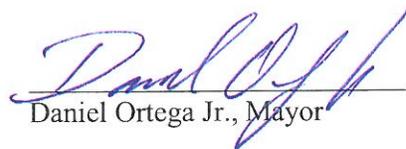
14 **Section 1.** Repealing Resolution No. 13-964.

15 **Section 2.** the Intergovernmental Agreement to be entered into by the parties, in an amount not to  
16 exceed \$1,406,069.65; provides the terms and conditions and is attached hereto as Exhibit "A", and  
17 incorporated herein by reference; and are found to be in the best interest of the City of Douglas.

18 **Section 3.** The Mayor and the City Clerk are hereby authorized to execute and deliver the  
19 Intergovernmental Agreement and any related documents necessary to consummate the transaction  
20 contemplated by the agreement for and on behalf of the City of Douglas.

21 **Section 4.** The officers of the City Council and the City of Douglas are hereby authorized and  
22 directed to fulfill all obligations under the terms of the Intergovernmental Agreement.

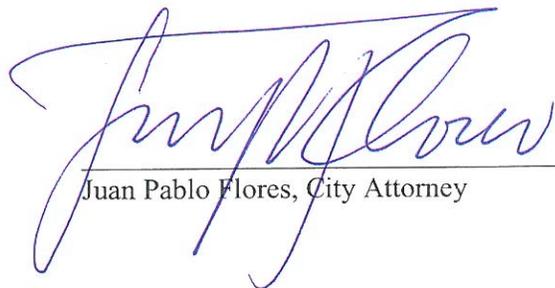
23 **PASSED AND ADOPTED** by the Mayor and Council of the City of Douglas, Arizona, this 14<sup>th</sup> day  
24 of August, 2013.

25  
  
Daniel Ortega Jr., Mayor

Attest:

Approved as to Form:

  
Brenda Aguilar, City Clerk

  
Juan Pablo Flores, City Attorney