

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE
COCONINO COUNTY PUBLIC HEALTH SERVICES DISTRICT BOARD OF
DIRECTORS AND THE
ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM**

This Intergovernmental Agreement (“Agreement”) is between Coconino County Public Health Services District, a political subdivision of the State of Arizona (“COUNTY”) and the Arizona Health Care Cost Containment System Administration (“AHCCCS”).

WHEREAS

- A. Pursuant to A.R.S. §§ 36-545.06, County shall ensure that the services of a screening agency and an evaluation agency are provided for purposes of Arizona Revised Statutes Title 36, Chapter 5, Articles 4 and 5. (“Title 36”).
- B. COUNTY has the authority to enter into this Agreement pursuant to A.R.S. §§ 11-952, 11-251, 11-291 and 11-297(A)(2).
- C. AHCCCS is authorized to enter into this Agreement pursuant to A.R.S. §§ 11-952 and 36-545.07.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings herein, AHCCCS and COUNTY agree as follows:

Article 1 – TERM

- 1.1 This Agreement shall become effective July 1, 2018 and shall be effective through June 30, 2019 unless further amended, extended or terminated pursuant to the provision of this Agreement. This IGA Amendment is for the period July 1, 2020 to June 30, 2021
- 1.2 Upon mutual agreement, one three-year IGA renewal is permitted.
- 1.3 Any change, modification or extension of this Agreement must be in the form of a written amendment to this Agreement signed by duly authorized representatives of both parties.

Article 2 – SCOPE OF SERVICES

- 2.1 AHCCCS shall provide for, either directly or through contract with the Regional Behavioral Health Authority assigned to the geographical service area for Coconino County (“RBHA”), all the pre-petition screening and evaluation services required of the COUNTY under Title 36 of the Arizona Revised Statutes.
- 2.2 AHCCCS or its contractor shall, in collaboration with COUNTY, have discretion to select and contract with all behavioral health and other providers needed to perform services under this Agreement. If a provider and/or service are located outside of Coconino County, the County will be notified 30 days prior to the change occurring. AHCCCS or its contractor shall ensure consistent provision of pre-petition screening and evaluation services in the event any subcontractor is unable to provide such services due to (1) a conflict of interest, (2) loss of critical staff, or (3) any other event preventing them from fulfilling the statutory obligations of Title 36.

- 2.3 Notwithstanding the forgoing, AHCCCS shall not be responsible for behavioral health services to inmates and detainees in the Coconino County Jail and other juvenile or adult correction or detention facility operated by or contacted with COUNTY.
- 2.4 To the extent obligated by law, COUNTY shall retain financial responsibility for Court proceeding expenses for commitment action brought under Title 36, including the costs of independent evaluators and the fees and costs for the attorneys for the prosecution, and the court-appointed defense attorneys. Nothing in this Agreement shall prohibit, preclude or prevent COUNTY from seeking, pursuing and obtaining reimbursement from other party payers to recover the cost of the services of behavioral health professionals and/or the cost of hospitalization that may be incurred as a result of the civil commitment process.
- 2.5 In an ongoing mutual effort to address identified needs and issues within the publicly funded behavioral health system, the parties agree to facilitate meetings with the RBHA and with COUNTY to discuss and work to resolve those needs and issues. In addition, RBHA reports to COUNTY shall consist of Monthly Narrative Summary; Historical Cost and Service Trends; Detailed Monthly Client Activity Logs, Detailed Year to Date Activity Logs; Monthly Claims: Redacted and Un-redacted versions (including date of service, name, service description, procedure code, unit price, service count, charge amount, third party liability, and total charge).

The parties agree to work collaboratively to determine the appropriate level of additional reporting so that Coconino County can verify the appropriate level of contractor performance and efficiency, while not placing undue administrative burden on AHCCCS, the RBHA, or its contractors. Any proposed solutions shall be reasonable in the circumstances and result in greater transparency, accessibility, availability, coordination and delivery of Title 36 behavioral health services to COUNTY residents.

- 2.6 AHCCCS, through the RHBA, shall require any of providers performing services under this Agreement to undergo regular training in Title 36 law and processes. The RHBA or the service providers may seek such training from the Coconino County Attorney's Office.
- 2.7 Under the terms of this Agreement neither AHCCCS nor its contractors are obligated to provide or pay for:
- A. Any behavioral health services except for the screening and evaluation services associated with A.R.S. Title 36, Chapter 5, Articles 4 and 5.
 - B. Any screening or evaluation services when no behavioral health agency licensed to provide such services in Coconino County is willing or available to contract for such services or unwilling or unable to perform under such contract after the parties' good-faith efforts to facilitate such performance. This section shall be interpreted as a condition subsequent to this agreement.

- 2.8 AHCCCS shall ensure that its contractor shall reasonably seek informed consent for treatment from the patients, on a voluntary basis, in the pre-petition screening, petition for evaluation and petition for treatment phases of Title 36.
- 2.9 AHCCCS shall ensure that its contractor implements a plan to ensure that patients referred for Title 36 evaluations and who may qualify as Seriously Mentally Ill (SMI) pursuant to Title 19, also receive SMI evaluations.

Article 3 – FUNDING

- 3.1 Payment for services shall be based upon the cost of services actually provided, billed at the rates specified in Schedule A. The RBHA and/or the RBHA's contractor shall screen each patient for Title XIX eligibility status and for other third-party payer coverage. The County is payer of last resort with respect to the Title 36 services described in the Agreement except for Title XIX covered services provided to Title XIX eligible persons. With respect to those services, AHCCCS is the payor of last resort, and the County is the payor of last resort with respect to all other sources of third-party liability other than AHCCCS.
- 3.2 AHCCCS shall require the RBHA to submit a monthly expenditure report to the COUNTY. The RBHA expenditure report shall include the actual services provided, the total monthly third-party liability receipts collected, and the cumulative total of third-party liability receipts collected for the fiscal year. The format of which shall be agreed upon by the COUNTY and the RBHA.
- 3.3 The expenditure report shall include the 8% administrative fee for the RBHA which is part of the quarterly payment from AHCCCS.
- 3.4 By the first day of each quarter, COUNTY agrees to pay the AHCCCS \$300,000 which will be applied toward the amount reported under Section 3.2.

Upon receipt of quarterly allocation, AHCCCS will pass thru the funds to the RBHA.

AHCCCS shall cause the RBHA to submit a quarterly statement reconciling the funds paid by the COUNTY, to include the collected third party liability, against amounts expended by the RBHA within 45 days following the end of quarters 1, 2, & 3. (No adjustments to funding shall be made following the end of quarters 1, 2, & 3.)

On or before April 1st, the RBHA shall submit to COUNTY a request for additional reimbursement (if any is warranted), based on projected expenditures and third-party liability collections through the end of the fiscal year. If the projected expenses exceed \$1,350,000, the COUNTY shall reimburse to the RBHA the difference by June 1st.

On or before March 15th, the RBHA shall also submit a projection of anticipated resources needed for the next fiscal year so that the COUNTY may use the projection for budget preparation.

AHCCCS shall cause the RBHA to submit an annual reconciliation of the funds to the COUNTY 45 days after the end of quarter 4. Any amount remaining unspent by the end of this Agreement shall be returned to the COUNTY within 60 days after the end of quarter 4. Any expenditures reported for services provided in excess of the COUNTY payments shall be reimbursed to the RBHA within 60 days after the end of quarter 4.

- 3.5 AHCCCS agrees that it will not seek any compensation from COUNTY under this agreement other than compensation set forth in this Article.

Article 4 – INSURANCE

- 4.1 The parties acknowledge that AHCCCS and COUNTY are self-insured, in whole or in part, pursuant to statutory authority. The parties agree that the general liability coverage and the professional liability coverage afforded by these insurance/self-insurance programs are sufficient to meet the purposes of this Agreement.
- 4.2 AHCCCS shall require the RBHA, during the entire term of this Agreement, to maintain commercial general liability, automobile liability, workers compensation and professional liability insurance coverage in amounts satisfactory to the Arizona Department of Administration, Risk Management. AHCCCS shall require the RBHA to name the COUNTY as an additional insured with respect to liability arising out of the activities performed by or on behalf of the RBHA.

Article 5 - INDEMNIFICATION

- 5.1 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.

Article 6 – TERMINATION

- 6.1 This Agreement may be terminated as may be provided by law.

Article 7 – NOTICES

- 7.1 Any notice required or permitted to be given under this Agreement shall be in writing and shall be served by delivery or by certified mail upon the other party as follows:
- 7.1.1 Notices to AHCCCS shall be addressed and mailed as follows:

Director

Arizona Health Care Cost Containment System
Office of Procurement
801 East Jefferson
Phoenix, AZ 85034

7.1.2 Notices to COUNTY shall be addressed and mailed as follows:

Coconino County Public Health Services District
Michael Oxtoby, interim Chief Health Officer/ Director
2625 N. King Street
Flagstaff, AZ 86004

With copies to:

Jimmy Jayne
Coconino County
Interim County Manager
219 E. Cherry Ave.
Flagstaff, AZ 86001

Dr. Marie Peoples
Coconino County Deputy
Manager
219 E. Cherry Ave.
Flagstaff, AZ 86001

William P. Ring,
County Attorney
Coconino County Attorney's
Office
110 E. Cherry Avenue
Flagstaff, Arizona 86001

Article 8 – EXTENSIONS AND AMENDMENTS

- 8.1 This document contains the entire agreement of the parties. Any change, modification or extension of this Agreement must be in the form of a written amendment to this Agreement and signed by both parties.
- 8.2 The Agreement shall be extended as required by law for additional one-year periods by written amendment signed by both parties.

Article 9 – NON-DISCRIMINATION and AMERICANS WITH DISABILITIES ACT

- 9.1 Both COUNTY and AHCCCS shall comply with Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1975 and the Federal Executive Order 11246, State Executive Order No. 75-5, as amended by Executive Order No. 99-4, and A.R.S. §41-1462 et seq. which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation shall have equal access to employment opportunities. Both COUNTY and AHCCCS shall comply with Paragraph 503 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination in the employment advancement of qualified persons because of physical

or mental handicap. Both COUNTY and AHCCCS shall comply with Title VI of the Civil Rights Act of 1964, as amended, which prohibits the denial of benefits or participation in services pursuant to this Agreement on the basis of race, color, or national origin. Both COUNTY and AHCCCS shall comply with the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap in delivering services pursuant to this Agreement and with the provision of the Americans with Disabilities Act of 1990.

Article 10 – MISCELLANEOUS

- 10.1 The parties agree that all of the conditions set forth herein are material to the Agreement and a breach of any condition is a breach of the Agreement.
- 10.2 Each Article of this Agreement stands alone. If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall continue to be valid and enforceable to the full extent permitted by law.
- 10.3 The failure of either party to insist in any one or more instances upon the full and complete performance of any of the terms or provisions of this Agreement to be performed on the part of the other or to take any action permitted as a result thereof shall not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same or any other covenant or condition either in the past or in the future. The acceptance by either party of sums less than may be due and owing at any time shall not be construed as an accord and satisfaction.
- 10.4 Captions and headings are for index purposes only and shall not be used in construing this Agreement.
- 10.5 This Agreement shall be interpreted in accordance with Arizona law.
- 10.6 The parties agree to use arbitration to the extent required by A.R.S. §12-1518. Each party shall bear its own costs of arbitration and shall equally share in the cost of the arbitrator.
- 10.7 This Agreement is subject to the provisions of A.R.S. §38-511.
- 10.8 The parties agree to retain all records related to this Agreement for five (5) years after completion of the Agreement and make such records available to the other party at reasonable times determined by the parties.
- 10.9 AHCCCS shall produce, on a quarterly and annual basis, sufficient information as determined by CCPHSD to allow CCPHSD to prepare detailed reports and respond to inquiries and examination of the State Auditor General pursuant to the auditor's general and specific powers as further described in Title 41 of the Arizona Revised Statutes including, but not limited to, A.R.S. §41-1279.04 and §41.1279.07.
- 10.10 Nothing in this agreement shall create any additional rights or causes of action that do not otherwise exist as law, except as specifically specified herein. Notwithstanding the foregoing, if AHCCCS contracts with another entity, such as a RBHA, to perform the

functions of this agreement, such RBHA shall be considered an intended beneficiary of this agreement to the extent allowed by law.

- 10.11 Nothing in this agreement purports to alter any requirement under Title XIX of the Social Security Act or laws or regulations adopted pursuant thereto, or the requirements of any other public benefit.
- 10.12 Unless otherwise defined herein, words and acronyms used in this agreement shall be defined as provided in the BHS Definitions List, Revision, which is incorporated by reference herein and located at <https://www.azahcccs.gov/PlansProviders/Downloads/GM/bhs-definitions.pdf>

IN WITNESS WHEREOF, the parties do hereby agree to carry out the terms of this Agreement as prescribed herein.

COCONINO COUNTY PUBLIC HEALTH
SERVICES DISTRICT

STATE OF ARIZONA



Elizabeth C. Archuleta
Chair, Board of Directors


Meggan LaPorte (Oct 14, 2020 11:50 PDT)

Meggan LaPorte
Chief Procurement Officer
Arizona Health Care Cost Containment
System

ATTEST:


Clerk of the Board

Pursuant to A.R.S. §11-952, the undersigned COUNTY'S Attorney has determined that this Intergovernmental Agreement is in proper form and is within the powers and Authority granted under the laws of Arizona.

In accordance with A.R.S. §11-952, this Agreement is in the proper form and within the power and granted to AHCCCS under A.R.S. §36-2903 et seq. and under 36.2932 et seq.


Deputy County Attorney
Matthew J. Devlin (Oct 13, 2020 13:40 PDT)
Legal Counsel for AHCCCS/Date

Matthew J. Devlin
Printed Name

General Counsel
Title