

**AMERICAN RESCUE PLAN ACT OF 2021 (ARPA)
SUBRECIPIENT AGREEMENT
BETWEEN COCHISE COUNTY
AND CHIRICAHUA COMMUNITY HEALTH CENTERS**

This AGREEMENT is made effective this ____ day of _____, 2021, (“Effective Date”) between Cochise County, a political subdivision of the State of Arizona and Chiricahua Community Health Centers, Inc. (“CCHCI”).

RECITALS

WHEREAS, Cochise County has received money from the American Rescue Plan Act of 2021 (“ARPA”), H.R. 1319; Title IX—Committee on Finance; Subtitle M—Coronavirus State and Local Fiscal Recovery Funds; Section 9901, Coronavirus State and Local Fiscal Recovery Funds; and

WHEREAS, the U.S. Department of the Treasury has published interim final rules to implement the ARPA (Federal Register / Vol. 86, No. 93 / Monday, May 17, 2021 / Rules and Regulations) and will be publishing final rules in the future; and

WHEREAS, the ARPA funds may be used to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality; and

WHEREAS, § 35.6(b)(1)(xviii) of the Treasury Department’s interim final rules identify mental health treatment, substance misuse treatment, and other behavioral health services as acceptable programs and services for which ARPA funds may be used; and

WHEREAS, during the COVID-19 pandemic the rates of substance misuse and overdose deaths increased; and

WHEREAS, the purpose of this Agreement is to respond to the public health emergency caused by COVID-19, and to provide funds to invest resources in our nation's mental health and address the inequities that still exist around behavioral health care. Therefore, time is of the essence and the speedy use of these funds is vital to the effectiveness of the ARPA; and

WHEREAS, CCHCI provides primary care to the diverse communities of Cochise County, and the ARPA funds expended in this Agreement will be used by CCHCI to add psychiatric care to CCHCI scope of services. Specifically, CCHCI intends to use the funds to establish a psychiatry department that would diagnose and treat patients with mental health and/or substance abuse issues; and

WHEREAS, expenditure of these funds must be incurred before December 31, 2024; and

WHEREAS, the Federal Government's published reporting requirements for the use of ARPA funds include, but are not limited to; Code of Federal Regulations, 2 CFR Part 200 (<https://ecfr.federalregister.gov/current/title-2/subtitle-A>), information from the General Services Administration (<https://sam.gov/fal/7cecfdef62dc42729a3fdcd449bd62b8/view>), Compliance and Reporting Guidance (<https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>) from the Department of the Treasury, the 2020 OMB Compliance Supplement Part 3, Compliance Requirements for 2 CFR Part 200, Appendix XI, issued on August 18, 2020 (https://www.whitehouse.gov/wp-content/uploads/2020/08/2020-Compliance-Supplement_FINAL_08.06.20.pdf), and memorandums from the Office of Management and Budget (<https://www.whitehouse.gov/wp-content/uploads/2020/04/Implementation-Guidance-for-Supplemental-Funding-Provided-in-Response.pdf>, and https://www.whitehouse.gov/wp-content/uploads/2021/03/M_21_20.pdf); and

WHEREAS, the ARPA funds are to be used within the geographical boundaries of Cochise County, and for the benefit of residents of Cochise County; and

WHEREAS, Cochise County is authorized to distribute the ARPA funds to sub-recipients. Sub-recipients are required to use ARPA funds to accomplish the purposes of the ARPA; and

WHEREAS, CCHCI wishes to become a sub-recipient of ARPA funds and has requested \$1,592,000.

WHEREAS, the ARPA funds are subject to repayment if they are not spent consistent with the purposes, laws, rules, and guidelines of the ARPA.

WHEREAS, Cochise County and CCHCI believe the use of the funds pursuant to this Agreement is allowed by the laws, rules, and guidelines of the ARPA.

WHEREAS, Cochise County has the authority to enter into this Agreement pursuant to the ARPA, and A.R.S. §§ 11-201, and 11-251.

AGREEMENT

NOW THEREFORE, Cochise County and CCHCI, in consideration of the mutual covenants set forth herein, agree to be legally bound as follows.

1. Incorporation of Recitals and ARPA

- a. The Recitals set forth above are incorporated into this Agreement. ARPA is incorporated into this Agreement by reference as if fully stated herein and all material and applicable terms and conditions of ARPA and its funding objectives and obligations, including, but not limited to, regulations implementing ARPA, the U.S. Department of Treasury interim and final rules, Compliance and Reporting Guidance for State and Local Fiscal Recovery Funds, FAQs, and performance and reporting requirements. This also includes any rules, regulations, performance and reporting requirements under ARPA which may be imposed after the date of this Agreement.

2. Duration of this Agreement

This Agreement shall commence on the Effective Date and shall remain in effect until the end of the Federal Government's right to audit and require the return of any misspent funds.

3. Termination

- a. If either party fails to perform its respective obligations herein, the non-defaulting party shall give written notice of the default to the defaulting party. If the default is not cured within thirty (30) days of receipt of the notice of default, the non-defaulting party may terminate this Agreement upon written notice of termination delivered to the defaulting party. Any termination of this Agreement shall not relieve the parties of responsibility for obligations incurred prior to the effective date of the termination. Further, any monies not properly spent by CCHCI prior to termination shall be returned to Cochise County no later than ten (10) days from the date of termination. Paragraphs 6(e), 6(f), 6(g) and (7) shall survive the termination of this Agreement.

4. Conflict of Interest

- a. This Agreement is subject to cancellation under the conflict-of-interest provisions of A.R.S. § 35-511.

5. Duties of Cochise County

- a. Cochise County agrees to provide the ARPA funds as outlined in this Agreement.
- b. Cochise County shall review the plan(s) submitted by CCHCI identifying projects it intends to accomplish with the ARPA funds. Only after Cochise County has approved CCHCI plans can any ARPA monies be spent.
- c. Cochise County shall comply with the Federal Government's reporting requirements for the ARPA (including 2 CFR 200.1).
- d. Cochise County shall monitor the use of these ARPA funds by CCHCI, consistent with the Federal Government's requirements (including 2 CFR 200.332).

6. Duties of CCHCI

- a. Prior to spending any monies toward any projects, CCHCI shall submit a written plan(s) to Cochise County identifying the projects it intends to accomplish, and how ARPA funds will be spent.

- b. CCHCI's use of the ARPA funds shall be abide by all laws, rules, and guidelines of the Federal Government for these ARPA funds.
- c. CCHCI shall provide in a timely manner any information Cochise County needs to comply with the Federal Government's reporting requirements (including 2 CFR 200.1 and 2 CFR 200.332). This includes, but is not limited to; providing copies of contracts, contract amendments, line-item detail of project budgets, receipts, invoices, packing slips, purchase orders, and payments.
- d. CCHCI shall comply with, and assist Cochise County in complying, any Federal Government Audit requirements (including 2 CFR Part 200, Subpart F). CCHCI shall keep and maintain proper and complete books, records, files, and accounts of all its operations, which shall be open for inspection and audit by Cochise County or its auditors, at all reasonable times. All books, accounts, reports, files and other records relating to this Agreement shall be subject to inspection and audit by Cochise County for the later of five years after completion of the Agreement or the last date of the Federal Government's auditing of the use of ARPA funds.
- e. CCHCI shall reimburse Cochise County for any and all use of these ARPA funds in the event that the Federal Government determines the CCHCI use did not comply with the ARPA laws, rules, and guidelines. The intent of the parties is that CCHCI will reimburse Cochise County within a timeframe that allows Cochise County to use the reimbursed funds to refund the money to the U.S. Department of the Treasury, as required by the ARPA.
- f. CCHCI shall comply with the Federal Government's requirements regarding the purchase, use, and disposition of real property and/or equipment. This includes, but is not limited to, the following:
 - i. Equipment and real property acquired with these funds must be used solely for the purpose(s) stated in this Agreement and consistent with the ARPA.
 - ii. Any purchase, use, and disposition of equipment or real property with these funds must comply with the Uniform Guidance at 2 CFR Part 200, Subpart D (including 2 CFR 200.311 and 2 CFR 200.313).

7. Indemnification

- a. To the fullest extent allowed by law, CCHCI shall indemnify, defend, and hold harmless Cochise County, its officials, board members, officers, agents and employees, from any and all claims, demands, suits, actions, proceedings, loss, cost and damages of every kind and description, including any attorney's fees, litigation expenses and/or arbitration expenses, which may be brought or made against or incurred by Cochise County on account of loss of or damage to any property or for injuries to or death of any person, caused by, arising out of, or contributed to, by reason of any omission, professional effort, fault, mistake or negligent act, whether active or passive, of

CCHCI, its employees, agents or representatives or subcontractors, their employees, volunteers, agents or representatives in connection with or incident to the performance of this Agreement. Such indemnity shall not be limited by reason of remuneration of any insurance coverage herein provided. Every provision of this indemnification paragraph shall survive the termination of this Agreement.

8. Governing Law

- a. This Agreement is executed in the State of Arizona and this Agreement and every matter or thing arising therefrom shall be construed in accordance with the laws of the State of Arizona. In the event of litigation, jurisdiction and venue shall be Cochise County.

9. Alternative Dispute Resolution

- a. Pursuant to A.R.S. § 12-1518, disputes under this Agreement shall be resolved through the use of arbitration when the case or lawsuit is subject to mandatory arbitration pursuant to rules adopted under A.R.S. § 12-133.

10. Entire Agreement

- a. This Agreement contains the entire, integrated agreement of the parties and there are no oral agreements, understandings, or representations relied upon by the parties. This Agreement supersedes all prior negotiations, representations, or agreements, whether written or oral.

11. Amendments and Modifications

- a. No modification or amendment of any provision of this Agreement shall be valid unless it is in writing and signed by the party against whom it is sought to be enforced.

12. Notice

- a. All notices and other communication authorized or required in this Agreement shall be in writing and shall be deemed to have been given when delivered personally or deposited in the United States mail in a postage pre-paid envelope addressed to the other party to the address provided herein.

Sharon Gilman

Associate Cochise County Administrator
1415 Melody Ln, Bldg G
Bisbee, AZ 85603

Jonathan Melk, M.D.

Chief Executive Officer
1205 F. Avenue
Douglas, AZ 85607

13. Assignability

- a. CCHCI agrees that it shall not assign, sublet, subcontract or transfer its interest in this Agreement without the written consent of the Cochise County Board of Supervisors.

14. Successors and Assigns

- a. The provisions of this Agreement shall be binding upon and inure to the benefit of the heirs, personal representatives, successors and assigns of the parties.

15. Waiver

- a. Waiver of any of the terms of this Agreement shall not be valid unless it is in writing and signed by all parties. The failure of claimant to enforce the provisions of this Agreement or require performance by opponent of any of the provisions, shall not be construed as a waiver of such provisions or affect the right of claimant to thereafter enforce the provisions of this Agreement. Waiver of any breach of this Agreement shall not be held to be a waiver of any other subsequent breach of the Agreement.

16. Severability

- a. In case one or more provision of this Agreement is held invalid or voidable, the validity of the remaining provisions shall not be affected thereby, and the Agreement shall continue in full force and effect. The parties agree that if any provisions are deemed not enforceable, they shall be deemed modified to the extent necessary to make them enforceable.

17. Legal Agreement

- a. This Agreement is an important, binding legal document, and each Party warrants it has had an opportunity to consult with an attorney about the terms set forth herein. By signing this Agreement, each person signing this Agreement represents and warrants that he or she is duly authorized and has the legal capacity to execute this Agreement and understands the meaning of all terms contained herein and agrees to their application and enforceability.

APPROVALS

By the signatures below of their duly authorized officials, the parties agree to, and accept, the terms of this Agreement.

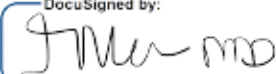
**Cochise County, Arizona, a political
subdivision of the State of Arizona**

By: _____

Ann English, Chairperson
Cochise County Board of Supervisors

Date: _____

**Chiricahua Community Health Centers,
Inc.**

DocuSigned by:
By:  _____

Jonathan Melk,
Chief Executive Officer

Date: 10/8/2021

This Agreement has been reviewed by the undersigned counsel who has determined that it is in appropriate form and within the powers and authority granted to the Cochise County Board of Supervisors.

By: _____

Kris Carlson, Deputy County Attorney

Date: _____

Attestation

By: _____

Kim Lemons, Clerk
Cochise County Board of Supervisors