



MEMORANDUM

Date: May 1, 2024

To: The Honorable Chair and Members
Pima County Board of Supervisors

From: Jan Leshner
County Administrator 

Re: **Additional Information for the Board of Supervisors Meeting - May 7, 2024 Agenda - Intergovernmental Agreement between Pima County and the City of Tucson for the Disbursement of Opioid Settlement Funds**

On October 19, 2021 the Pima County Board of Supervisors entered into an Intergovernmental Agreement with the Arizona Attorney General entitled the One Arizona Distribution of Opioid Settlement Funds. Since that time, I have provided periodic memoranda updating the status of the litigation and related settlements distributions, the Health Department planning process and related initiatives, and the status of Intergovernmental Agreements with local jurisdictional partners. (See my memoranda from [July 14, 2022](#), [September 2, 2022](#), [March 31, 2023](#), [June 26, 2023](#), [October 30, 2023](#), and most recently on [March 29, 2024](#).)

From the beginning, Pima County staff have been in dialogue with City of Tucson leadership to develop a framework for collaboration. The result of that interchange is a shared understanding of the preferred goals and strategies that can inform the impactful investment of finite opioid settlement resources in ways that have an enduring positive impact on the region. Those shared priorities were communicated to you as part of my [October 30, 2023](#) memorandum. Given that a large portion (22.9 percent) of the funds are allocated to the City of Tucson, individual Supervisors have inquired intermittently from the dais and in other settings about the status of our agreement with that entity. We are pleased to be able to bring to you today the result of these efforts.

Attached for your consideration and action is an Intergovernmental Agreement with the City of Tucson that governs the use of these resources. (Attachment 1) This instrument provides the legal basis for a robust continued partnership with the City of Tucson, including the pooling of settlement resources, collaborative regional planning, and shared decision-making. A Resolution is also offered for consideration that articulates the shared vision and overall goals for this partnership and will be considered in parallel by the Mayor and Council at their May 7, 2024 meeting. (Attachment 2)

I recommend approval of the proposed Intergovernmental Agreement and accompanying Resolution.

Attachments

c: Carmine DeBonis, Jr., Deputy County Administrator
Francisco García, MD, MPH, Deputy County Administrator & Chief Medical Officer
Steve Holmes, Deputy County Administrator
Terry Cullen, MD, MS, Public Health Director

ATTACHMENT 1

**INTERGOVERNMENTAL AGREEMENT
BETWEEN PIMA COUNTY AND THE CITY OF TUCSON
FOR DISBURSEMENT OF OPIOID SETTLEMENT FUNDS**

This Intergovernmental Agreement (“IGA”) is made and entered into by and between Pima County, a body politic and corporate of the State of Arizona (“County”), on behalf of the Pima County Health Department, and the City of Tucson (“City”).

RECITALS

WHEREAS, the parties are Participating Local Governments in a single-county Region under the One Arizona Distribution of Opioid Settlement Funds Agreement (“One Arizona Distribution Agreement”), attached as Appendix 1; and

WHEREAS, pursuant to the One Arizona Distribution Agreement, the Pima County Health Department is the lead agency responsible for distributing the Local Government (LG) Share funds within the Region consisting of County and its constituent Participating Cities and Towns (“Pima County Region”); and

WHEREAS, the City of Tucson desires to enter into an agreement with the County with respect to the use of Settlement funds pursuant to the One Arizona Distribution Agreement; and

WHEREAS, the parties may enter into agreements with one another for joint and cooperative action pursuant to A.R.S. § 11-952; et seq.;

NOW, THEREFORE, the parties agree as follows:

AGREEMENT

1.0 Purpose. The purpose of this IGA is to establish a process for the use of Local Government (LG) Share funds allocated to the parties pursuant to the One Arizona Distribution Agreement, the relevant portions of which are hereby incorporated into this IGA by reference.

2.0 Definitions. All capitalized terms not otherwise defined in this IGA have the meanings assigned to them in the One Arizona Distribution Agreement.

3.0 Term/Effective Date.

3.1 The term of this IGA commences on May 7, 2024 and will terminate on May 6, 2029 (“Initial Term”). “Term,” when used in this IGA, means the Initial Term plus any exercised extension options under Section 3.3. If the commencement date of the Initial Term is before the signature date of the last party to execute this IGA, the parties will, for all purposes, deem the IGA to have been in effect as of the commencement date.

3.2 Either party may cancel its participation in this IGA after thirty days’ written notice to the other party.

3.3 This IGA may be renewed for three additional five-year periods unless terminated pursuant to Section 3.2 above.

4.0 Use of Funds.

4.1 The City of Tucson, as one of the Participating Cities and Towns, and the County agree to pool their default allocations of the LG Share funds under the One Arizona Distribution Agreement (the “Pooled Funds”).

4.2 The Pima County Health Department will consult with the Participating Cities and Towns regarding distribution of the Pooled Funds, and will authorize the use of the Pooled Funds for Approved Purposes, or for grants to organizations for Approved Purposes, as defined by the One Arizona Distribution Agreement.

4.3 Each Opt-In Jurisdiction with a population of less than 500,000 may nominate one member to the Advisory Committee. Any Opt-In Jurisdiction with a population of 500,000 or more may nominate two members to the Committee. Pima County may nominate two members to the Advisory Committee. The Advisory Committee will advise the Health Department Director and the County Administrator on the allocation and administration of settlement funds.

5.0 **Records.** County will maintain, for a period of at least five years, records of its expenditures from the Pooled Funds and documents underlying those expenditures, so that it can be verified that funds are being or have been utilized in a manner consistent with the Approved Purposes definition. This requirement supersedes any shorter period of time specified in any applicable document retention or destruction policy.

6.0 **Reports.** County acknowledges that pursuant to section F.5 of the One Arizona Distribution Agreement, County is responsible for providing Pima County Region’s annual report to the State annually by July 31.

7.0 **Legal Jurisdiction.** Nothing in this IGA shall be construed as either limiting or extending the legal jurisdiction of the parties. This IGA and all obligations upon the parties arising therefrom shall be subject to any limitations of budget law or other applicable local law or regulations.

8.0 **Assignment of Rights.** No party shall assign its rights under this IGA to any other party without written permission from the other parties.

9.0 Construction of IGA.

9.1 Construction and interpretation. All provisions of this IGA shall be construed to be consistent with the intention of the parties as expressed in the Recitals hereof.

9.2 Captions and headings. The headings used in this IGA are for convenience only and are not intended to affect the meaning of any provision of this IGA.

10.0 **Conflict of Interest.** This IGA is subject to the provisions of A.R.S. § 38-511, the pertinent provisions of which are incorporated herein by reference.

- 11.0 Severability.** In the event that any provision of this IGA or the application thereof is declared invalid or void by statute or judicial decision, such action shall have no effect on other provisions and their application, which can be given effect without the invalid or void provision or application, and to this extent the provisions of the IGA are severable. In the event that any provision of this IGA is declared invalid or void, the parties agree to meet promptly upon request of a party in an attempt to reach an agreement on a substitute provision.
- 12.0 No Joint Venture.** It is not intended by this IGA to, and nothing contained in this IGA shall be construed to, create any partnership, joint venture, or employment relationship between the parties or create any employer-employee relationship between the parties and each other's employees. No party shall be liable for any debts, accounts, obligations or other liabilities whatsoever of another party, including (without limitation) the obligation of another party to withhold Social Security and income taxes for itself or any of its employees.
- 13.0 No Third-Party Beneficiaries.** Nothing in the provisions of this IGA is intended to create duties or obligations to or rights in third parties not parties to this IGA or to affect the legal liability of either party to the IGA by imposing any standard of care different from the standard of care imposed by law.
- 14.0 Compliance with Laws.** The parties shall comply with all applicable federal, state, and local laws, rules, regulations, standards, and executive orders, without limitation to those designated within this IGA.
- 14.1 Anti-Discrimination.** The provisions of A.R.S. § 41-1463 and Executive Order Number 2009-09 issued by the Governor of the State of Arizona, and Tucson City Code §28-138 are incorporated by this reference as a part of this IGA.
- 14.2 Americans with Disabilities Act.** This IGA is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.
- 15.0 Non-Waiver.** The failure of any party to insist upon the complete performance of any of the terms and provisions of this IGA to be performed on the part of another party, or to take any action permitted as a result thereof, shall not constitute 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.
- 16.0 Force Majeure.** A party shall not be in default under this IGA if it does not fulfill any of its obligations under this IGA because it is prevented or delayed in doing so by reason of Force Majeure. The term "Force Majeure" shall mean, for the purpose of this IGA, any cause beyond the control of the party affected, including but not limited to, failure of facilities, breakage or accident to machinery or transmission facilities, weather conditions, flood, earthquake, lightning, fire, epidemic, war, riot, civil disturbance, sabotage, strike, lockout, labor dispute, boycott, material or energy shortage, casualty loss, acts of God, or action or non-action by governmental bodies in approving or failing to act upon applications for

approvals or permits which are not due to the negligence or willful action of the parties, order of any government officer or court (excluding orders promulgated by the parties themselves), and declared local, state, or national emergency, which, by exercise of due diligence and foresight, such party could not reasonably have been expected to avoid. Any party rendered unable to fulfill any obligations by reason of uncontrollable forces shall exercise due diligence to remove such inability with all reasonable dispatch.

- 17.0 Notification.** All notices or demands upon another party to this IGA shall be in writing, unless other forms are designated elsewhere, and shall be delivered in person or sent by mail addressed as follows:

County:

Theresa Cullen, MD, MS, Director
Pima County Health Department
3950 S. Country Club Rd., #100
Tucson, AZ 85714

City:

City of Tucson
255 W. Alameda St.
Tucson, AZ 85701
Attn: Sarah Launius

With copies to:

Pima County Attorney
Civil Division
Attn: Jonathan Pinkney

With copies to:

Tucson City Attorney's Office
255 W. Alameda St.
Tucson, AZ 85701
Attn: Jennifer Bonham

- 18.0 Remedies.** Any party may pursue any remedies provided by law for the breach of this IGA. No right or remedy is intended to be exclusive of any other right or remedy and each shall be cumulative and in addition to any other right or remedy existing at law or in equity or by virtue of this IGA.

- 19.0 Indemnification.** Each party (as "indemnitor") agrees to indemnify, defend and hold harmless, the other parties (as "indemnitees") 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 the 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, and are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees or volunteers.

- 20.0 Counterparts.** This IGA may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

21.0 Legal Arizona Workers Act.

- 21.1** The parties hereby warrant that they will at all times during the term of this IGA comply with all federal immigration laws applicable to their employment of their employees, and with the requirements of A.R.S. § 23-214(A) (together the "State and

Federal Immigration Laws”).

21.2 Any breach of a party’s warranty of compliance with the State and Federal Immigration Laws shall be deemed to be a material breach of this IGA subjecting the breaching party to penalties up to and including suspension or termination of this IGA.

22.0 Entire Agreement. This instrument constitutes the entire agreement between the parties pertaining to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. Any appendices to this IGA are incorporated herein by this reference.

IN WITNESS WHEREOF, the parties hereto each sign this IGA between the City of Tucson and Pima County, on behalf of the Pima County Health Department. Each signor warrants that they have been duly authorized to commit the jurisdiction to participate in the IGA by formal approval of the jurisdiction's governing body.

PIMA COUNTY:

CITY OF TUCSON:

Chair, Board of Supervisors

Date

Mayor

Date

ATTEST

ATTEST

Clerk of the Board

Date

City Clerk

Date

APPROVED AS TO CONTENT

APPROVED AS TO CONTENT



Department Director or designee

Date

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Department Director or designee

Date

ATTORNEY CERTIFICATION

The foregoing IGA has been reviewed pursuant to A.R.S. § 11-952 by the undersigned who have determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to those parties to the IGA.



Deputy County Attorney

4/30/2024

Date

City Attorney

Date

ATTACHMENT 2

RESOLUTION 2024 - ____

**A RESOLUTION OF THE PIMA COUNTY BOARD OF SUPERVISORS
DECLARING FENTANYL
TO BE A PUBLIC HEALTH CRISIS**

WHEREAS, Fentanyl, is a uniquely potent synthetic opioid that is often mixed with other illicit drugs, such as cocaine, methamphetamine, and heroin, exacerbating the potential for accidental overdose; and

WHEREAS, Governor Doug Ducey issued Executive Order 2017-04 declaring a Statewide Public Health Emergency in June of 2017 in response increased deaths due to overdose from fentanyl and other opioids; and

WHEREAS, the Pima County BOS adopted Resolution 2017-42 calling upon the state to mobilize resources to resource the response of local jurisdictions to the opioid epidemic; and

WHEREAS, the impacts of fentanyl transcend demographic, socioeconomic, and geographic boundaries, making it a pressing public health issue that affects the entire community; and

WHEREAS, Narcan (naloxone) and supporting training should freely and readily accessible throughout the community in settings such as libraries, schools, places of worship and other community settings; and

WHEREAS, combating the fentanyl crisis necessitates close collaboration among healthcare providers, law enforcement, educators, social service agencies, government agencies, and community members to develop and implement proven promising practices to combat this epidemic; and

WHEREAS, it is critical that government jurisdictions urgently take collective action to mitigate the devastating impact of fentanyl and opioids across our communities.

NOW, THEREFORE, BE IT RESOLVED that the Pima County Board of Supervisors hereby declares fentanyl in Pima County to be a public health emergency.

BE IT FURTHER RESOLVED, Pima County will develop a regional campaign that creates awareness of mental health and substance use issues.

BE IT FURTHER RESOLVED, Pima County will convene a cross-jurisdictional, cross-sector response team, with the support of the City of Tucson and other jurisdictional partners, to coordinate efforts to reduce opioid-related morbidity and mortality.

BE IT FURTHER RESOLVED, Pima County will work with non-profits, faith-based communities, and community coalitions, to identify hotspots, provide rapid follow-up and navigation to services after a non-fatal overdose, provide comprehensive support to individuals and families living with substance use disorder and impacted by overdose deaths.

BE IT FURTHER RESOLVED, Pima County will work with partners to deliver Medication-Assisted Treatment in a pre-hospital setting, provide training in overdose prevention and Narcan access for across the community to prevent overdose incidents.

BE IT FURTHER RESOLVED, Pima County directs the Health Department Director to develop a comprehensive collaborative fentanyl response plan that prioritizes equitable evidence-based practices, youth intervention, multilingual/multicultural approaches to public outreach and programming that connects individuals and families to substance misuse and prevention services.

BE IT FURTHER RESOLVED, The Board of Supervisors pledges to advocate locally, regionally, and nationally for policies that support behavioral health infrastructure, destigmatize substance misuse, and strengthen mental health supports in schools.

The Pima County Board of Supervisors calls upon all stakeholders, including government agencies, healthcare providers, law enforcement, educators, social service agencies, and community members, to support the implementation of these recommendations and to join in the fight against the fentanyl and opioid crisis.

PASSED AND ADOPTED by the Board of Supervisors, Pima County, Arizona, this _____ day of May, 2024

Chair, Pima County Board of Supervisors

ATTEST:

APPROVED AS TO FORM

Clerk of the Board



Deputy County Attorney