

STATE OF TEXAS)
)
COUNTY OF EL PASO)

INTERLOCAL AGREEMENT

THIS AGREEMENT is entered into on the last listed approved date below between the CITY OF EL PASO, TEXAS (“City of El Paso”) and the TOWN OF ANTHONY, TEXAS (“Town of Anthony”) by and through its duly authorized officials, pursuant to the Interlocal Cooperation Act.

RECITALS

Whereas, the City of El Paso and the Town of Anthony are lawfully established municipalities in the State of Texas and authorized to enter into this Agreement.

Whereas, the City of El Paso has created a Department of Public Health to provide laboratory, health education and community health preparedness services at a level and in a manner so as to adequately support all services and programs of the El Paso Department of Public Health.

Whereas, the City of El Paso has notified the State of Texas that it will continue to provide public health services to all residents of El Paso County, including the residents of the incorporated cities as well as the unincorporated areas, as required by relevant State grants.

Whereas, this Agreement for Interlocal cooperation between the Parties to provide public health and other services by the City of El Paso for the Town of Anthony is necessary for the mutual advancement of the health and general welfare of the citizens of all jurisdictions concerned.

Whereas, the Town of Anthony desires to have the City of El Paso’s appointed health authority serve as the Town of Anthony’s health authority.

Whereas, the Town of Anthony will make available and/or transfer to the City of El Paso certain information, in conjunction with goods or services that are being provided by the City of El Paso to the Town of Anthony, which is confidential and must be afforded special treatment and protection.

Whereas, the City of El Paso will also have access to and/or receive from the Town of Anthony certain Information that can be used or disclosed only in accordance with this Agreement and the HHS Privacy Regulations.

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FOR THESE REASONS, and in consideration of the mutual promises contained in this Agreement, the Town of Anthony and the City of El Paso mutually agree as follows:

1. **SCOPE OF SERVICES.**

A. The City of El Paso shall perform the following services under the terms and conditions hereinafter stated, and the Town of Anthony hereby accepts and agrees to the following terms and conditions:

- (1) The City of El Paso will issue permits and provide inspection services of food establishments at a frequency and in accordance with recommended protocols as established by the Texas Department of State Health Services (DSHS). The City of El Paso will provide enforcement of applicable State laws and regulations as appropriate to help reduce the risk of food borne illnesses in said establishments. Appropriate and customary fees will be charged to the establishments, as permitted by law.
- (2) The City of El Paso will conduct inspections of public facilities, to include but not be limited to public schools, public and semi-public swimming pools, Laundromats, and tattoo parlors, at a frequency and in accordance with standard protocols, environmental health regulations, and applicable State law and any applicable Anthony city ordinances. The City of El Paso will provide enforcement of applicable State laws and regulations as appropriate, to help reduce the risk of disease transmission and drowning hazards. Appropriate and customary fees will be charged to the inspected facilities, as permitted by law.
- (3) The City of El Paso will provide complaint investigation/enforcement services as determined to be appropriate by City of El Paso staff for those conditions that violate the Texas Health and Safety Code and any applicable Anthony city ordinances.
- (4) The City of El Paso will issue permits and provide inspection services of on-site sewage disposal systems in accordance with applicable Texas DSHS rules and any applicable Anthony city ordinances. The City of El Paso will provide enforcement of said rules and ordinances as appropriate for the purpose of protecting public health and the mitigation of nuisance conditions. Appropriate and customary fees will be charged to the facilities, as permitted by law.
- (5) The City of El Paso will provide mosquito control services, including but not limited to, collecting and identifying mosquito species, larviciding, adulticiding, providing

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enforcement of violations that create mosquito harborage as appropriate, tracking of vector-borne disease, and educating the public regarding disease prevention strategies. Services will be provided in a manner and at a frequency that is consistent with standard public health practices.

- (6) The City of El Paso agrees to provide animal control services as determined to be appropriate by City of El Paso staff and as required by law, including but not limited to, investigating citizen complaints, conducting periodic patrols to proactively enforce appropriate State animal-related rules and laws and Anthony city ordinances, impoundment of stray animals, investigation of animal bite reports, quarantine of animals involved in bites, investigation of allegations of animal cruelty, and the euthanization of animals as necessary. This Agreement does not include animal sheltering costs and consequently, those costs will be the responsibility of the citizen.
- (7) The City of El Paso will provide communicable disease investigation services for the purpose of tracking communicable diseases and helping to reduce transmission in accordance with appropriate epidemiological intervention. Services will be provided in a manner and at a frequency that is consistent with standard public health practices.
- (8) The City of El Paso will provide immunization services to residents in Anthony to include but not be limited to childhood immunizations as recommended by the Texas DSHS and immunizations to protect against influenza. Appropriate and customary fees will be charged to those receiving these services.
- (9) The City of El Paso will provide tuberculosis and sexually transmitted disease control services to residents in Anthony. Services may include testing, treatment and investigation of contacts, as appropriate. Appropriate and customary fees will be charged to those receiving these services.
- (10) The City of El Paso will include the jurisdictional areas of the Town of Anthony within its programs and services for the purpose of the enhancement of the air quality, to include but not be limited to, routine ambient air monitoring, inspection of demolition projects to ensure compliance with federal and state asbestos requirements, analysis of gasoline samples to ensure compliance with oxygen content, and investigation and enforcement of air related nuisances and other requirements as set forth by the Texas Commission on Environmental Quality and/or the United States Environmental Protection Agency as appropriate.

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- (11) The City of El Paso will provide Women, Infants and Children (WIC) Nutrition services to residents in Anthony in accordance with Texas DSHS requirements. Services may include medical health assessment, nutrition, breast feeding promotion, social service referral, and food benefit issuances, as appropriate.
- (12) The City of El Paso agrees that in accordance with the provisions of any and all grants from federal and state agencies that are awarded on a county-wide basis, the City of El Paso will provide services in the jurisdictional areas of the Town of Anthony as required under these grant provisions.
- (13) To the extent allowed by law, the Town of Anthony agrees to pass all ordinances and resolutions necessary to give the City of El Paso and City of El Paso personnel jurisdiction to provide public health and other service functions in the Town of Anthony pursuant to the terms of this Agreement, including its extraterritorial jurisdiction, if any, where the providing of public health and other services is authorized by law, and including the power to issue citations for violations of any ordinances pertaining to the protection of the public health and which pertain to services the City of El Paso agrees to render in accordance with the terms of this Agreement.

B. The City of El Paso will provide necessary training for employees utilized in providing services under this Agreement, as may be required by law or determined to be appropriate by the City of El Paso, and shall require all such personnel to maintain all required licenses and certifications in accordance with State and Federal laws.

C. Nothing within the terms of this Agreement shall require the City of El Paso to purchase additional equipment or hire additional personnel in order to comply with the terms of this Agreement.

D. The City of El Paso agrees that it will keep accurate records of all services provided to the Town of Anthony pursuant to this Agreement as part of its routine data collection processes and shall report such activities in its standardized records format to Town of Anthony officials, as requested.

E. It is understood and agreed to between the parties that any portion of this Agreement providing for the delivery of public health and other services for which the Town of Anthony does not grant legal authority shall be null and void and of no force and effect, and the City of El Paso shall not be obligated to provide those services.

2. **LOCATION OF PERFORMANCE.** The place where such services are to be performed is in the Town of Anthony, Texas, and any extraterritorial jurisdiction thereof where the City of El Paso may lawfully provide public health and other services as delegated and authorized under this Interlocal Agreement (jurisdictional areas of the Town of Anthony).

3. **APPOINTMENT OF HEALTH AUTHORITY.** The Parties agree that the individual appointed to serve as health authority for the City of El Paso will serve as the health authority for the Town of Anthony, in accordance with Section 121.028(c), Texas Health and Safety Code.

4. **SEWAGE FACILITY ORDER.** The Parties agree that the 1988 Rules for El Paso County, Texas, Private Sewage Facilities, and any lawfully adopted successor orders, shall apply within the jurisdictional areas of the Town of Anthony.

5. **RABIES ORDER.** The Parties expressly agree that the February 15, 1974 Rabies Order of the El Paso County Commissioners' Court, and any lawfully adopted successor orders, shall apply within the jurisdictional areas of the Town of Anthony.

6. **TIMES OF PERFORMANCE.** The City of El Paso shall commence the provision of its services on the 1st day of January 2008, and shall terminate on the 31st day of August 2008, regardless of the date of execution of this Agreement.

7. **COMPENSATION.**

A. The Town of Anthony agrees to pay the amount of FIFTEEN THOUSAND NINE HUNDRED NINETY-FOUR AND 72/100 DOLLARS (\$15,994.72) for services rendered in accordance with this Agreement. This amount reflects a *per capita* charge of \$9.21, based on the population estimate of 2,605 dated January 1, 2000, from the United States Census Bureau figures. Payments shall be made in four equal monthly installments, each in the amount of ONE THOUSAND NINE HUNDRED NINETY-NINE AND 34/100 DOLLARS (\$1,999.34), with the first payment becoming due and payable on the 1st day of January 2008 or within 10 days after the date that the Town of Anthony signs this Agreement, whichever is later.

B. The Parties acknowledge that the funds paid by the Town of Anthony pursuant to Section 11 A above may not be sufficient in the event of an unexpected occurrence such as an outbreak, epidemic (i.e. rabies, cholera), or intervention of emerging or new diseases or public health threats (chemical or biological) in the jurisdictional areas of the Town of Anthony. The Town of Anthony shall name a person to serve as a point of contact to discuss these types of public health threats, its intervention, and any additional costs that the Town of Anthony will need to pay

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to defray the resulting expenses. Such contact person shall be designated and disclosed to the director of the Department of Public Health as of the signing of this Agreement.

8. **PAYMENTS PURSUANT TO THIS AGREEMENT.** Payments submitted under this Agreement shall be made payable to the City of El Paso, Attn: Comptroller, #2 Civic Center Plaza, El Paso, TX 79901-1196. In addition to the compensation provided for herein, the City of El Paso shall receive all proceeds received from inspection, permit, and animal registration fees collected in the Town of Anthony. Such fees, when set or revised by the Town of Anthony and to the extent allowed by law, shall be set in the same amounts as the fees for the identical services or charges as made by the City of El Paso. All fees that the Town of Anthony collects for this purpose shall be paid to the City of El Paso on a quarterly basis, within 30 days of the conclusion of the quarter. For purposes of this agreement, there shall be three quarters, ending February 29, 2008, May 31, 2008 and August 31, 2008. The Town of Anthony shall also provide the City of El Paso with a report indicating the amount of fees collected and the time period associated with such collection. In event that the Town of Anthony accrues an arrearage on payment, the City of El Paso Comptroller or any collection agency retained by the City of El Paso to collect delinquent accounts may add a collection fee of 21% to the account receivable if owing to the City of El Paso for more than 60 days, pursuant to the El Paso City Code, Ordinance 14700.

9. **LAW GOVERNING CONTRACT.** For purposes of determining the law governing the same, this Agreement is entered into in the City and County of El Paso, State of Texas, and shall be governed by the laws of the State of Texas. Venue shall be in El Paso County, Texas.

A. *Authority of The City of El Paso.* The Town of Anthony expressly agrees that the City of El Paso shall have authority to enforce all laws and ordinances, if any, applicable to public health to include animal regulation, within the city limits and extraterritorial jurisdiction of the Town of Anthony, Texas. The Town of Anthony further agrees that, in the absence of any conflicting city ordinance, the City of El Paso shall have authority to enforce the laws of the State of Texas and the County of El Paso applicable to public health to include animal regulation, within the incorporated limits and extraterritorial jurisdiction of the Town of Anthony, Texas. The Town of Anthony shall provide certified copies of all the Town of Anthony, Texas Ordinances affecting public health and animal regulation upon execution of this Agreement and as requested by the City of El Paso, and to provide copies of all such newly adopted or amended ordinance within 10 days after adoption or amendment. Copies of such ordinances shall be sent to the director of the City Department of Public Health and to the director of the City Environmental Services Department.

B. *Privileges and Immunities.* All privileges and immunities from liability, exemptions from laws, ordinances and rules, pension, relief, disability, worker's compensation, and other benefits which apply to the activities of officers, agents, or employees of the City of El Paso when performing a function shall apply to such officers, agents, or employees to the same extent while engaged in the performance of any of their functions and duties under the terms and provisions of this Agreement.

C. *Governmental Function.* The Parties expressly agree that, in all things relating to this Agreement, the City of El Paso is performing a governmental function, as defined by the Texas Tort Claims Act. The Parties further expressly agree that every act or omission of the City of El Paso, which, in any way, pertains to or arises out of to this Agreement falls within the definition of governmental function.

D. *Exclusion of Incidental and Consequential Damages.* Independent of, severable from, and to be enforced independently of any other enforceable or unenforceable provision of this Agreement, THE CITY OF EL PASO WILL NOT BE LIABLE TO ANY OTHER PARTY (NOR TO ANY PERSON CLAIMING RIGHTS DERIVED FROM THE PARTY'S RIGHTS) FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND including lost profits, loss of business, or other economic damage, and further including injury to property, mental anguish and emotional distress AS A RESULT OF BREACH OF ANY TERM OF THIS AGREEMENT, REGARDLESS OF WHETHER THE HEALTH DISTRICT WAS ADVISED, HAD OTHER REASON TO KNOW, OR IN FACT KNEW OF THE POSSIBILITY THEREOF.

E. *Maximum Aggregate Liability.* Independent of, severable from, and to be enforced independently of any other enforceable or unenforceable provision of this Agreement, IN NO EVENT SHALL THE CITY OF EL PASO'S AGGREGATE LIABILITY TO ANY OTHER PARTY (INCLUDING LIABILITY TO ANY PERSON OR PERSONS WHOSE CLAIM OR CLAIMS ARE BASED ON OR DERIVED FROM A RIGHT OR RIGHTS CLAIMED BY THE PARTY), WITH RESPECT TO ANY AND ALL CLAIMS AT ANY AND ALL TIMES ARISING FROM OR RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT, IN CONTRACT, TORT, OR OTHERWISE, EXCEED THE AMOUNT OF CONSIDERATION ACTUALLY PAID TO THE CITY OF EL PASO UNDER THE TERMS OF THIS AGREEMENT.

modification or alteration of the terms shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

CITY OF EL PASO

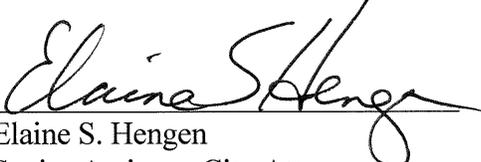
John F. Cook, Mayor

APPROVED this _____ day of _____, 2007.

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Elaine S. Hengen
Senior Assistant City Attorney

~~APPROVED AS TO CONTENT:~~

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TOWN OF ANTHONY



Mayor

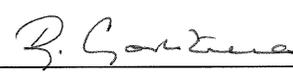
APPROVED this 27th day of November, 2007.

ATTEST:



Town of Anthony Clerk

APPROVED AS TO FORM:



Town of Anthony Attorney

APPENDIX A

HIPPA BUSINESS ASSOCIATE CONTRACT

(a) **Definitions.** The following terms shall have the meaning ascribed to them in this Contract. Other capitalized terms shall have the meaning ascribed to them in the context in which they first appear.

1. **Contract** shall refer to this document.
2. **Business Associate** means the City of El Paso.
3. **HHS Privacy Regulations** shall mean the Code of Federal Regulations (“C.F.R.”) at Title 45, Sections 160 and 164.
4. **Individual** shall mean the person who is the subject of the Information, and has the same meaning as the term “individual” is defined 45 C.F.R. 164.501.
5. **Information** shall mean any “health information” provided and/or made available by the TOWN OF ANTHONY to BUSINESS ASSOCIATE, and has the same meaning as the term “health information” as defined by 45 C.F.R. 160.102.
6. **Parties** shall mean BUSINESS ASSOCIATE and the TOWN OF ANTHONY.
7. **Secretary** shall mean the Secretary of the Department of Health and Human Services (“HHS”) and any other officer or employee of HHS to whom the authority involved has been delegated.

(b) **Limits On Use And Disclosure Established by Terms of Contract.** BUSINESS ASSOCIATE hereby agrees that is shall be prohibited from using or disclosing the Information provided or made available by the TOWN OF ANTHONY for any other purpose other than as expressly permitted or required by this Contract (ref. 164.504(e)(2)(i).)

(c) **Stated Purposes For Which BUSINESS ASSOCIATE May Use Or Disclose Information.** The Parties hereby agree that BUSINESS ASSOCIATE shall be permitted to use and/or disclose Information provided or made available from TOWN OF ANTHONY for the following stated purposes:

To provide public health services to the community of the TOWN OF ANTHONY for the mutual benefit and general welfare of BUSINESS ASSOCIATE and the TOWN OF ANTHONY (ref. 164.504(e)(2)(i); 65 Fed. Reg. 82505.)

(d) **Use of Information For Management, Administrative and Legal Responsibilities.** BUSINESS ASSOCIATE is permitted to use Information if necessary for the proper

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management and administration of BUSINESS ASSOCIATE or to carry out legal responsibilities of BUSINESS ASSOCIATE. (ref. 164.504(e)(4)(i)(A-B)).

(e) Use of Information For Management, Administrative and Legal Responsibilities.

BUSINESS ASSOCIATE is permitted to use Information if necessary for the proper management and administration of BUSINESS ASSOCIATE or to carry out legal responsibilities of BUSINESS ASSOCIATE. (ref. 164.504(e)(4)(i)(A-B)).

(f) Disclosure of Information For Management, Administration and Legal

Responsibilities. BUSINESS ASSOCIATE is permitted to disclose Information received from TOWN OF ANTHONY for the proper management and administration of BUSINESS ASSOCIATE or to carry out legal responsibilities of BUSINESS ASSOCIATE, provided:

1. The disclosure is required by law; or
2. The BUSINESS ASSOCIATE obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, the person will use appropriate safeguards to prevent use or disclosure of the information, and the person immediately notifies the BUSINESS ASSOCIATE of any instance of which it is aware in which the confidentiality of the information has been breached. (ref. 164.504(e)(4)(ii)).

(g) Data Aggregation Services. BUSINESS ASSOCIATE is also permitted to use or disclose Information to provide data aggregation services, as that term is defined by 45 C.F.R. 164.501, relating to the health care operations of TOWN OF ANTHONY. (ref. 164.504(e)(2)(i)(B)).

(h) BUSINESS ASSOCIATE OBLIGATIONS:

1. **Limits on Use and Further Disclosure Established by Contract and Law.** BUSINESS ASSOCIATE hereby agrees that the Information provided or made available by the TOWN OF ANTHONY shall not be further used or disclosed other than as permitted or required by the Contract or as required by law. (ref. 45 C.F.R. 164.504(e)(2)(ii)(A)).
2. **Appropriate Safeguards.** BUSINESS ASSOCIATE will establish and maintain appropriate safeguards to prevent any use of disclosure of the Information, other than as provided for by this Contract. (ref. 164.504(e)(2)(ii)(B)).

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3. **Reports of Improper Use or Disclosure.** BUSINESS ASSOCIATE hereby agrees that is shall report to TOWN OF ANTHONY **within two (2) days of discovery** any use or disclosure if Information not provided for or allowed by this Contract. (ref. 164.504(e)(2)(ii)(C)).
4. **Subcontractors And Agents.** BUSINESS ASSOCIATE hereby agrees that anytime Information is provided or made available to any subcontractors or agents, BUSINESS ASSOCIATE must enter into a subcontract with the subcontractor or agent that contains the same terms, conditions and restrictions on the use and disclosure of Information as contained in this Contract. (ref. 164.504(e)(2)(ii)(D)).
5. **Right Of Access To Information.** BUSINESS ASSOCIATE hereby agrees to make available and provide a right of access to Information by an Individual. This right of access shall conform with and meet all of the requirements of 45 C.F.R. 164.524, including substitution of the words "COVERED ENTITY" with BUSINESS ASSOCIATE where appropriate. (ref. 164.504(e)(2)(ii)(E)).
6. **Amendment And Incorporation Of Amendments.** BUSINESS ASSOCIATE agrees to make Information available for amendment and to incorporate any amendments to Information in accordance with 45 C.F.R. 164.504(e)(2)(ii)(F)).
7. **Provide Accounting.** BUSINESS ASSOCIATE agrees to make Information available as required to provide an accounting of disclosures in accordance with 45 C.F.R. 164.528, including substitution of the words "COVERED ENTITY" with BUSINESS ASSOCIATE where appropriate. (ref. 164.504(e)(2)(ii)(G)).
8. **Access To Books And Records.** BUSINESS ASSOCIATE hereby agrees to make its internal practices, books, and records relating to the use or disclosure of Information received from, or created or received by BUSINESS ASSOCIATE on behalf of the TOWN OF ANTHONY, available to the Secretary or the Secretary's designee for purposes of determining compliance with the HHS Privacy Regulations. (ref. 164.504(e)(2)(ii)(H)).
9. **Return Or Destruction Of Information.** At the termination of this Contract, BUSINESS ASSOCIATE hereby agrees to return or destroy all Information received from, or created or received by BUSINESS ASSOCIATE on behalf of the TOWN OF ANTHONY. BUSINESS ASSOCIATE agrees not to retain any

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copies of the Information after termination of the Contract. If return or destruction of the Information is not feasible, BUSINESS ASSOCIATE agrees to extend the protections

of this Contract for as long as necessary to protect the Information and to limit any further use or disclosure. If BUSINESS ASSOCIATE elects to destroy the Information, it shall certify to the TOWN OF ANTHONY that the Information has been destroyed. (ref. 164.504(e)(2)(ii)(I)).

1. **Mitigation Procedures.** BUSINESS ASSOCIATE agrees to have procedures in place for mitigating, to the maximum extent practicable, any deleterious effect from the use or disclosure of Information in a manner contrary to this Contract or the HHS Privacy Regulations. (ref. 164.530(f)).
2. **Sanction Procedures.** BUSINESS ASSOCIATE agrees and understands that it must develop and implement a system of sanctions for any employee, subcontractor or agent who violates this Agreement of the HHS Privacy Regulations. (ref. 164.530(e)(1)).

(i) **Property Rights.** The Information shall be and remain the property of the TOWN OF ANTHONY. BUSINESS ASSOCIATE agrees that it acquires no title or rights to the Information, including any de-identified information, as a result of this Contract.

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