

STATE OF TEXAS)
)
COUNTY OF EL PASO)

INTERLOCAL AGREEMENT

This Interlocal Agreement ("**Agreement**"), is between the County of El Paso ("**County**") and the City of El Paso, a Texas home rule municipality (the "**City**") by and through their duly authorized officials, pursuant to the Interlocal Cooperation Act.

WITNESSETH:

WHEREAS, the City and the County are authorized to enter into this Agreement pursuant to the Interlocal Cooperation Act, Chapter 791, Texas Government Code;

WHEREAS, the County administers the Coordinated Entry Program (the "**Program**") to serve as a point of access to services provided by several service providers to people who are at risk of becoming, or have become homeless; and

WHEREAS, the City is a recipient of federal money to administer Community Development Block Grant ("**CDBG**") programs and Emergency Solutions Grant ("**ESG**") programs; and

WHEREAS, the United States Department of Housing and Urban Development ("**HUD**") requires CDBG and ESG programs to be administered through a coordinated entry program;

WHEREAS, it is in the interest of both parties to allow the County to use several City premises to administer the Program.

NOW, THEREFORE, the parties agree as follows:

1. **Definitions**. For purposes of this Agreement, all defined terms appear in **boldface** print when first defined.

2. **Term**. Unless terminated sooner as allowed under this Agreement, the term of this Agreement commences on the Effective Date and terminates August 30, 2019 (the "**Term**"). For purposes of this Agreement the "**Effective Date**" is the date that the City signs this Agreement.

3. **License**. City hereby grants to County, a non-assignable, non-exclusive license for County to use and occupy the following locations (all cumulatively referred to as the "**Premises**") for the Term of the Agreement:

- a. The Literary Center Room #1 located inside the Main Library building located at 501 N. Oregon St. El Paso, Texas 79901.
- b. The Green Conference Room located inside the Department of Public Health building located at 5115 El Paso Dr. El Paso, Texas 79905

- c. The Ysleta Clinic Room located at the Ysleta Clinic building located at 10010 Candelaria El Paso, Texas 79907

County agrees that the City's license under this Agreement is solely to allow the County to administer the Program. Any other uses of the Premises by the County are strictly prohibited. The County may use a maximum of 5 parking spaces during regular City business hours at each location to be used solely by employees and patrons under the Program.

4. Consideration. There is no charge to the County under this Agreement for the use of the Premises provided that County complies with the requirements of this Agreement. Pursuant to Section 791.001(d)(3), Texas Government Code, each party paying for the performance of governmental functions or services will make those payments from current revenues available to the paying party.

5. No Property Rights. The County acknowledges and agrees that this Agreement confers no property rights to the County over the Premises. The City reserves the right to direct, control, manage, operate and supervise the use and enjoyment of the Premises and to require the County to remove any of County's personal property from the Premises.

6. No Signs or Improvements Allowed. The County will not make any improvements on the Premises without the prior written approval from the City. Further, the County will not place any signs on the Premises, outside the Premises, or in the parking lots without the City's prior written consent. County will not leave any pamphlets or promotional materials anywhere outside the Premises without the City's prior written consent.

7. Equipment. The County is solely responsible to provide all personnel, equipment and materials necessary to administer the Program. This Agreement does not create any obligations on the City regarding any aspect of the Program.

8. Premises "as is". County accepts the premises "as is" in its present condition and state of repair, and agrees that, upon completion of its use of the premises, it will vacate and surrender the premises to the City in the same condition it is now in, normal wear and tear excepted. County shall maintain the Premises in a clean, safe, and undamaged condition at all times. At County's sole cost and expense, County shall comply with all presently existing and hereinafter adopted laws, ordinances, and regulations related to the use and occupancy of the Premises pursuant to this Agreement. At the end of the Term, County shall remove all personal property.

9. Security. County agrees to abide by all security precautions and procedures established by the City, or the City's Department of Public Health or Library.

10. Information. The County shall not obtain information from the City's departments or patrons using the same building the Premises are located at. If the County inadvertently obtains

information from any patron or City Department, then the County will immediately inform the Department Director of the building where the Premises are located at. The License will use outmost care to not disseminate any information that is inadvertently obtained by the County. If required by the City's Director of the Department of Public Health, the County shall execute the Business Associate Agreement, which is attached hereto and incorporated to this Agreement through **Exhibit "A"**.

11. **No Indemnification.** The parties agree that, except as provided in this Agreement, neither party shall have the right to seek indemnification or contribution from the other party for any losses, costs, expenses, or damages directly or indirectly arising, in whole or part, from this Agreement. Notwithstanding anything to the Contrary, the County will be responsible for addressing any third party claims that arise out of the County's use of the Premises. The City will forward all third party claims to the County that are related to the County's use of the Premises.

12. **Release.** County agrees that neither the City, Department of Public Health, or the El Paso Public Library are responsible for any loss or damage to County's property while such property is located on the Premises and/or the buildings where the Premises are located regardless of whether such property is used by the City, the City's employees, officers, or agents. To the extent allowed by law, County releases the City, the City's officers, agents, and employees from any and all claims of property damage, personal injury, and/or death sustained by the County regardless of whether such property damage, personal injury, and/or death is caused by the negligence of the City, or the City's officers, agents, or employees during County's use of the Premises and/or buildings where the Premises are located at.

13. **Termination.** The parties may terminate this Agreement as follows.

- a. **For Cause.** Either party may terminate this Agreement due to the other party's failure to perform any obligations under this Agreement. The terminating party under this provision will provide a 30 calendar day advance written notice and opportunity to cure prior to the termination of the Agreement under this provision.
- b. **For Convenience.** Either party may terminate this Agreement for any reason, provided that the terminating party provide the other party a written 30 calendar day notice advance notice.

14. **General Provisions.**

- a. Both parties will comply with Title VI of the Civil Rights Act of 1964 (PL 88.352), which prohibits discrimination based on race, color, or national origin in programs and activities that receive federal financial assistance.
- b. Both parties will comply with Section 504 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. 794), which prohibits discrimination on the basis of disability

in programs and activities, public and private, that receive federal financial assistance.

- c. Both parties will comply with the requirements of the Americans with Disabilities Act of 1990, PL 101-336, 101 Congress, 2nd Session, 104 Stat. 317 (July 26, 1990).
- d. Both Parties will comply with the requirements of the Texas Revised Civil Statute 44196b-4, Sections 5.03-5.04, which outlines the workplace and confidentiality guidelines regarding AIDS and HIV.
- e. Governing Law and Venue. This Agreement is governed by Texas Law. The venue for any disputes regarding this Agreement lies exclusively in El Paso County, Texas.
- f. No Joint Enterprise. This Agreement does not create any joint enterprise between the parties.
- g. No Third Party Beneficiaries. This Agreement does not confer or create any rights or obligations to any third parties.
- h. No Personal Liability. This Agreement does not create any personal liability on the part of any employee, officer, or agent of any public body that may be a party to this Agreement.
- i. Public Information. This Agreement is public information. Both parties agree with the release of this Agreement pursuant to an open records request.
- j. Sovereign Immunity Acknowledged and Retained. The parties acknowledge and agree that no provision of this Agreement is in any way intended to constitute a waiver by any party of any immunities from suit or liability that a party may have by operation of law. The City and the County retain all governmental immunities.
- k. Governmental Function. The Parties expressly agree that, in all things relating to this Agreement, the parties are performing a governmental function, as defined by the Texas Tort Claims Act. The Parties further expressly agree that every act or omission of the parties, which, in any way, pertains to or arises out of this Agreement falls within the definition of governmental function. The parties agrees that both are entering into this Agreement as governmental entities performing a governmental function.
- l. Independent Contractors. The City and the County are independent legal entities. Nothing in this Agreement creates the relationship of employer and employee, or principal and agent, or any relationship other than that of independent parties contracting with each other solely for the purpose of carrying out the terms of this Agreement. Neither the City nor the County nor any of their respective agents or employees has control or the right to control the activities of the other party in

carrying out the terms of this Agreement. Both parties agree that neither party has, nor will attempt to assert, authority to make commitments for or to bind the other party to any obligation other than the obligations described in this Agreement.

- m. Headings. The paragraph or section headings contained in this Agreement are for reference purposes only and do not control the meaning or interpretation of this Agreement.
- n. Assignment. The parties may not assign any obligations or rights under this Agreement without the express written consent of the other party.
- o. No Waiver. Failure of either party to enforce any provision of this Agreement does not constitute a waiver of rights and the parties will retain the right to require performance of any provision of this Agreement.
- p. Complete Agreement. This Agreement constitutes the entire agreement between the parties.
- q. Severability. If any provision of this Agreement is declared unenforceable, then all other provisions of this Agreement will remain in effect.
- r. Fines and Penalties. Each party is responsible for fiscal penalties, fines, or any other sanctions occasioned as a result of a finding that violations of any applicable local, state or federal law occurred as a result of that party's actions.
- s. Exclusion of Incidental and Consequential Damages. Neither party is liable under this Agreement to the other party for any incidental, consequential, special, punitive, or exemplary damages of any kind –including lost profits, loss of business, mental anguish, emotional distress and/or attorney fees- as a result of a breach of any term of this Agreement.
- t. Program. County agrees that the County remains solely responsible for the implementation and operation of the Program and that the City acquires no responsibilities for the Program under this Agreement.

15. Notices. Both parties will send all notices required or allowed under this Agreement to the addresses below. All notices must be postmarked. All notices are deemed received as of the postmark date on the notice. A party seeking to change the address below must send advance written notification to the other party.

Notice to the City: City Manager
 City of El Paso
 P.O. Box 1890
 El Paso, Texas 79901

Director
Department of Public Health
5115 El Paso Drive
El Paso, Texas 79905

Director
El Paso Public Library
501 N. Oregon St.
El Paso, Texas 79901

Notice to County: County of El Paso
Attn: County Judge
500 E. San Antonio Ave., Room 301
El Paso, Texas 79901

WITNESSETH THE FOLLOWING SIGNATURES AND SEALS:

[City of El Paso signatures begin on following page]

City of El Paso Signature Page

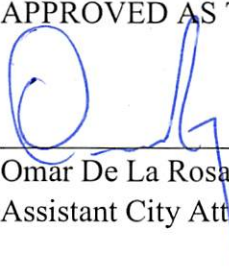
CITY OF EL PASO

Dee Margo
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Omar De La Rosa
Assistant City Attorney

APPROVED AS TO CONTENT:

Nicole Ferrini, Director
Community and Human Affairs Department

APPROVED AS TO CONTENT:

Robert Resendes, MBA, MT (ASCP)
Director, Department of Public Health

APPROVED AS TO CONTENT:

Mark Pumphrey, Director
El Paso Public Library

[County signatures begin on following page]

Signature page for the County of El Paso

APPROVED this ____ day of _____, 20__.

COUNTY OF EL PASO

Ruben John Vogt
County Judge

ATTEST:

APPROVED AS TO FORM:

County Clerk

Assistant County Attorney

APPROVED AS TO CONTENT

Name:
Department:

Exhibit "A"

STATE OF TEXAS)
)
COUNTY OF EL PASO)

HIPAA BUSINESS ASSOCIATE AGREEMENT

THIS AGREEMENT is entered into on _____, 20__, by and between the CITY OF EL PASO, TEXAS ("CITY"), as the Covered Entity, and County of El Paso ("BUSINESS ASSOCIATE") by and through their duly authorized officials, in order to comply with 45 C.F.R. §164.502(e) and §164.504(e), governing protected health information ("PHI") and business associates under the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191), 42 U.S.C. Section 1320d, et. seq., and regulations promulgated thereunder, as amended from time to time (statute and regulations hereafter collectively referred to as "HIPAA"). Covered Entity and Business Associate may be referred to herein individually as a "Party" or collectively as the "Parties".

RECITALS

WHEREAS, CITY has engaged BUSINESS ASSOCIATE to perform services or provide goods, or both;

WHEREAS, CITY possesses individually identifiable health information that is defined in and protected under HIPAA, and is permitted to use or disclose such information only in accordance with HIPAA;

WHEREAS, BUSINESS ASSOCIATE may receive such information from CITY, or create and receive such information on behalf of CITY, in order to perform certain of the services or provide certain of the goods, or both; and

WHEREAS, CITY wishes to ensure that BUSINESS ASSOCIATE will appropriately safeguard individually identifiable health information;

NOW THEREFORE, CITY and BUSINESS ASSOCIATE agree as follows:

A. HIPAA Terms

1. **Definitions.** The following terms shall have the meaning ascribed to them in this Section. Other capitalized terms shall have the meaning ascribed to them in the context in which they first appear, or as provided in (1)(h) to this Section.

- a. **Agreement** shall refer to this document.
 - b. **Business Associate** means the County of El Paso.
 - c. **HHS Privacy Regulations** shall mean the Code of Federal Regulations ("C.F.R.") at Title 45, Sections 160 and 164, in effect, or as amended.
 - d. **Individual** shall mean the person who is the subject of the Information, and has the same meaning as the term "individual" is defined in 45 C.F.R. 164.501.
 - e. **Information** shall mean any "health information" provided and/or made available by the CITY to BUSINESS ASSOCIATE, and has the same meaning as the term "health information" as defined by 45 C.F.R. 160.102.
 - f. **Parties** shall mean the CITY and BUSINESS ASSOCIATE.
 - g. **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.
 - h. **Catch-all definition:** The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Privacy, Security, Breach Notification and Enforcement Rules at 45 C.F.R. Part 160 and 164, in effect, or as amended: breach, data aggregation, designated record set, disclosure, health care operations, protected health information, required by law, subcontractor, and use.
2. **Limits on Use and Disclosure Established by Terms of Agreement.** BUSINESS ASSOCIATE hereby agrees that it shall be prohibited from using or disclosing the Information provided or made available by the CITY for any other purpose other than as expressly permitted or required by this Agreement (ref. 45 C.F.R. 164.504(e)(2)(i).)
3. **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 CITY for the following stated purposes: To provide public health, research, and related support services (service) to the community of the CITY for the mutual benefit and general welfare of BUSINESS ASSOCIATE and the CITY (ref. 45 C.F.R. 164.504(e)(2)(i); 65 Fed. Reg. 82505.)

4. **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. 45 C.F.R. 164.504(e)(4)(i)(A-B)).
5. **Disclosure of Information for Management, Administration and Legal Responsibilities.** BUSINESS ASSOCIATE is permitted to disclose Information received from CITY for the proper management and administration of BUSINESS ASSOCIATE or to carry out legal responsibilities of BUSINESS ASSOCIATE, provided:
 - a. The disclosure is required by law; or
 - b. 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. 45 C.F.R. 164.504(e)(4)(ii)).
6. **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 CITY. (ref. 45 C.F.R. 164.504(e)(2)(i)(B)).
7. **BUSINESS ASSOCIATE OBLIGATIONS:**
 - a. **Limits on Use and Further Disclosure Established by Agreement and Law.** BUSINESS ASSOCIATE hereby agrees that the Information provided or made available by the CITY shall not be further used or disclosed other than as permitted or required by the Agreement or as required by federal law. (ref. 45 C.F.R. 164.504(e)(2)(ii)(A)).
 - b. **Appropriate Safeguards.** BUSINESS ASSOCIATE will establish and maintain appropriate safeguards to prevent any use or disclosure of the Information, other than as provided for by this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(B)).
 - c. **Reports of Improper Use or Disclosure.** BUSINESS ASSOCIATE hereby agrees that it shall report to CITY **within two (2) days of discovery** any use or disclosure of Information not

provided for or allowed by this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(C)).

- d. **Subcontractors and Agents.** BUSINESS ASSOCIATE hereby agrees that any time 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 Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(D)).
 - (i) **45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2).** In accordance with 45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, BUSINESS ASSOCIATE agrees to ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of BUSINESS ASSOCIATE agree in writing to the same restrictions and conditions that apply through this Agreement to BUSINESS ASSOCIATE with respect to such Information.
- e. **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 Section 181.102 of the Texas Health and Safety Code, requiring that not later than the 15th business day after the date of the receipt of a written request from a person for the person's electronic health record, BUSINESS ASSOCIATE shall provide the requested record to the person in electronic form unless the person agrees to accept the record in another form, and with any further requirements of 45 C.F.R. 164.524, including substitution of the words "COVERED ENTITY" with BUSINESS ASSOCIATE where appropriate. (ref. 45 C.F.R. 164.504(e)(2)(ii)(E)).
- f. **Correction of Health Information by Individuals.** BUSINESS ASSOCIATE shall, upon receipt of notice from the CITY, amend or correct protected health information (PHI) in its possession or under its control.
- g. **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)).
- h. **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. 45 C.F.R. 164.504(e)(2)(ii)(G)).

- i. **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 CITY, available to the Secretary or the Secretary's designee for purposes of determining compliance with the HHS Privacy Regulations. (ref. 45 C.F.R. 164.504(e)(2)(ii)(H)).
- j. **Return or Destruction of Information.** At the termination of this Agreement, BUSINESS ASSOCIATE hereby agrees to adhere to Section B.3. of this Agreement. (ref. 45 C.F.R. 164.504(e)(2)(ii)(I)).
- k. **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 Agreement or the HHS Privacy Regulations. (ref. 45 C.F.R. 164.530(f)).
- l. **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. 45 C.F.R. 164.530(e)(1)).
- m. **Subpart E of 45 C.F.R. Part 164.** To the extent BUSINESS ASSOCIATE is to carry out one or more of CITY'S obligations under Subpart E of 45 C.F.R. Part 164, BUSINESS ASSOCIATE shall comply with the requirements of Subpart E that apply to CITY in the performance of such obligation(s).
- n. **Prohibition against the Sale of Protected Health Information.** The BUSINESS ASSOCIATE shall comply with the requirements of Texas Health and Safety Code Sec. 181.153, and any amendments of that section.
- o. **Notice and Authorization Required for Electronic Disclosure of PHI.** The BUSINESS ASSOCIATE shall comply with the requirements of Texas Health and Safety Code Sec. 181.154, and any amendments of that section, regarding the requirement of providing notice to an Individual for whom the BUSINESS

ASSOCIATE creates or receives protected health information if the Individual's PHI is subject to electronic disclosure.

- p. **State Law on Medical Records Privacy.** The BUSINESS ASSOCIATE shall abide by the requirements set forth in Texas Health and Safety Code Section 181.001 et. seq., and any amendments of that chapter.
- 8. **Property Rights.** The Information shall be and remain the property of the CITY. BUSINESS ASSOCIATE agrees that it acquires no title or rights to the Information, including any de-identified Information, as a result of this Agreement.
- 9. **Modifications.** The CITY and BUSINESS ASSOCIATE agree to modify this Business Associate Agreement, in order to comply with Administrative Simplification requirements of HIPAA, as set forth in Title 45, Parts 160 and 164, (Subparts A and E the "Privacy Rule" and Subparts A and C the "Security Rule") of the Code of Federal Regulations.
- 10. **Automatic Amendment.** Upon the effective date of any amendment to the regulations promulgated by HHS with respect to PHI, this Business Associate Agreement shall automatically amend such that the obligations imposed on BUSINESS ASSOCIATE as a Business Associate remain in compliance with such regulations.

B. Term and Termination

- 1. **Term.** The Term of this Agreement shall be effective as of _____, and shall terminate on August 30, 2019 or on the date covered entity terminates for cause as authorized in paragraph (B.2.) of this Section, whichever is sooner.
- 2. **Termination for Cause.** Upon the CITY's knowledge of a material breach by BUSINESS ASSOCIATE, the CITY shall:
 - a. Provide an opportunity for BUSINESS ASSOCIATE to cure the breach or end the violation, and terminate if BUSINESS ASSOCIATE does not cure the breach or end the violation within the time specified by the CITY.
 - b. Immediately terminate the Business Associate Agreement if BUSINESS ASSOCIATE has breached a material term of this Business Associate Agreement and cure is not possible.
 - c. Notify the Secretary of HHS if termination is not possible.

3. **Obligations of Business Associate Upon Termination.** Upon termination of this Agreement for any reason, BUSINESS ASSOCIATE, with respect to protected health information received from CITY, or created, maintained, or received by BUSINESS ASSOCIATE on behalf of CITY, shall:

- a. Retain only that protected health information which is necessary for BUSINESS ASSOCIATE to continue its proper management and administration or to carry out its legal responsibilities;
- b. Return to CITY, or, if agreed to by CITY, destroy, the remaining protected health information that the BUSINESS ASSOCIATE still maintains in any form and BUSINESS ASSOCIATE shall certify to the CITY that the Information has been destroyed;
- c. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in this Section, for as long as BUSINESS ASSOCIATE retains the protected health information;
- d. Not use or disclose the protected health information retained by BUSINESS ASSOCIATE other than for the purposes for which such protected health information was retained and subject to the same conditions set out at Section 1.e and 1.f above, which applied prior to termination; and
- e. Return to CITY or, if agreed to by CITY, destroy, the protected health information retained by BUSINESS ASSOCIATE when it is no longer needed by BUSINESS ASSOCIATE for its proper management and administration or to carry out its legal responsibilities.
- f. Survival. The obligations of BUSINESS ASSOCIATE under this Section shall survive the termination of this Agreement.

C. **Remedies.** If CITY determines that BUSINESS ASSOCIATE has breached or violated a material term of this Agreement, CITY may, at its option, pursue any and all of the following remedies:

- 1. Exercise any of its rights of access and inspection under Section A.7.e. of this Agreement;

2. Take any other reasonable steps that CITY, in its sole discretion, shall deem necessary to cure such breach or end such violation; and/or
3. Terminate this Agreement immediately.
4. **Injunction.** CITY and BUSINESS ASSOCIATE agree that any violation of the provisions of this Agreement may cause irreparable harm to CITY. Accordingly, in addition to any other remedies available to CITY at law, in equity, or under this Agreement, in the event of any violation by BUSINESS ASSOCIATE of any of the provisions of this Agreement, or any explicit threat thereof, CITY shall be entitled to an injunction or other decree of specific performance with respect to such violation or explicit threat thereof, without any bond or other security being required and without the necessity of demonstrating actual damages. The parties' respective rights and obligations under this Section C.4. shall survive termination of the Agreement.
5. **Indemnification.** BUSINESS ASSOCIATE shall indemnify, hold harmless and defend CITY from and against any and all claims, losses, liabilities, costs and other expenses resulting from, or relating to, the acts or omissions of BUSINESS ASSOCIATE in connection with the representations, duties and obligations of BUSINESS ASSOCIATE under this Agreement. The parties' respective rights and obligations under this Section 5 shall survive termination of the Agreement.

D. Miscellaneous

1. **Regulatory References.** A reference in this Agreement to a HIPAA section means the section as in effect or as amended.
2. **Amendment.** CITY and BUSINESS ASSOCIATE agree that amendment of this Agreement may be required to ensure that CITY and BUSINESS ASSOCIATE comply with changes in state and federal laws and regulations relating to the privacy, security, and confidentiality of protected health information. CITY may terminate this Agreement upon 60 days written notice in the event that BUSINESS ASSOCIATE does not promptly enter into an amendment that CITY, in its sole discretion, deems sufficient to ensure that CITY will be able to comply with such laws and regulations. This Agreement may not otherwise be amended except by written agreement between the parties and signed by duly authorized representatives of both parties.

3. **Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit compliance with HIPAA.
4. **Notices.** Any notice or demand required under this Agreement will be in writing; will be personally served or sent by certified mail, return receipt requested, postage prepaid, or by a recognized overnight carrier which provides proof of receipt; and will be sent to the addresses below. Either party may change the address to which notices are sent by sending written notice of such change of address to the other party.

CITY: City of El Paso
Attn: City Manager
P. O. Box 1890
El Paso, Texas 79950-1890

COPY TO: City of El Paso
Department of Public Health
Attention: Director
5115 El Paso Drive
El Paso, TX 79905

BUSINESS ASSOCIATE: County of El Paso
Attn: County Judge
500 E. San Antonio Ave., Room 301
El Paso, Texas 79901

5. **Non-Waiver.** No failure by any Party to insist upon strict compliance with any term or provision of this Agreement, to exercise any option, to enforce any right, or to seek any remedy upon any default of any other Party shall affect, or constitute a waiver of, any Party's right to insist upon such strict compliance, exercise that option, enforce that right, or seek that remedy with respect to that default or any prior, contemporaneous, or subsequent default. No custom or practice of the Parties at variance with any provision of this Agreement shall affect or constitute a waiver of, any Party's right to demand strict compliance with all provisions of this Agreement.
6. **Headings.** The headings of sections and subsections of this Agreement are for reference only and will not affect in any way the meaning or interpretation of this Agreement.

7. **Governing Law, Jurisdiction.** This Agreement will be governed by and construed in accordance with the laws of the State of Texas, without regard to its principles of conflict of laws, with venue in El Paso County, Texas.
8. **Compliance with Laws.** BUSINESS ASSOCIATE agrees that its obligations pursuant to this Agreement shall be performed in compliance with all applicable federal, state, and/or local rules and regulations. In the event that applicable federal, state or local laws and regulations or applicable accrediting body standards are modified, BUSINESS ASSOCIATE reserves the right to notify CITY in writing of any modifications to the Agreement in order to remain in compliance with such law, rule or regulation.
9. **Severability.** In the event that one or more provision(s) of this Agreement is deemed invalid, unlawful and/or unenforceable, then only that provision will be omitted, and will not affect the validity or enforceability of any other provision; the remaining provisions will be deemed to continue in full force and effect.
10. **No Third Party Beneficiaries.** Nothing express or implied in this Agreement is intended or shall be deemed to confer upon any person other than CITY and BUSINESS ASSOCIATE, and their respective successors and assigns, any rights, obligations, remedies or liabilities.
11. **Entire Agreement; Counterparts.** This Agreement constitutes the entire Agreement between CITY and BUSINESS ASSOCIATE regarding the services to be provided hereunder. Any agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect. This Agreement may be executed in any number of counterparts, each of which will be deemed to be the original, but all of which shall constitute one and the same document.

(Signatures follow on next page)

STATE OF TEXAS)
)
COUNTY OF EL PASO)

HIPAA BUSINESS ASSOCIATE AGREEMENT

Signature Page

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of
the _____ day of _____, 20__.

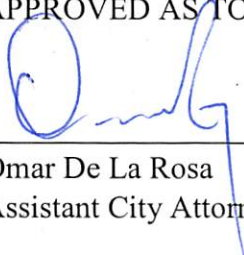
CITY OF EL PASO

Tomás González
City Manager

BUSINESS ASSOCIATES

Signature: _____
Name Printed: _____
Title: _____

APPROVED AS TO FORM:



Omar De La Rosa
Assistant City Attorney

APPROVED AS TO CONTENT:

Robert Resendes, MBA, MT (ASCP)
Department Head