

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** ANIMAL SERVICES  
**AGENDA DATE:** NOVEMBER 1, 2016

**CONTACT PERSON NAME AND PHONE NUMBER:** KURT FENSTERMACHER, INTERIM DIRECTOR, 212-8703

**DISTRICT(S) AFFECTED:** ALL

**STRATEGIC GOAL:** GOAL 8: Nurture and Promote a Healthy, Sustainable Community

**SUBJECT:**

**APPROVE** a resolution / ordinance / lease to do what? **OR AUTHORIZE** the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

That the Mayor be authorized to sign an Interlocal Agreement between the City of El Paso and Town of Horizon City, Texas, ("Town of Horizon City") for the period of September 1, 2016 through August 31, 2017, for provision of animal services by the City of El Paso to the Town of Horizon City, for which the Town of Horizon City shall pay to the City of El Paso an annual amount of ONE HUNDRED SEVENTY-ONE THOUSAND FOUR HUNDRED THIRTY-SEVEN AND NO/100 (\$171,437.00).

**BACKGROUND / DISCUSSION:**

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

The scope of services will provide certain animal services performed in Town of Horizon City by Animal Services Department for housing animals that their citizens bring in.

The Town of Horizon City will compensate the City of El Paso \$171,437.00 for the services performed per this interlocal agreement.

**PRIOR COUNCIL ACTION:**

Has the Council previously considered this item or a closely related one?

Previous interlocal agreement between the City of El Paso and Horizon City was authorized on March 3, 2015.

**AMOUNT AND SOURCE OF FUNDING:**

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

NO FUNDING

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**BOARD / COMMISSION ACTION:**

Enter appropriate comments or N/A

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**

  
(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

*Information copy to appropriate Deputy City Manager*

**RESOLUTION**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That the Mayor be authorized to sign an Interlocal Agreement between the City of El Paso (the "City") and the Town of Horizon City, Texas ("Town of Horizon City"), for the period of September 1, 2016 through August 31, 2017, for the City's Department of Animal Services to provide various services to the Town of Horizon City and to designate the Local Rabies Control Authority for the Town of Horizon City, for which the Town of Horizon City shall pay to the City of El Paso an annual amount of ONE HUNDRED SEVENTY-ONE THOUSAND FOUR HUNDRED THIRTY-SEVEN DOLLARS AND NO/100 (\$171,437.00).

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2016.

CITY OF EL PASO

\_\_\_\_\_  
Oscar Leeser  
Mayor

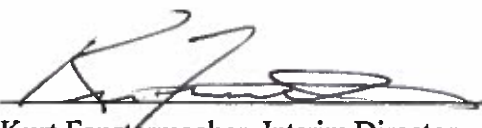
ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM

  
\_\_\_\_\_  
Josette Flores  
Assistant City Attorney

APPROVED AS TO CONTENT

  
\_\_\_\_\_  
Kurt Fenstermacher, Interim Director  
Department of Animal Services

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 HORIZON CITY, TEXAS (“Town of Horizon City”) by and through its duly authorized officials, pursuant to the Interlocal Cooperation Act.

**RECITALS**

**WHEREAS**, the City of El Paso and Town of Horizon City are authorized to enter into this Agreement pursuant to the Interlocal Cooperation Act, Chapter 791, Texas Government Code; and

**WHEREAS**, the City of El Paso has a Department of Animal Services; and

**WHEREAS**, this Agreement for interlocal cooperation for the City of El Paso to provide certain animal services to the Town of Horizon City is necessary for the mutual advancement of the health and general welfare of the citizens of all jurisdictions concerned; and

**WHEREAS**, the Town of Horizon City desires to have the City of El Paso’s designated Local Rabies Control Authority serve as the Town of Horizon City’s designated authority, as necessary pursuant to state law.

**WHEREAS**, the Town of Horizon City requests assistance from the City’s Animal Services Department as the Town of Horizon City has no location to house animals that it retrieves or other individuals or entities retrieve within the jurisdictional boundaries of the Town of Horizon City; and

**WHEREAS**, the Town of Horizon City 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 Horizon City, which is confidential and must be afforded special treatment and protection.

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

1. **SCOPE OF SERVICES.**

1.1 The City of El Paso shall perform the following animal services by and through its Department of Animal Services under the terms and conditions hereinafter stated, and the Town of Horizon City hereby accepts and agrees to the following terms and conditions:

1.1.1 The City of El Paso agrees to provide the following animal control services:

1.1.1.1 The City of El Paso will receive at the City's Animal Shelter located at 5001 Fred Wilson Road, El Paso, Texas 79906 (the "Shelter") each animal that the Town of Horizon City either delivers or requests to be delivered to said Shelter, or that each resident of the Town of Horizon City delivers to said Shelter. The City of El Paso will board each animal that the Town of Horizon City delivers or requests to be delivered to said Shelter, or that each resident of the Town of Horizon City delivers to said Shelter, whether it be in order to reunite said animal with its owner, quarantine, maintain evidence for a legal proceeding, or euthanize and dispose of said animal.

1.1.1.1.1 The City shall recoup from all animal owners who reclaim their animal at the Shelter, prior to releasing an animal to the owner, all applicable fees in order to mitigate charges to the Town of Horizon City to include the one time impound fee of \$60.00/animal; kenneling fee of \$18.00/day for a dog or cat, and \$23.00/day for an animal other than a dog or cat; and the quarantine fee of \$18.00/day.

1.1.1.2 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 engaging in the impoundment of stray animals, investigation of animal bite reports, quarantine of animals involved in bites, investigation of allegations of animal cruelty, and the euthanasia of animals as necessary.

1.2 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 Horizon City as required under these grant provisions. Provided however, nothing in

this Agreement shall obligate the City of El Paso to perform services if the grant funds relating to a particular grant are not currently being paid to the City of El Paso, and in any such instances, the Director of the City of El Paso's Department of Animal Services shall give written notice to the Town of Horizon City that the City of El Paso is not providing the particular services for the reason that it has not received funding under the applicable grant. The City of El Paso will provide written notice to the Town of Horizon City of grant funding which becomes discontinued or terminated, and any election by the City of El Paso not to seek the renewal of grants existing at the effective date of this Agreement.

- 1.3 To the extent allowed by law, the Town of Horizon City agrees to pass all ordinances and resolutions necessary to give the City of El Paso and City of El Paso personnel jurisdiction to provide animal service functions in the Town of Horizon City pursuant to the terms of this Agreement, including its extraterritorial jurisdiction, if any, where the providing of animal services is authorized by law, and including the power to issue citations for violations of any ordinances pertaining to animal regulations and the protection of animals and which pertain to services the City of El Paso agrees to render in accordance with the terms of this Agreement.
- 1.4 The City of El Paso agrees that it will file citations and complaints regarding applicable violations occurring within the territorial limits of the Town of Horizon City through the Town of Horizon City Municipal Court. It is agreed that the appropriate personnel from the City of El Paso will be administratively directed to be present at such times as court sessions are set and cases involving said citations and complaints are on the court's docket, without the necessity for the issuance of a subpoena. The Town of Horizon City Municipal Court will provide reasonable notice of any case settings to the City of El Paso.
- 1.5 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.

- 1.6 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.
  - 1.7 The City of El Paso agrees that it will keep accurate records of all services provided to the Town of Horizon City 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 Horizon City officials, as requested. However, the City of El Paso will not be required to furnish copies of any reports that are maintained on the City's website and available to the Town of Horizon City from the website.
  - 1.8 On or before July 1, 2017, the City of El Paso shall provide to the Town of Horizon City an initial projection based on the City Manager's filed proposed budget of Town of Horizon City's potential costs for a new Interlocal Agreement that, if agreed upon, would be effective September 1, 2017. The provision of this initial projection of potential costs will be used solely for the purposes of facilitating the budgeting process for the Town of Horizon City for its FY2018 budget.
  - 1.9 It is understood and agreed to between the parties that any portion of this Agreement providing for the delivery of animal services for which the Town of Horizon City 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 most services are to be performed is in the Town of Horizon City, Texas, and any extraterritorial jurisdiction thereof where the City of El Paso may lawfully provide animal services as delegated and authorized under this Interlocal Agreement (jurisdictional areas of the Town of Horizon City). The place where the specific services described in Subsections 1.1.1.1 are to be performed is at the Shelter.
3. **DESIGNATION OF LOCAL RABIES CONTROL AUTHORITY.** The Parties agree that the individual or entity designated by the City of El Paso to serve as the Local Rabies Control Authority will serve as the Local Rabies Control Authority for the Town of Horizon City, as necessary pursuant to Section 826.017, Texas Health and Safety Code.
4. **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 Horizon City.

5. **TIMES OF PERFORMANCE.** The City of El Paso shall commence the provision of its services on the 1st day of September 2016, and shall terminate on the 31st day of August 2017, regardless of the date of execution of this Agreement.

5.1 In the event of an emergency, such as, but not limited to, a disaster declaration of the Town of Horizon City, requiring, as a result of the emergency, specific animal services from the City of El Paso after August 31, 2017, and prior to the signing of a subsequent Interlocal for animal services between the parties to this Agreement, the required services shall be provided by the City of El Paso to the Town of Horizon City at the rate described in the present Agreement, and the Town of Horizon City shall pay for said services at said rate within thirty (30) days of receipt of an invoice from the City of El Paso for said services.

6. **COMPENSATION.**

6.1 The Town of Horizon City agrees to pay the amount not to exceed ONE HUNDRED SEVENTY-ONE THOUSAND FOUR HUNDRED THIRTY-SEVEN AND NO/100 DOLLARS (\$171,437.00) for services rendered in accordance with this Agreement, excluding the services described in Section 5.1. Payments shall be made in equal monthly installments, each in the amount of FOURTEEN THOUSAND TWO HUNDRED EIGHTY-SIX AND 42/100 DOLLARS (\$14,286.42), with the first payment becoming due and payable on the 1<sup>st</sup> day of September 2016 or within 10 days after the date that the Town of Horizon City signs this Agreement, whichever is later. The monthly installment described in this Section 6.1 does not include the services described in Section 5.1.

6.2 The Parties acknowledge that the funds paid by the Town of Horizon City pursuant to Section 6.1 above may not be sufficient in the event of an unexpected occurrence such as an outbreak or epidemic (i.e. rabies) in the jurisdictional areas of the Town of Horizon City. The Town of Horizon City shall name a person to serve as a point of contact to discuss these types of threats, its intervention, and any additional costs that the Town of Horizon City will need to pay to defray the resulting expenses. Such contact person shall be designated and disclosed to the director of the Department of Animal Services as of the signing of this Agreement. The comparative Cost Model attached hereto as Appendix A lists the cost per service

offered by the City of El Paso to the Town of Horizon City pursuant to this Agreement.

7. **PAYMENTS PURSUANT TO THIS AGREEMENT.** Payments submitted under this Agreement shall be made payable to the City of El Paso, Attn: Comptroller, PO Box 1890, El Paso, TX 79950-1890. In the event that the Town of Horizon City accrues an arrearage on payment, the City of El Paso Comptroller or any collection agency retained by the City to collect delinquent accounts may add a collection fee of 21% to the account receivable if owing to the City for more than 60 days, pursuant to the El Paso City Code, Ordinance 14700.

8. **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.

8.1 *Authority of the City of El Paso.* The Town of Horizon City expressly agrees that the City of El Paso shall have authority to enforce all laws and ordinances applicable to animal regulation, within the city limits and extraterritorial jurisdiction of the Town of Horizon City, Texas. The Town of Horizon City 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 animal regulation, within the incorporated limits and extraterritorial jurisdiction of the Town of Horizon City, Texas. The Town of Horizon City shall provide certified copies of all the Town of Horizon City, Texas Ordinances affecting 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 of El Paso Department of Animal Services.

8.2 *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. Each party



reserves, and does not waive, its rights of sovereign immunity and rights under the Texas Tort Claims Act.

8.3 *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 this Agreement falls within the definition of governmental function.

8.4 *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, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY (NOR TO ANY PERSON CLAIMING RIGHTS DERIVED FROM THE LATTER 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 CITY WAS ADVISED, HAD OTHER REASON TO KNOW, OR IN FACT KNEW OF THE POSSIBILITY THEREOF.

8.5 *Intentional Risk Allocation.* Each of the Parties acknowledges that the provisions of this Agreement were negotiated to reflect an informed, voluntary allocation between them of all risks (both known and unknown) associated with the transactions associated with this Agreement. The disclaimers and limitations in this Agreement are intended to limit the circumstances of liability. The remedy limitations, and the limitations of liability, are separately intended to limit the forms of relief available to the Parties.

9. **TERMINATION.** This Agreement may be terminated in whole or in part by either party upon thirty days written notice to the other party at the following addresses, or at a new address as provided in writing to the nonmoving party by a party which has moved its physical location within thirty (30) days of said relocation without the necessity of amending this contract:

CITY OF EL PASO:

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

TOWN OF HORIZON CITY:

Town of Horizon City  
Attn: Mayor  
14999 Darrington Road  
Horizon, Texas 79928

All payments by the Town of Horizon City under this Agreement are payable only out of current Town of Horizon City revenues. In the event that funds relating to this Agreement do not become available, such as by Town of Horizon City Council not appropriating the funds, the Town of Horizon City shall have no future obligation to pay or perform any future services related herein to the City of El Paso for the Town of Horizon City's fiscal year during which time such funding is not available or appropriated; however, all services that have been provided by the City of El Paso shall be paid in accordance with Sections 6 and 7 of this Agreement. Should the Town of Horizon City experience a funding unavailability related to the services described in this Agreement, the Town of Horizon City shall immediately provide written notification to the City of El Paso of such case and either party may choose to terminate the Agreement subject to this Section 9. In the event that the Town of Horizon City notifies the City of El Paso that the Town of Horizon City is experiencing a funding unavailability related to this Agreement, the City of El Paso shall immediately cease providing the services described in this Agreement to the Town of Horizon City except as required by related grant funding requirements to which the City of El Paso must adhere.

10. **INDEPENDENT CONTRACTORS.** The City of El Paso and the Town of Horizon City are independent legal entities. Nothing in this Agreement shall be construed to create 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 of El Paso nor the Town of Horizon City nor any of their respective agents or employees shall control or have any right to control the activities of the other party in carrying out the terms of this Agreement.

11. **SEVERABILITY.** Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

12. **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.

13. **ENTIRE AGREEMENT; AMENDMENTS.** This Agreement constitutes the entire understanding of the parties hereto with respect to the subject matter hereof and no amendment, 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. The parties reserve the right to amend this Agreement in the event either party should experience an unforeseen, significant impact to their respective budget allocated for the services addressed in this Agreement.

*(Signature pages follow)*

STATE OF TEXAS       )  
                                  )  
COUNTY OF EL PASO    )

**INTERLOCAL AGREEMENT**

Signature page for the City of El Paso, Interlocal Agreement between the City of El Paso and the Town of Horizon City.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

**CITY OF EL PASO**

\_\_\_\_\_  
Oscar Leeser  
Mayor

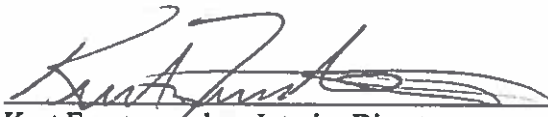
ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Josette Flores  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Kurt Fenstermacher, Interim Director  
Animal Services Department

*(Signatures continue on the following page)*


STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )

**INTERLOCAL AGREEMENT**


Signature page for the Town of Horizon City Interlocal Agreement between the  
City of El Paso and the Town of Horizon City.

APPROVED this 13<sup>th</sup> day of September, 2016.


**TOWN OF HORIZON CITY**

  
\_\_\_\_\_  
Ruben Mendoza  
Mayor

ATTEST:

  
\_\_\_\_\_  
Elvia Schuller  
City Clerk, Town of Horizon City

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Bertha Ontiveros  
Town of Horizon City Attorney

**APPENDIX A  
COST MODEL –ANIMAL SERVICES**

<b>City of El Paso, Texas</b>									
<b>Summary Results- For Direct Departments</b>									
<b>Based on 2017 Budgeted Expenditures</b>									
<b>FY17</b>	<b>El Paso</b>	<b>Anthony</b>	<b>Clint</b>	<b>Horizon</b>	<b>Socorro</b>	<b>El Paso County</b>	<b>San Elizario</b>	<b>Vinton</b>	<b>Total Operational Cost</b>
Animal Shelter	4,080,154	18,773	28,853	128,447	213,419	218,779	48,438	18,279	4,753,942
Animal Control Officers	1,981,237	10,370	6,048	42,991	111,889	-	218	7,777	2,160,328
<b>Grand Total</b>	<b>6,061,390</b>	<b>29,143</b>	<b>34,702</b>	<b>171,437</b>	<b>325,108</b>	<b>219,779</b>	<b>48,654</b>	<b>26,056</b>	<b>6,914,270</b>
<b>Percent of Total Cost</b>	<b>87.66%</b>	<b>0.42%</b>	<b>0.50%</b>	<b>2.48%</b>	<b>4.70%</b>	<b>3.18%</b>	<b>0.67%</b>	<b>0.38%</b>	<b>100.00%</b>



# Inter-local Agreements: Animal Services

November 1, 2016

***8.3 Enhance Animal Services to ensure El Paso's Pets are provided a safe & healthy environment***



# Chronology

- Environmental Services and Health Department had joint agreements with incorporated municipalities in county for variety of services.
- Council(s) approved yearly – early fall – for continuation of services the following fiscal year.
- Municipalities wanted to split out the Animal Services functions as its own agreement.
- Possible County-service provision
- Future ordinances regarding animal welfare





# Program Details

## Municipalities involved:

- City of Anthony
- Town of Clint
- Town of Horizon City
- City of San Elizario
- City of Socorro
- Village of Vinton

....each with their own inter-local agreement



# Program Details

## **“Animal Control” services provided:**

- Board any animal from the local jurisdiction (fees apply)
- Investigate citizen complaints
- Conduct periodic patrols to enforce local/state rules
- Investigate animal bite reports
- Quarantine animals involved in bites
- Investigate animal cruelty allegations
- City of El Paso serves as the Local Rabies Control Authority



# Amendment Proposed

8.6 (Municipality) acknowledges that the City's stated goal for the City's Animal Shelter is to reach a no-kill status equivalent to a 90% live release rate by 2020. In order to achieve this goal, the City's animal welfare programs currently include the following: 1) community cat/feral cat trap-neuter-return; 2) high-volume, low-cost spay/neuter; 3) rescue groups; 4) foster care; 5) comprehensive adoption programs; 6) pet retention; 7) medical and behavior programs; 8) public/community relations; 9) volunteers and 10) proactive redemptions. The City's Animal Shelter partners, including (Municipality), shall participate in one or more of these animal welfare programs. (Municipality) will comply with the City's stated animal life-saving efforts and shall not institute contrary programs, ordinances or policies to those listed in this paragraph, and shall not negatively affect the City's stated live-release goal.



# Cost Model

- Based on FY17 expenditures, using FY16 service levels

FY17	El Paso	Anthony	Clint	Horizon	Socorro	El Paso County	San Elizario	Vinton	Total Operational Cost
Animal Shelter	4,080,154	18,773	28,653	128,447	213,419	219,779	46,438	18,279	4,753,942
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