

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

DEPARTMENT: Public Health

AGENDA DATE: CCA November 9, 2010

CONTACT PERSON NAME AND PHONE NUMBER: Bruce Parsons, 771-5778

DISTRICT(S) AFFECTED: All

SUBJECT: Authorize the City Manager to sign an Agreement between the City of El Paso and Texas Tech University Health Sciences Center, Department of Internal Medicine for the provision of health services for the City's Department of Public Health Tuberculosis Control Clinic and the City's Department of Public Health Sexually Transmitted Disease Clinic by physicians from the Texas Tech University Health Sciences Center Department of Internal Medicine, for the period from September 1, 2010 through August 31, 2011.

BACKGROUND / DISCUSSION:

The City of El Paso has, since inception in 2008, entered annually into agreement with and Texas Tech University Health Sciences Center, Department of Internal Medicine to provide physician services to deliver health care for the City's Tuberculosis and Sexually Transmitted clinics. Services are paid at \$100 per hour per half day clinic, for a maximum of \$400 per day.

PRIOR COUNCIL ACTION:

This is an annual Agreement last approved by Council in 2008 and 2009.

AMOUNT AND SOURCE OF FUNDING:


Services are paid through revenue generated from services and State grant funds.

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

*****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 City Manager be authorized to sign an Agreement between the CITY OF EL PASO and TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER, DEPARTMENT OF INTERNAL MEDICINE, for the provision of health services for the City's Department of Public Health Tuberculosis Control Clinic and the City's Department of Public Health Sexually Transmitted Disease Clinic by physicians from the Texas Tech University Health Sciences Center Department of Internal Medicine, for the period from September 1, 2010 through August 31, 2011.

ADOPTED this _____ day of _____ 2010.

CITY OF EL PASO

John F. Cook, Mayor

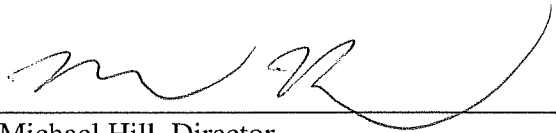
ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Josette Flores
Assistant City Attorney

APPROVED AS TO CONTENT:



Michael Hill, Director
Department of Public Health

THE STATE OF TEXAS §
 §
 COUNTY OF EL PASO §

AGREEMENT

This Agreement (the "Agreement") is entered into on September 1, 2010 between the following parties:

The **CITY OF EL PASO**, hereinafter called the "CITY" and **TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER, DEPARTMENT OF INTERNAL MEDICINE**, hereinafter called the "TTUHSC", witnesseth:

WHEREAS, the Texas Interlocal Cooperation Act, V.T.C.A., Government Code, §791.001, *et seq.* allows local governments and political subdivisions of the state to contract among each other for governmental functions and services, including all or part of a function in the area of public health and welfare; and,

WHEREAS, it is the intent of the parties that the services and functions to be performed pursuant to this Agreement constitute solely governmental functions and services;

NOW, THEREFORE, for and in consideration of the following mutual promises, the parties agree to the following:

ARTICLE 1

TTUHSC through the Department of Internal Medicine at the El Paso Regional Academic Health Center shall provide professional services, specifically the services of Dr. Manuel Rivera, Dr. Harold W. Hughes, Dr. Juan Figueroa and Dr. Marie M. Logvinoff, to the CITY'S Department of Public Health Tuberculosis Control Clinic located at 5115 El Paso Drive, El Paso, Texas. The following services will be provided by TTUHSC physicians who are licensed to practice in the State of Texas, and have medical expertise in tuberculosis ("TB"):

- Provide tuberculosis consultant services to other public health and private agencies as directed by the Director of the CITY'S Department of Public Health ("DPH");
- Screen individuals for tuberculosis infection and select candidates for treatment for Latent Tuberculosis Infection;
- Provide clinical services to clients in the CITY'S DPH TB Control Clinic and medical consultative services to TB medical staff outreach workers/contact investigators and mycobacteriology laboratory staff. Dr. Manuel Rivera will serve as Consultant for the CITY'S DPH Tuberculosis Control Clinic patients and be responsible to CITY'S DPH Director;
- Provide diagnostic and therapeutic services for patients with multi-drug resistant tuberculosis (MDRTB);
- Review chest x-ray diagnostic to determine past or current disease; and
- For CITY Department of Public Health patients, facilitate admission to University Medical Center and referral to/from Texas Tech Clinics, as needed.

In addition, TTUHSC through the Department of Internal Medicine at the El Paso Regional Academic Health Center shall provide professional services, specifically the services of Dr. Armando Meza and Dr. Ogachika Alozi, to the CITY'S DPH Sexually Transmitted Disease Clinic. The following services will be provided by the TTUHSC physician who is licensed to practice in the State of Texas, and has medical expertise in General Internal Medicine:

- Develop and update protocols for assessment and treatment for sexually transmitted disease ("STD");
- Examine patients for STD and prescribe a course of treatment;
- Review and sign all patient charts related to such examinations and treatment;
- Prescribe medication for patients as needed;
- Provide a medical assessment regarding patients who do not follow STD protocol;
- Be available through pager and telephone to provide consultation as needed with STD staff when not physically present at the CITY'S clinics.

All services are to be performed by the TTUHSC in accordance with the needs of the CITY as determined by the City's DPH Director.

ARTICLE II

The DPH Director or designee must respond in writing to any concerns/suggestions that are raised in writing by the TTUHSC.

The CITY agrees to pay TTUHSC for services rendered at a rate of ONE HUNDRED and NO/100 DOLLARS (\$100.00) per hour, per half-day clinic of four (4) hours, for a maximum of FOUR HUNDRED and NO/100 DOLLARS (\$400.00) per day. Total compensation shall not exceed ONE HUNDRED THOUSAND and NO/100 DOLLARS (\$100,000.00) during the term of this Agreement. Services will be rendered on an as-needed basis, but not less than two (2) or more than four (4) half-day clinic sessions per week in the CITY'S DPH TB Clinic, and not less than one (1) half-day clinic session per week in the CITY'S DPH STD Clinic. Exceptions to this scheduling will be mutually agreed upon prior to scheduling the clinics.

In addition, Dr. Rivera, Dr. Hughes, Dr. Figueroa, Dr. Logvinoff and Dr. Armando Meza will be available through pager and telephone to provide consultation as needed with DPH-TB or DPH-STD staff and local public and private agencies when not physically present at the TB or STD clinic. The CITY also agrees to pay TTHUSC THIRTY DOLLARS (\$30.00) per month for cellular phone charges used pursuant to this Agreement.

The CITY will pay TTHUSC in monthly installments upon presentation of a monthly statement from TTHUSC. The funds generated from these services will accrue to the Medical Practice Income Plan account of the TTHUSC Department of Internal Medicine.

ARTICLE III**NO AGENCY RELATIONSHIP**

Nothing contained herein shall be construed as creating the relationship of employer and employee between the CITY and TTHUSC. TTHUSC shall be deemed at all times to be an independent contractor.

ARTICLE IV**NO INDEMNIFICATION**

The parties expressly agree that no Party shall have the right to seek indemnification or contribution from any other Party for any losses, costs, expenses, or damages directly or indirectly arising, in whole or in part, from this Agreement.

ARTICLE V**LIABILITY INSURANCE**

All physicians providing services pursuant to this Agreement shall maintain professional liability insurance as provided under the Texas Tech University Health Sciences Center Medical Malpractice Self-Insurance Plan.

ARTICLE VI

This Agreement shall become effective September 1, 2010, and continue in full force until August 31, 2011, subject to any limitations set forth herein. Either party may terminate this Agreement by giving the other parties thirty (30) days written notice. TTUHSC may immediately terminate upon non-payment or upon the total compensation amount reaching \$100,000.00 dollars.

Notices required herein shall be sent, postage prepaid, to the following:

CITY OF EL PASO: City Manager
 2 Civic Center Plaza
 El Paso, TX 79901-1196

Copy to: City of El Paso
 Department of Public Health
 Attn: Director
 5115 El Paso Drive
 El Paso, Texas 79905

TTUHSC: Texas Tech University Health Sciences Center
 Department of Internal Medicine
 Attention: Department Administrator
 4800 Alberta Avenue
 El Paso, Texas 79905

If any term or provision of this Agreement is held to be invalid for any reason, the invalidity of that section shall not affect the validity of any other section of this Agreement, provided that any invalid portions are not material to the overall purpose and operation of this Agreement. The remainder of the provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

For purposes of determining the place of the contract and the law governing the same, it is agreed that 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 for any dispute arising out of matters related to this Agreement shall be in El Paso County, Texas.

This Agreement may be amended in writing to include such provision(s) as the Parties may agree upon.

Neither Party shall have the right to assign or transfer their right to any third parties under this Agreement without prior written consent of the non-transferring party.

ARTICLE VII

MEDICAL RECORDS

TTUHSC shall have access to the complete medical records of all tuberculosis and sexually transmitted disease patients to whom health care is or has been provided in whole or in part, by any TTUHSC physician. Access to or copies of such records shall be made available to TTUHSC upon request within a reasonable period of time, not to exceed 48 hours from the time of the request. The CITY and TTUHSC will maintain a Business Associate Agreement, in the form of Attachment "A".

ARTICLE VIII

COMPLIANCE

The parties acknowledge that each is subject to applicable federal and state laws and regulations, and policies and requirements of various accrediting organizations. Accordingly, each party will enforce compliance with all applicable laws, regulations, and requirements and will make available such information and records as may be reasonably requested in writing by the other party to facilitate its compliance, except for records that are confidential and privileged by law.

ARTICLE IX**INTERLOCAL CONTRACT PROVISION**

The CITY shall pay for services received from appropriation items or accounts of the CITY from which like expenditures would normally be paid, based upon vouchers drawn by the CITY payable to TTUHSC.

The Parties expressly agree that, in all things relating to this Agreement, the CITY and TTUHSC are performing governmental functions, as defined by the Texas Tort Claims Act. The Parties further expressly agree that every act or omission of the CITY or of TTUHSC that, in any way, pertains to or arises out of this Agreement falls within the definition of a governmental function.

ARTICLE X**INDEMNIFICATION FOR BILLING ACTIVITIES**

The CITY will comply with all applicable federal state laws and regulations and policies and requirements of accrediting organizations relating to billing procedures and requirements, including but not limited to, all regulations, guidelines and standards of the Health Care Finance Administration, Medicare, Medicaid, Champus, the Health Insurance Portability and Accountability Act, and regulations, policies and requirements to third party payers.

The undersigned contracting parties bind themselves to the faithful performance of this Agreement.

(signatures to follow on next page)

APPROVED this _____ day of _____, 2010.

CITY OF EL PASO:

Joyce A. Wilson
City Manager

APPROVED AS TO CONTENT:

Michael Hill, Director
Department of Health

APPROVED AS TO FORM:

Josette Flores
Assistant City Attorney

TEXAS TECH UNIVERSITY HEALTH
SCIENCES CENTER

Elmo M. Cavin
Executive Vice President

Date: 10/15/2010

APPROVED AS TO FORM:

Frank J. Gonzales
Associate General Counsel

ATTACHMENT "A"

HIPAA BUSINESS ASSOCIATE CONTRACT

(a) **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.

1. **Contract** shall refer to this document.
2. **Business Associate** means the City.
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" as defined by 45 C.F.R. 164.501.
5. **Information** shall mean any "health information" provided and/or made available by the CONTRACTOR 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 CONTRACTOR.
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 it shall be prohibited from using or disclosing the Information provided or made available by the CONTRACTOR 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 CONTRACTOR for the following stated purposes:

To provide public health services to the community of the CONTRACTOR for the mutual benefit and general welfare of BUSINESS ASSOCIATE and the CONTRACTOR (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 management and administration of BUSINESS ASSOCIATE or to carry out legal responsibilities of BUSINESS ASSOCIATE. (ref. 164.504(e)(4)(i)(A-B)).

(e) **Disclosure of Information for Management, Administration and Legal Responsibilities.** BUSINESS ASSOCIATE is permitted to disclose Information received from CONTRACTOR 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)).

(f) **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 CONTRACTOR. (ref. 164.504(e)(2)(i)(B)).

(g) **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 CONTRACTOR 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 or disclosure of the Information, other than as provided for by this Contract. (ref. 164.504(e)(2)(ii)(B)).

3. **Reports of Improper Use or Disclosure.** BUSINESS ASSOCIATE hereby agrees that it shall report to CONTRACTOR **within two (2) days of discovery** any use or disclosure of 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. **Correction of Health Information by Individuals.** BUSINESS ASSOCIATE shall, upon receipt of notice from the CONTRACTOR, amend or correct protected health information (PHI) in its possession or under its control.
7. **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)).
8. **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)).
9. **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 CONTRACTOR, 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)).

10. 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 CONTRACTOR. BUSINESS ASSOCIATE agrees not to retain any 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 CONTRACTOR that the Information has been destroyed. (ref.164.504(e)(2)(ii)(I)).

11. 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)).

12. 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 or the HHS Privacy Regulations. (ref. 164.530(e)(1)).

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

(i) **Modifications.** The CONTRACTOR and BUSINESS ASSOCIATE agree to modify this Business Associate Contract, if and as needed 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.

(j) **Automatic Amendment.** Upon the effective date of any amendment to the regulations promulgated by HHS with respect to PHI, this Business Associate Contract shall automatically amend such that the obligations imposed on BUSINESS ASSOCIATE as a Business Associate remain in compliance with such regulations.

(k) **Termination for Cause.** Upon the CONTRACTOR’s knowledge of a material breach by BUSINESS ASSOCIATE, the CONTRACTOR shall:

1. 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 CONTRACTOR.
2. Immediately terminate the Business Associate Contract if BUSINESS ASSOCIATE has breached a material term of this Business Associate Contract and cure is not possible.
3. Notify the Secretary of HHS if termination is not possible.

ATTACHMENT "A"

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5. **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.
6. **Parties** shall mean BUSINESS ASSOCIATE and the CITY.
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 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 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 CITY for the following stated purposes:

To provide public health services to the community of the CITY for the mutual benefit and general welfare of BUSINESS ASSOCIATE and the CITY (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 management and administration of BUSINESS ASSOCIATE or to carry out legal responsibilities of BUSINESS ASSOCIATE. (ref. 164.504(e)(4)(i)(A-B)).

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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:

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)).

(f) 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. 164.504(e)(2)(i)(B)).

(g) 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 CITY 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 or disclosure of the Information, other than as provided for by this Contract. (ref. 164.504(e)(2)(ii)(B)).

3. **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 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)).
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7. **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)).
8. **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)).
9. **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. 164.504(e)(2)(ii)(H)).

10. **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 CITY. BUSINESS ASSOCIATE agrees not to retain any 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 CITY that the Information has been destroyed. (ref.164.504(e)(2)(ii)(I)).

11. **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)).

12. **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 or the HHS Privacy Regulations. (ref. 164.530(e)(1)).

(h) **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 Contract.

(i) **Modifications.** The CITY and BUSINESS ASSOCIATE agree to modify this Business Associate Contract, if and as needed 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.

(j) **Automatic Amendment.** Upon the effective date of any amendment to the regulations promulgated by HHS with respect to PHI, this Business Associate Contract shall automatically amend such that the obligations imposed on BUSINESS ASSOCIATE as a Business Associate remain in compliance with such regulations.

(k) **Termination for Cause.** Upon the CITY's knowledge of a material breach by BUSINESS ASSOCIATE, the CITY shall:

1. 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.
2. Immediately terminate the Business Associate Contract if BUSINESS ASSOCIATE has breached a material term of this Business Associate Contract and cure is not possible.
3. Notify the Secretary of HHS if termination is not possible.