Southern Nevada Health District

TO: **SOUTHERN NEVADA DISTRICT BOARD OF HEALTH** **DATE:** **August 27, 2015**

RE: *Approval of Interlocal Agreement between the North Las Vegas Fire Department and the Southern Nevada Health District*

PETITION #20-15

That the Southern Nevada District Board of Health *approves Interlocal Agreement between the North Las Vegas Fire Department and the Southern Nevada Health District.*

PETITIONERS:

John Hammond, BS, *EMSTS Manager*
Cassius Lockett, PhD, MS, *Director of Community Health*
Andrew J. Glass, FACHE, MS, *Director of Administration*
Joseph P. Iser, MD, DrPH, MSc, *Chief Health Officer*

DISCUSSION:

The enactment of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 establishes certain requirements relating to the use, disclosure, and safeguarding of protected health information by persons providing services to covered entities, and both parties have mutually agreed to satisfy such requirements through this agreement.

The Southern Nevada Health District Office of EMS & Trauma System (OEMSTS) and the North Las Vegas Fire Department (NLVFD) have complementary and interdependent interests in ensuring a more streamlined EMS licensing application process and wish to collaborate, enhance efficiency in government services, and avoid unnecessary duplication of effort or expense.

During its hiring process, NLVFD performs, or causes to be performed, the same services as the Health District. The NLVFD services are equal to or more stringent than the Health District's requirements. Repeating all or a portion of the services again for licensing of NLVFD personnel is a duplication of effort and unnecessarily increases the cost to community partners. It is to the mutual advantage and benefit of both parties to enter into this agreement.

FUNDING:

No funding is required.

Southern Nevada Health District

INTERLOCAL AGREEMENT
BETWEEN
SOUTHERN NEVADA HEALTH DISTRICT
AND
NORTH LAS VEGAS FIRE DEPARTMENT
SNHD-6-INT-16-008

This Interlocal Agreement ("Agreement") is made and entered into this 1st day of September, 2015 between the Southern Nevada Health District ("Health District") and the North Las Vegas Fire Department ("NLVFD") (may be individually referred to as "Party" and collectively, referred to as "Parties").

WHEREAS, NRS 277.180 authorizes public entities to contract with one or more other public agencies to perform any governmental service activity or undertaking which any of the public agencies entering into the contract is authorized to perform; and

WHEREAS, Health District is the public health entity organized pursuant to Nevada Revised Statutes, Chapter 439; and has jurisdiction over all public health matters within Clark County, Nevada; and

WHEREAS, NLVFD provides emergency services for Southern Nevada Communities; and

WHEREAS, Health District issues Emergency Medical Services ("EMS") attendant licenses to qualified NLVFD employees; and

WHEREAS, Health District and NLVFD have complementary and interdependent interests in ensuring a more streamlined EMS licensing application process and wish to collaborate, enhance efficiency in government services, and avoid of unnecessary duplication of effort or expense; and

WHEREAS, it is to the mutual advantage and benefit of the Parties to enter into this Agreement; and

NOW THEREFORE, in consideration of the foregoing, the Parties agree as follows:

1) PURPOSE: To expedite the EMS licensing process for NLVFD employees and prevent the unnecessary duplication of efforts and corresponding expenses related to EMS applicant background checks, physical exams, and TB tests ("Services") currently required and being conducted by both Parties.

2) SCOPE: During its hiring process, NLVFD performs, or causes to be performed, the same Services as Health District. The NLVFD Services are equal to or more stringent than the Health District's requirements. Repeating all or a portion of the Services again for licensing

of NLVFD personnel is a duplication of effort and unnecessarily increases the cost to community partners. The Parties hereby agree to allow for a written Statement of Assurances, attached hereto as Exhibit A and incorporated by reference herein, to suffice for these requirements.

3) AGREEMENT:

The Parties mutually agree as follows:

3.1 NLVFD agrees to:

a. Ensure that all NLVFD employees applying for licensure have successfully completed a physical examination within twelve (12) months prior to the application.

b. Review all records of NLVFD employee applicants for EMS licensure for disqualifying events identified during the background check performed by NLVFD.

Disqualifying events may be discovered during a review of personal history, employment history, criminal history, credit history or other pertinent information. If any such disqualifying events are found, NLVFD will provide Health District with a general statement indicating the presence of a disqualifying event.

c. If NLVFD reports any disqualifying events, supply with each applicant for EMS licensure, two (2) complete sets of fingerprints and an authorization to the Health District to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report, if NLVFD reports any disqualifying events.

d. Provide Health District with a certification regarding the Services performed and identifying any disqualifying events.

3.2 Health District agrees to issue the requested attendant license to said applicant without requiring additional documentation from NLVFD if the applicant otherwise meets requirements set forth in Health District's "Emergency Medical Services Regulations."

4) EFFECTIVE AND ENDING DATES
The Effective Date of this Agreement is September 1, 2015 through August 31, 2016, unless otherwise terminated as provided in this Paragraph 5 below.

5) TERMINATION
This Agreement may be terminated by either Party with or without cause upon thirty (30) calendar days notice in writing to the other Party unless a lesser time is mutually agreed upon in writing by both Parties. Said notice shall be delivered by certified mail, return receipt

requested, or in person with proof of delivery.

6) CONFIDENTIALITY
To comply with the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act, to protect the security, confidentiality, and integrity of protected health information, the Parties will execute a Business Associate Agreement, attached hereto as Exhibit B and incorporated by reference herein.

7) INDEPENDENT ENTITIES
The Parties are associated with each other only for the purposes and to the extent set forth in this Agreement. Nothing herein shall create or be construed to create an employer-employee, agency, joint venture, or partnership relationship between the Parties.

8) APPLICABLE LAW
The construction, interpretation, and enforcement of this Agreement shall be governed by the laws of the State of Nevada, with Clark County, Nevada as the exclusive venue of any action or proceeding related to or arising out of this Agreement.

9) AMENDMENTS OR MODIFICATIONS
Amendments or modifications of the provisions of this Agreement shall only be valid when they have been reduced to writing and duly signed by both Parties.

10) LIMITED LIABILITY
The Parties will not waive and intend to assert available NRS Chapter 41 liability limitations in all cases. Agreement liability of both Parties shall not be subject to punitive damages. To the extent applicable, actual agreement damages for any breach shall be limited by NRS 353.260 and NRS 354.626.

11) INDEMNIFICATION
Neither Party waives any right or defense to indemnification that may exist in law or equity. Each Party shall remain liable for its own negligence in accordance with the general laws of the state of Nevada.

12) NOTICES
All notices permitted or required under this Agreement shall be made via U.S. certified mail, postage prepaid to the other Party at their address set out below:

Southern Nevada Health District
Financial Services Department
Materials Management Supervisor
P.O. Box 3902
Las Vegas, NV 89127

North Las Vegas Fire Department
Jeff Lytle
4040 Losee Road
North Las Vegas, NV 89030

13) PUBLIC RECORDS
Pursuant to NRS 239.010, information or documents, including this Agreement, may be open to public inspection and copying. The Parties will have a duty to disclose unless a

particular record is made confidential by law or a common law balancing of interests.

14) NO PRIVATE RIGHT CREATED
The Parties do not intend to create in any other individual or entity the status of a third party beneficiary, and this Agreement shall not be construed to create such status. The rights, duties, and obligations contained in the Agreement shall operate only between the Parties to this Agreement, and shall inure solely to the benefit of the Parties determining and performing their obligations under this Agreement.

15) EXECUTION IN COUNTERPARTS
This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but which together shall constitute one instrument. Facsimile or electronic transmissions of documents and signatures shall have the same force and effect as originals.

IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be executed by their undersigned officials as duly authorized.

SOUTHERN NEVADA HEALTH DISTRICT

By: _____
Andrew J. Glass, FACHE, MS
Director of Administration

Date: 8/20/15

NORTH LAS VEGAS FIRE DEPARTMENT

By: _____
Jeff Lytle
Fire Chief

Date: _____

Approved as to form:

By: _____
Annette L. Bradley, Esq.
Attorney for Southern Nevada Health District

EXHIBIT A
SOUTHERN NEVADA HEALTH DISTRICT
EMS PERSONNEL LICENSURE STATEMENT OF WRITTEN ASSURANCES

Candidate Name:_____ DOB:_____ Last 4 of SSN:_____

Reporting Agency:_____

This memo certifies that the above named individual has received a physical examination, tuberculosis test and fingerprint background check and no disqualifying conditions exist.

Reporting Agency Representative:_____
Print Name

_____
Signature

STATE OF NEVADA

COUNTY OF CLARK

ACKNOWLEDGED BEFORE ME ON THIS____DAY OF_____

by _____

_____

Notary Public

Printed Name: _____

My Commission Expires:_____

EXHIBIT B
BUSINESS ASSOCIATE AGREEMENT
BETWEEN
SOUTHERN NEVADA HEALTH DISTRICT
AND
NORTH LAS VEGAS FIRE DEPARTMENT

This Business Associate Agreement ("Agreement") is made and entered into this ___ day of _____, 2015 between the Southern Nevada Health District ("Covered Entity"), and the North Las Vegas Fire Department ("Business Associate"), (individually referred to as "Party" or collectively as "Parties").

WITNESSETH:

WHEREAS, the Department of Health and Human Services ("HHS") has promulgated regulations at 45 CFR Part 160 and 164, implementing the privacy and electronic security requirements set forth in the Administrative Simplification provision of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"); and

WHEREAS, Business Associate provides services to Covered Entity pursuant to one or more contractual relationships, said Agreements are detailed below and are hereinafter referred to as "Service Agreements," and

WHEREAS, in the course of fulfilling its responsibilities under such Service Agreements, Business Associate may have access to, use, and/or disclose Protected Health Information (as defined below); and

WHEREAS, Service Agreements are hereby incorporated by reference and shall be taken and considered as a part of this document as if fully set out herein; and

WHEREAS, the enactment of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 establishes certain requirements relating to the use, disclosure, and safeguarding of protected health information by persons providing services to Covered Entities, and both Parties have mutually agreed to satisfy such requirements through this Agreement; and

NOW THEREFORE, in consideration of the Parties continuing obligations under the Service Agreement(s) and other good and valuable consideration, the Parties mutually agree to the provisions of this Agreement to address the requirements of the HIPAA Rules, establish satisfactory assurances Business Associate will appropriately safeguard any Protected Health Information received from or on behalf of Covered Entity, and, therefore, execute this Agreement.

I. AGREEMENTS AFFECTED BY THIS BUSINESS ASSOCIATE AGREEMENT

Business Associate will provide services to Covered Entity pursuant to the following Service Agreement:

INTERLOCAL AGREEMENT BETWEEN SOUTHERN NEVADA HEALTH DISTRICT AND NORTH LAS VEGAS FIRE DEPARTMENT, SNHD-6-INT-16-008

II. DEFINITIONS

Any terms used, but not otherwise defined in this Agreement shall have the same meaning as those terms in 45 CFR Parts 160 and 164.

a) "Breach" means the acquisition, access, use, or disclosure of PHI a manner that is not permitted under the privacy regulations which compromises the security or privacy of the PHI. Any unpermitted access, use, or disclosure is presumed a breach absent a demonstration of a low probability that the PHI has been compromised.

b) "Protected Health Information" (PHI) means individually identifiable health information including, without limitation, all data, documentation, demographic, medical, and financial information collected from an individual which relates to the past, present, or future physical or mental health, condition, provision of health care, or payment for the provision of health care to an individual. PHI includes without limitation "Electronic Protected Health Information" as defined below.

c) "Electronic Protected Health Information" (ePHI) means PHI which is transmitted by Electronic Media (as defined in the HIPAA Security and Privacy Rule) or maintained in Electronic Media.

d) "HIPAA Rules" means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Parts 160 and 164.

e) "Required by Law" has the same meaning as the term "required by law" in 45 CFR § 164.103.

f) "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

III. BUSINESS ASSOCIATE CONFIDENTIALITY REQUIREMENTS (Privacy Rule)

Business Associate acknowledges and agrees:

i) To not use or disclose PHI other than as permitted or required by this Agreement, the Service Agreements, or as Required by Law.

ii) To use appropriate safeguards to prevent the use or disclosure of the PHI other than as provided for by this Agreement.

iii) In case of any conflict between this Agreement and the Service Agreements, this Agreement shall govern.

iv) All PHI created, received, maintained, or transmitted by Covered Entity and disclosed or made available in any form or format by Covered Entity or its operating units to Business Associate or is created, received maintained or transmitted by Business Associate on Covered Entity's behalf shall be subject to this Agreement.

v) To use or disclose any PHI solely for meeting its obligations as set forth in the Service Agreement(s) and as would be permitted by the HIPAA Security and Privacy Rule if such use or disclosure were made by Covered Entity.

vi) Ensure all such uses and disclosures of PHI are subject to the limits set forth in 45 CFR § 164.514 regarding limited data sets and minimum necessary requirements.

vii) Ensure any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restriction and conditions that apply through this Agreement to Business Associate with respect to such information (45 CFR § 164.314).

viii) To fully cooperate in good faith and to assist Covered Entity in complying with the requirements of the HIPAA Rules.

ix) Subject to the exceptions contained in the HITECH Act, Business Associate will not directly or indirectly receive remuneration for the sale or exchange of any PHI without a valid authorization from the applicable individual. Business Associate will not engage in any communication which might be deemed "marketing" under the HIPAA Rules.

IV. BUSINESS ASSOCIATE SECURITY REQUIREMENTS (Security Rule)

Business Associate acknowledges and agrees:

i) To implement appropriate safeguards and internal controls to prevent the use or disclosure of PHI other than as permitted in this Agreement or by the HIPAA Rules.

ii) To use appropriate safeguards to prevent the use or disclosure of PHI other than as provided for by the Service Agreement(s), this Agreement, or as Required by Law. This includes the implementation of administrative, physical, and technical safeguards to reasonably and appropriately protect and secure the Covered Entity's ePHI against any reasonably anticipated threats or hazards, utilizing technology commercially available to the Business Associate. (45 CFR §§ 164.308, 164.310, 164.312). Business Associate shall maintain appropriate documentation of its compliance with the Privacy Rule, including, but not limited to, its policies, procedures, records of training, and sanctions of its workforce member. (45 CFR §164.316).

iii) To notify Covered Entity immediately of any attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

In the case of an unsuccessful attempt to gain unauthorized access, Business Associate need only notify Covered Entity of an attempt that had a reasonable probability of success.

iv) To notify Covered Entity immediately upon discovery of a breach pursuant to the terms of 45 CFR § 164.410 and cooperate in Covered Entity's breach analysis procedures, including risk assessment and final determination on whether to notify affected individuals, media, or HHS.

a. A breach shall be treated as discovered by Business Associate as of the first day on which such breach is known to Business Associate or, by exercising reasonable diligence, would have been known to Business Associate.

b. Business Associate shall provide Covered Entity with all required content of notification pursuant to 45 CFR § 164.410 and 45 CFR 404 within 15 business days of discovery of the Breach.

v) For breaches determined to have resulted from the Business Associate actions and/or its subcontractors, Business Associate will handle and pay all costs for any breach notifications and/or mitigation to affected individuals and notifications to HHS and the media, on behalf of the Covered Entity.

V. BUSINESS ASSOCIATE PERMITTED USES AND DISCLOSURES

Notwithstanding the prohibitions otherwise set forth in this Agreement, Business Associate may use and disclose PHI as follows:

i) Subject to the limitations of this Agreement, Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

ii) Except as otherwise limited in this Agreement, Business Associate may use PHI to provide Data Aggregation Services to Covered Entity as permitted by 45 CFR § 164.504(e)(2)(i)(b).

iii) Business Associate shall report to Covered Entity any use or disclosure of PHI which is not in compliance with the terms of this Agreement of which it becomes aware. Business Associate shall report to Covered Entity any Security Incident it becomes aware, including breaches of unsecured PHI.

iv) Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR § 164.502(j)(1).

VI. SPECIFIC USE AND DISCLOSURES

i) HHS has the right to review, audit, or investigate Business Associate's records and practices related to the use and disclosure of PHI to ensure Covered Entity's compliance with the terms of the HIPAA Rules.

ii) Upon request, provide Covered Entity with timely and appropriate access to records, electronic records, personnel, or facilities sufficient for Covered Entity to gain reasonable assurance that Business Associate is in compliance with the HIPAA Rules and the provisions of this Agreement.

iii) At Covered Entity's Request, Business Associate agrees:

a. To comply with any requests for restrictions on certain disclosures of PHI to which Covered Entity has agreed and of which Business Associate has been notified.

b. Within 15 days of a request by Covered Entity, account for disclosures of PHI and make an account of such disclosure available to Covered Entity as required by 45 CFR § 164.528.

VII. TERMINATION

i) Covered Entity shall have the right to terminate this Agreement and the Service Agreement(s) immediately if Covered Entity determines that Business Associate has violated any material term of this Agreement.

ii) If Covered Entity reasonably believes that Business Associate has violated a material term of this Agreement, where practicable, Covered Entity shall either:

a. give written notice to Business Associate with an opportunity to reasonably and promptly cure or end the violation and terminate the Agreement if the Business Associates does not cure the breach or end the violation within the reasonable time specified; or

b. terminate this Agreement and the Service Agreement(s) immediately.

iii) Upon termination of the Service Agreement(s), this Agreement, or at the request of Covered Entity, Business Associate will return or destroy all PHI received from or created or received by Business Associate on behalf of Covered Entity that Business Associate still maintains in any form and retain no copies of such information.

a. If such return or destruction is not feasible, Business Associate shall provide written assurances as to the means of continued protection of the data and extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction unfeasible for so long as Business Associate maintains the same.

b. Business Associate shall consult with Covered Entity as necessary to ensure an appropriate means for the return and/or destruction of any PHI and notify the Covered Entity in writing when such destruction is complete.

c. If PHI is returned, the Parties shall document when the PHI has been received by the Covered Entity.

VIII. MISCELLANEOUS

i) The Parties agree that the provisions of HIPAA and the HITECH Act that apply to Business Associate are incorporated by reference into this Agreement in their entirety.

ii) Business Associate agrees to make PHI available for amendment and incorporate any amendments to PHI in accordance with the requirements of 45 CFR § 164.526.

iii) Except as expressly stated herein or the HIPAA Rules, the Parties to this Agreement do not intend to create any rights in any third parties.

iv) The obligations of Business Associate under this Section shall survive the expiration, termination, or cancellation of this Agreement, the Service Agreement(s) and/or the business relationship of the Parties, and shall continue to bind Business Associate, its subcontractors, agents, employees, contractors, successors, and assigns.

v) This Agreement may be amended or modified only in a writing signed by the Parties. No Party may assign its respective rights and obligations under this Agreement without the prior written consent of the other Party.

vi) The Parties are independent entities and nothing contained herein shall be construed or deemed to create a relationship of employer and employee, principal and agent, partners, or any relationship other than that of independent parties voluntarily cooperating with each other solely for the purpose of carrying out the provisions herein.

vii) This Agreement will be governed by the laws of the State of Nevada.

viii) Failure to declare a breach or the actual waiver of any particular breach of the Agreement or Service Agreement(s) or its material or nonmaterial terms by either Party shall not operate as a waiver by such Party of any of its rights or remedies as to any other breach.

ix) Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity and the Business Associate to comply with the HIPAA Rules.

x) Any reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.

xi) In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Agreement will remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year written above.

COVERED ENTITY:

By: Andrew J. Glass

Name: Andrew J. Glass, FACHE, MS
Title: Director of Administration

Date: 8/20/15

BUSINESS ASSOCIATE:

By: _____

Name:
Title:

Date: _____