



**REQUEST FOR PROPOSALS
FOR
HIV
AN INTEGRATED
APPROACH**

SNHD-1-RFP-18-003

February 1, 2018

**280 S. DECATUR
LAS VEGAS, NEVADA 89107**

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SECTION I – INTRODUCTION

A. Purpose: The Health District is seeking proposals from qualified contractors to provide services to improve the health of populations disproportionately affected by HIV/AIDS in Clark County. The required services and performance conditions are described in the Scope of Work.

B. Entity Information:

The mission of the Health District is “to protect and promote the health, the environment, and the well-being of Clark County residents and visitors.” Health District is one of the largest local public health organizations in the United States. It serves a population of over 2 million residents, which represents 70 percent of Nevada’s total population. Health District is also charged with safeguarding the public health of the 40 million visitors that come through Las Vegas each year. Health District began operations in 1962 as the Clark County Health District following statutory authorization from the Nevada State Legislature to consolidate the county health department and the health departments of several surrounding cities.

The Southern Nevada District Board of Health (the “Board”) is the governing body of Health District within Clark County, Nevada. As Health District’s governing body, the Board is vested with jurisdiction over all public health matters within Clark County, Nevada.

The Health District currently has locations in the following areas (all have hours of operation between 8:00 am and 4:30 pm):

Main Campus
280 S. Decatur Blvd
Las Vegas, Nevada

East Las Vegas Public Health Center
560 N. Nellis Blvd, Suites D1 & E12
Las Vegas, Nevada

Henderson Public Health Center
874 American Pacific Drive
Henderson, Nevada

Mesquite Public Health Center
830 Hafen Lane
Mesquite, Nevada

Laughlin Public Health Center
55 Civic Way
Laughlin, Nevada

Health District Services - Henderson
240 Water Street
Henderson, Nevada

C. Anticipated Contract Term and Conditions:

1. There will be two contract awards under this solicitation:
 - a. The successful contractor for the first award will be conducting 5,000 HIV rapid tests or more per year yielding a 1% positivity rate.
 - b. The successful contractor for the second award will be targeting the drug using and/or seeking community in Clark County. The contractor will address HIV testing and disease education. The contractor will provide outbreak response planning inclusive of vending placement and supplies while enhancing linkage services for identified communities. The contractor will conduct 1,500 HIV rapid tests or more per year yielding a 1% positivity rate.
2. The resulting agreements will be subject to the availability of funding and shall be terminated immediately if for any reason the funding budgeted to satisfy this RFP and/or Agreement is withdrawn, limited, or impaired.
3. The Health District does not guarantee to award a contract under this RFP.

SECTION II: SCOPE OF SERVICES

A. HIV Testing and Programs:

1. The successful contractors (“Contractor” or “Applicant”) will perform HIV testing and syringe services programs targeting those most at risk for HIV infection as part of a comprehensive strategy to reduce new infections. HIV testing is a key prevention intervention. People with HIV who know they are infected can get HIV treatment (antiretroviral therapy (“ART”) that can keep them healthy for many years. Treatment with antiretroviral medications lowers the level of HIV viral loads, reduces HIV-related illness, and reduces HIV transmission. Studies have shown that many people with HIV who know they are infected avoid behaviors that might spread the infection to others with whom they have sex or share needles.
2. Health District is also seeking to expand the availability and use of pre-exposure prophylaxis (“PrEP”) and post-exposure prophylaxis (“PEP”) for people at very high risk for HIV. PrEP involves taking HIV medicines daily to lower a person’s risk of getting infected. PrEP can stop HIV from taking hold and spreading throughout the body. It is highly effective if used as prescribed, daily PrEP reduces the risk of getting HIV from sex by more than 90%. Among people who inject drugs or other substances, it reduces the risk by more than 70%. A person’s risk of getting HIV from sex can be even lower if PrEP is combined with condoms and other prevention methods.

PEP means taking ART after a potential HIV exposure to prevent becoming infected. PEP must be started within 72 hours after a potential exposure to HIV. If a person thinks they have been recently exposed to HIV during sex or through sharing needles and works, they should talk with a health care provider or an emergency room doctor about PEP right away.

B. Application Strategies: Funded programs will utilize the following strategies in their applications:

1. **HIV Preliminary Rapid Testing**
This HIV testing process utilizes one rapid testing technology to identify preliminary positive results. Individuals are provided prevention counseling and immediately referred for confirmatory testing. Individuals with a non-reactive test are provided prevention counseling and referrals for PrEP, PEP, and other support services as appropriate.
2. **HIV Confirmatory Testing/Reporting:** Clients with a rapid reactive HIV test will be referred to SNHD OEDS within 24 to 48 hours to obtain confirmation of status. Agencies must report HIV preliminary positives to SNHD within 72 hours per NRS 441a.
3. **Active Referral:** The process of helping clients access external services by facilitating a direct connection. For example, the referring organization makes an appointment with

the other service on the client's behalf, asks the other service to make contact with the client or a caller is transferred to the other service.

4. **HIV/STD/Hepatitis, and Drug and Alcohol treatment referrals and outreach:** Delivery of HIV, STD, and viral hepatitis educational and preventative information to a targeted population for assessing those persons at highest risk of being infected with one or more co-occurring conditions of these diseases thus linking them to appropriate testing and services. No funding from this grant may be used to purchase syringes.
5. All applicants may include the cost of tests (rapid kits and controls, medical supplies, HIV Waived Rapid Testing Lab License and CLIA waiver) in their proposed budgets. Health District will facilitate public health pricing (if available) and training for testing technologies. Health District will also provide rapid testing and product technical assistance as part of the mandatory HIV Rapid HIV Testing and Training Certification process. Health District may also provide additional rapid tests when funds are available.

C. Training:

1. Applicants will agree to receive PrEP/PEP training/education for site staff to enhance linkage services to SNHD PrEP/PEP program.
2. Applicants will agree to place site employees in Harm Reduction trainings/sessions, Narcan training, and any other educational informational opportunities that will benefit the staff serving populations with co-occurring conditions.

D. Licenses: Applicants must obtain HIV waived rapid testing lab licenses and CLIA waiver. (HCQC) within the first quarter of award.

E. Experience: Applicants must have experience providing HIV rapid testing, prevention counseling and/or syringe services to individuals at substantial risk for HIV infection. Applicants must also have experience assessing the needs of those at substantial risk for HIV infection and provide active referrals to address these needs.

F. Data Collection: Applicant must agree to utilize the SNHD-Office of Epidemiology Disease Surveillance (OEDS) data collection methods and adhere to HIPPA/DATA security standards.

G. Vending Machine Project: Applicants must be aware that the use of the current Impact Exchange/TRACB vending machine project and agree to house a vending machine to distribute safe injection supplies, self-collected STD and high-impact prevention kits to those communities who use injection drugs and or need STD screening.

H. Equipment: Applicants will be responsible for purchasing their own equipment (i.e, printer, computers, software, iPads, etc) to assist with the collection of testing data/information.

I. National HIV Prevention or USCA Conferences: Applicants shall send a minimum of 2 staff to the National HIV Prevention Conference or the United States Conference on AIDS, depending upon which conference is offered. All travel must be included in the budget.

J. Reports:

1. Applicants must submit a quarterly activity report to SNHD-OEDS by the 15th day of the month following the end of the quarter. A final report reflecting activities for the entire contract period will be due January 15, 2019. Template will be provided by SNHD OEDS and report can be submitted via email to POC outlined in contract. Testing data will be submitted electronically. Applicants will be trained by SNHD OEDS staff on the use of this electronic system.
2. All applicants will maintain a condom distribution report to be included with the Health District quarterly activity report.

K. Site Evaluations: Applicants must agree to ongoing quarterly site visit evaluations by OEDS staff to ensure project objectives are being met and maintained per the state and CDC grant expectations.

L. Social Media: Applicants will agree to utilize social media, web sites, print, radio, etc to help promote testing services at their respected site. All developed materials must site federal grant number.

M. Group Participation: Applicants will actively participate in/with the Southern NV HIV Consortium group, and the HIV Prevention Planning group to increase awareness and enhance the planning of High Impact Prevention testing strategies and events.

N. Link to Care: All individuals testing HIV positive are required to be successfully linked to HIV medical care within 30 days of confirmed diagnoses. Formal agreements (MOUs) must be in place for the referring agency to verify persons were linked to HIV medical care. A Release of Information allowing follow-up of linkage will be required.

O. Condom Distribution: Proposals must include a method for distributing condoms to persons at risk for HIV and STDs. Proposed budgets must include a line item for condoms and lube.

P. STD/Hepatitis Integration: Applicants will need to make the most of testing events by utilizing identified risk for other sexually transmitted diseases and viral hepatitis to either conducts or refers client for additional testing.

Q. Additional Services Needed: Applicants will refer to other community partners as needed for additional services as needed.

SECTION III – TIMETABLE

A. Timetable:

Release Date Request for Proposals.....	February 01, 2018
Final Questions Due.....	February 08, 2018
Question Responses Complete and Distributed.....	February 15, 2018
Proposals Due.....	February 28, 2018
Contract Finalization/Award.....	April 01, 2018
Project Start (anticipated).....	April 01, 2018

B. Designated Contacts/Questions:

Questions about this RFP may be e-mailed to the Health District authorized agency contacts at the e-mail addresses listed below:

Health District Contact Persons: Loni Benard and Gabi Montaldo
E-Mail Address: contracts@snhd.org
Phone: 702.759.1244 and 702.759.1215

Answers to all questions asked will be available on the Health District’s website at <http://www.southernnevadahealthdistrict.org/public-notices.phpp>. A list of questions and answers will also be sent to everyone who officially requested a copy of the RFP.

CONTACT WITH HEALTH DISTRICT DURING THE RFP PROCESS:
Communication with any person other than the authorized contacts concerning the selection or award of this contract is prohibited from the time the Request for Proposal is advertised to the time of the award. Questions concerning the Request for Proposal shall be directed **only** to the authorized contacts. All questions that are asked will be posted on Health District’s web site under Public Notices. **Failure of a PROPOSER, or any of its representatives, to comply with this paragraph will result in their proposal being rejected.**

C. Proposal Due Date, Time, and Location:

Due Date: February 28, 2018

Time: Noon

Submittal: Submit your proposal via one of the following methods:

1. **E-Mail.** You may e-mail your proposal in Adobe by the due date to contracts@snhd.org.
2. **Hard Copy.** Place one original proposal along with one electronic copy (CD or flash drive) in a sealed envelope clearly marked: “SNHD-1-RFP-18-003, HIV an Integrated Approach” and mail to:

Southern Nevada Health District
Finance Services Department
Material Management Supervisor
280 S. Decatur Blvd
Las Vegas, NV 89107

3. **Hand-Carry.** Drop off your proposal (per above) at 280 S. Decatur, Las Vegas, NV 89107 (Monday through Friday, 8:00 AM to 4:00 PM). Please call 702.759.1215 or 702.759.1244 from the lobby.

4. Faxed proposals will not be accepted.

D. Proposal Submission: Submit your proposal as stated above. It is the proposer's responsibility to ensure their Proposal is received by Health District by the date and time specified above.

E. Late Proposals: Proposals must be received in the Health District by the Due Date and Time stated above. Proposals received and/or date stamped after the Proposal Due Date and Time are late and will not be considered by the Health District. Upon request, the Health District will return unopened, late-received Proposals at the requester's expense. Proposer is responsible for ensuring third party deliveries conform to the delivery requirements set forth in this RFP.

F. Receipt and Opening of Proposals:

1. Proposals received prior to the advertised hour of opening will be time stamped and kept securely sealed. Time of receipt will be determined by the procurement office time stamp.
2. No responsibility will attach to the Health District or its representatives for the premature opening of, or the failure to open, a proposal not properly addressed and identified.
3. The proposal acceptance period shall extend for a period of ninety (90) calendar days from the date of proposal opening for the purpose of proposal evaluation and award unless otherwise stated elsewhere in this solicitation.

G. Anticipated Award Date: April 01, 2018

SECTION IV. INSTRUCTIONS

Please submit your technical proposal with the following sections:

Technical Proposal

Tab 1 – Transmittal Letter

Tab 2 – Corporate Background and Experience

Tab 3 – Methodology and Services Approach

Tab 4 – Budget (Attachment B – Cost Proposal)

TAB 1 – Transmittal Letter

Your transmittal letter will be printed on company letterhead and must be signed by an individual authorized to legally bind the proposer. The transmittal letter will include the following topics:

1. Disclosure of all pending, resolved, or completed litigations, mediation, arbitration or other alternate dispute resolution procedures involving the proposer (include any proposed subcontractors) and its clients from the past three years.
2. A complete list of all exceptions, reservations and limitation to the terms and conditions of this RFP.

TAB 2 – Corporate Background (Proposal Form) and Experience: See Attachment A

Provide proposers corporate background and experience. Include the same information for any proposed subcontractor(s). Include any existing ongoing relations with such subcontractors, including project description.

1. Proposer's full organization, company or corporate name
2. Headquarters' address
3. Type of ownership
4. If proposer is a subsidiary or affiliate and the name of the parent organization
5. State where the proposer is incorporated or otherwise organized to do business
6. Complete and include Attachment A, Proposal Form
7. A minimum of three references of similar projects performed in the past five years that demonstrate the proposer's ability to perform the requirement RFP services. Include contract dates and contact parties, with address, telephone number and e-mail. If the work was performed as a subcontractor, the respondent must describe the scope of subcontracted activities.
8. Key Personnel. Identify and describe the proposer's labor skill set and provide resumes of all proposed key personnel who will support Health District if awarded a contract.

TAB 3 – Methodology and Services Approach

Two contracts will be awarded under this solicitation. Each agency may only apply for 1 of the 2 opportunities. Please refer to section II of the RFA as to the applicant

1. First award will be for those agencies conducting 5,000 HIV rapid testing or more a year yielding a 1% positivity rate in identifying new HIV infections.
2. Second award will be for those agencies targeting the drug seeking communities in Clark County and are able to enhance HIV testing, outbreak response planning inclusive of vending machine placement and supplies while enhancing high-impact linkage services for the identified communities to care, mental health and treatment services. This contractor will conduct 1,500 HIV rapid test or more per year yielding a 1% positivity rate in identifying new HIV infections.

TAB 4 – Budget (Attachment B – Cost Proposal)

There will be two contracts awarded under this requirement. The not-to-exceed budget for each contract (scenario) is as follows:

Scenario 1 (see TAB 3 above) has a not-to-exceed budget of \$200,000

Scenario 2 (see TAB 3 above) has a not-to-exceed budget of \$120,000

Include detailed breakout of personnel, fringe, travel, operating expenses, overhead, etc. Space reimbursement (i.e. rents/leases/mortgages) will not be allowed under this requirement.

SECTION V. EVALUATION AND AWARD

The Health District intends to award a contract to the highest scoring overall responsible, responsive bidder;

A. Evaluation Procedures: All proposals accepted by the Health District will be reviewed to determine whether they are responsive or nonresponsive to the requisites of this RFP. Proposals that are determined by Health District to be nonresponsive will be rejected. The Health District’s Evaluation Committee will evaluate and rate all remaining proposals based on the Evaluation Criteria prescribed below. The Health District reserves the right to conduct site visits and/or interviews and/or to request that proposers make presentations and/or demonstrations, as the Health District deems applicable and appropriate. Although discussions may be conducted with proposers submitting acceptable proposals, the Health District reserves the right to award contracts on the basis of initial proposals received, without discussions; therefore, the proposer’s initial proposal should contain its best programmatic, technical and price terms.

B. Evaluation Criteria: Proposals will be evaluated by Health District staff and state HIV program officials. Evaluations will be based on criteria outlined herein which may be weighted by the Health District in a manner it deems appropriate. All proposals will be evaluated using the same criteria. The following evaluation criteria are listed in order of importance:

1. Ability to meet application requirements as outlined in section II scope of work.
2. Goals and objectives of the Project.
3. Ability to identify new HIV infections through Rapid HIV testing as identified in Section II of this RFP and address intervention strategies that incorporate co-occurring conditions like IDU, Hepatitis, Sexual Transmitted Diseases (STD’s), mental health, homelessness, and drug and alcohol addictions.
4. Ability to host a vending machine and provide counseling on HIV and co-occurring conditions, and the ability to link and track referrals given to clients using the intended interventions.
5. Budget

Applications should include:

- Transmittal Letter _____
- Executive Proposal Form _____
- Corporate Background and Experience _____
- Intervention Goals and Objectives _____
- Methodology and Services Approach _____
- Budget (Attachment B – Cost Proposal) _____

ATTACHMENT A PROPOSAL FORM

The undersigned, as an authorized representative of the company named below, acknowledges that he/she has examined this Request for Proposal including any related documents, and hereby offers to furnish all labor, materials, tools, supplies, equipment and services necessary to comply with the specifications, terms and conditions set forth herein at the prices stated.

Company Name: _____

Signature: _____ Date: _____

Printed Name and Title: _____

Address: _____

City/State/ZIP: _____

Phone No.: _____ E-Mail Address: _____

Federal Tax ID Number: _____

Business License Number: _____

EXCEPTIONS: Any exceptions to any of the specifications or requirements of this RFP shall be noted in writing, and attached to the Proposal when submitted. By taking exceptions and clearly stating them in writing on a separate sheet of paper headed "EXCEPTIONS", and by offering suitable alternates to replace the stated requirements, the proposer may still compete in the solicitation. However, the Health District has the right to accept or reject any proposed exception.

Are there exceptions to this Proposal? Yes ____ No ____

ACKNOWLEDGMENT OF ADDENDA:

The signer of this form acknowledges receipt of the following addenda:

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

Or

No Addenda were received in connection with this RFP. Date: _____

ATTACHMENT B COST PROPOSAL

Complete and return Budget Template. The Budget Template will serve as the Cost Proposal.

ATTACHMENT C: SNHD-OEDS Prevention Work Plan Template 2018

Estimated number of unique clients to be tested and reached:

Goal 1.

Outcome Objective 1:

Activities	Date Due by	Documentation

Evaluation:

Goal 2.

Outcome Objective 3:

Activities	Date Due by	Documentation

Evaluation:

ATTACHMENT D
SAMPLE CONTRACT
For review only

THIS SERVICES AGREEMENT is by and between the Southern Nevada Health District (“Health District”) and XXX (“Contractor”) (may be individually referred to as “Party” and collectively, referred to as “Parties”).

WHEREAS, pursuant to Nevada Revised Statutes (NRS) Chapter 439, Health District is the public health authority for Clark County, Nevada and has jurisdiction over all public health matters therein; and

WHEREAS, Contractor is an XX and has agreed to provide the services listed in Attachment A, Scope of Work; and

WHEREAS, Health District and Contractor desire to provide in writing a full statement of their respective rights and obligations in connection with their mutual agreement in furtherance of the above described purposes; and

NOW, THEREFORE in consideration of the mutual promises and undertakings herein specified, the Parties agree as follows:

1. **TERM AND CONDITIONS.** This Agreement shall be effective from ____ to ____, unless sooner terminated by either Party as set forth in this Agreement. This Agreement may be extended [times] upon mutual agreement of both parties.
 - 1.01 This Agreement may be terminated by mutual consent of both Parties or unilaterally by either Party with or without cause.
 - 1.02 This Agreement may be terminated by either Party prior to the date set forth in paragraph 1, provided that a termination shall not be effective until thirty (30) days after a Party has served written notice upon the other Party.
 - 1.03 This Agreement is subject to the availability of funding and shall be terminated immediately if for any reason State and/or Federal funding ability, or private grant funding ability, budgeted to satisfy this Agreement is withdrawn, limited, or impaired.
 - 1.04 Upon termination, Contractor will be entitled to payment for services provided prior to date of termination and for which Contractor has submitted an invoice but has not been paid.
2. **INCORPORATED DOCUMENTS.** The services to be performed and the consideration therefore shall be specifically described in the attachments to this Agreement, which are incorporated into and are specifically a part of this Agreement, as follows:

ATTACHMENT A: SCOPE OF WORK
ATTACHMENT B: PAYMENT
ATTACHMENT C: BUSINESS ASSOCIATE AGREEMENT
3. **COMPENSATION.** Contractor will be reimbursed for actual expenses incurred as provided in ATTACHMENT B: PAYMENT. The total not-to-exceed amount of this Agreement is \$. Contractor shall complete the services in a timely manner and consistent with the Scope of Work outlined in Attachment A, attached hereto.

4. STATUS OF PARTIES; INDEPENDENT CONTRACTOR. The Parties are associated with each other only for the purposes and to the extent set forth in this Agreement and in respect to the performance of services pursuant to this Agreement. In the performance of such services, Contractor and any person employed by or contracted with Contractor shall at all times act as and be an independent contractor, and not an employee or agent of Health District. Further, it is expressly understood and agreed by the Parties that nothing contained in this Agreement will be construed to create a joint venture, partnership, association, or other affiliation or like relationship between the Parties.
 - 4.01 Contractor has and shall retain the right to exercise full control over the employment, direction, compensation, and discharge of all persons employed by Contractor in the performance of the services hereunder. Contractor shall be solely responsible for all matters relating to the payment of its employees, including compliance with social security, withholding, and all other wages, salaries, benefits, taxes, demands, and regulations of any nature whatsoever.
5. SUBCONTRACTING. Contractor shall not subcontract any portion of the services required by this Agreement, except as expressly stated herein, without the prior written approval of Health District. Subcontracts, if any, shall contain a provision making them subject to all provisions in this Agreement.
6. FISCAL MONITORING AND ADMINISTRATIVE REVIEW OF ADVERSE FINDINGS. Health District may, at its discretion, conduct a fiscal monitoring of Contractor at any time during the term of the Agreement. Contractor will be notified in writing at least three weeks prior to the visit outlining documents that must be available prior to Health District's visit. Health District shall notify Contractor in writing of any Adverse Findings and recommendations as result of the fiscal monitoring. Adverse Findings are defined as Lack of Adequate Records, Administrative Findings, Questioned Costs and Costs Recommended for Disallowance. Contractor will have the opportunity to address adverse findings in writing responding to any disagreement of adverse findings. Health District shall review disagreement issues, supporting documentation and files and forward a decision to the Contractor in writing.
7. FEDERAL AUDIT REQUIREMENTS – FOR-PROFIT ORGANIZATIONS.
 - 7.01 Contractor, a for-profit organization, is required to have an audit if it expends a total of \$750,000 or more in federal funds under one or more Federal awards. Consistent with 2 CFR Part 200 as amended, Contractor has two options regarding the type of audit that will satisfy audit requirements:
 - a. An audit made in accordance with Generally Accepted Government Auditing Standards (aka the Yellow Book), as revised; or
 - b. An audit that meets the requirements contained in 2 CFR Part 200.501.
 - 7.02 Contractor is required to have an audit, in accordance with the above audit requirements, if it expends a total of \$750,000 or more of federal awards directly or indirectly during its fiscal year. If Contractor expends total federal awards of less than \$750,000 during its fiscal year, it is exempt from federal audit requirements, but is still required to maintain auditable records of federal or state funds that supplement such awards. Records must be available for review by appropriate officials. Although an audit may not be necessary under the federal requirements, Health District audit requirements are applicable.
8. BOOKS AND RECORDS. Each Party shall keep and maintain under generally accepted accounting principles full, true and complete books, records, and documents as are necessary to fully disclose to the other Party, properly empowered government entities, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with the terms of this Agreement and any applicable statutes and regulations. All such books, records and documents shall be retained by each Party for a minimum of three years, and for five years if any federal funds are used pursuant to this Agreement, from the date of termination of this Agreement. This retention time shall be extended when an audit is

scheduled or in progress for a period of time reasonably necessary to complete said audit and/or to complete any administrative and judicial litigation which may ensue.

9. 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 Attachment C and incorporated by reference herein.
10. BREACH; REMEDIES. Failure of either Party to perform any obligation of this Agreement shall be deemed a breach. Except as otherwise provided for by law or this Agreement, the rights and remedies of the Parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including but not limited to actual damages, and to a prevailing Party, the ability to seek reasonable attorneys' fees and costs.
11. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of the Agreement 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.
12. LIMITED LIABILITY. Health District will not waive and intends to assert available NRS Chapter 41 liability limitations in all cases. To the extent applicable, actual agreement damages for any breach shall be limited by NRS 353.260 and NRS 354.626. Agreement liability of both Parties shall not be subject to punitive damages.\
13. FORCE MAJEURE. Neither Party shall be deemed to be in violation of this Agreement if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event, the intervening cause must not be through the fault of the Party asserting such an excuse, and the excused Party is obligated to promptly perform in accordance with the terms of the Agreement after the intervening cause ceases.
14. INDEMNIFICATION. Neither Party waives any right or defense to indemnification that may exist in law or equity.
15. COMPLIANCE WITH LAWS. Each Party shall comply in all respects with all applicable legal requirements governing the duties, obligations, and business practices of that Party and shall obtain any permits or licenses necessary for its operations. Neither Party shall take any action in violation of any applicable legal requirement that could result in liability being imposed on the other Party.
16. INSURANCE. Contractor agrees to maintain insurance in commercially reasonable amounts calculated to protect itself and the Health District from any and all claims of any kind or nature for damage to property or personal injury, including death, made by anyone, that may arise from activities performed or facilitated by this Agreement, whether these activities are performed by Contractor or anyone directly or indirectly engaged or employed by Contractor.
17. MUTUAL COOPERATION. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as is reasonably necessary, appropriate, or convenient to achieve the purposes of this Agreement.
18. NON-DISCRIMINATION. As an Equal Opportunity Employer, Contractor has an ongoing commitment to hire, develop, recruit and assign the best and most qualified individuals possible. Contractor employs employees without regard to race, sex, color, religion, age, ancestry, national origin, marital status, status as a disabled veteran, or veteran of the Vietnam era, disability, sexual orientation or gender identity or

expression. Contractor likewise agrees that it will comply with all state and federal employment discrimination statutes, including but not limited to Title VII, and the American with Disabilities Act

19. SEVERABILITY. If any provision contained in this Agreement is held to be unenforceable by a court of law or equity, this Agreement shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Agreement unenforceable.
20. ASSIGNMENT. Neither Party shall assign, transfer or delegate any rights, obligations or duties under this Agreement without the prior written consent of the other Party.
21. PUBLIC RECORDS. Pursuant to NRS Chapter 239, information or documents, including this MOU, may be opened by the Parties to public inspection and copying. The Health District will have a duty to disclose unless a particular record is made confidential by law or a common law balancing of interests.
22. PROPER AUTHORITY. The Parties hereto represent and warrant that the person executing this Agreement on behalf of each Party has full power and authority to enter into this Agreement and that the Parties are authorized by law to perform the services set forth in the documents incorporated herein.
23. ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement between the Parties and supersedes any prior contracts or agreement between the Parties regarding the subject matter hereof.
24. AMENDMENTS. This Agreement may be amended only by a writing signed by a duly authorized agent/officer of each Party and effective as of the date stipulated therein.
25. NON-EXCLUSIVITY. This Agreement is non-exclusive, and both Parties remain free to enter into similar agreements with third parties. During the term of this Agreement, Contractor may perform services for any other clients, persons, or companies as Contractor sees fit, so long as the performance of such services does not interfere with Contractor's performance of obligations under this Agreement, and do not, in the opinion of Health District, create a conflict of interest.
26. TIME. Contractor agrees that time is of the essence in this Agreement.
27. GOVERNING LAW. This Agreement and the rights and obligations of the Parties hereto shall be governed by, and construed according to the laws of the State of Nevada, notwithstanding conflict of laws principles, with Clark County, Nevada as the exclusive venue of any action or proceeding related to or arising out of this Agreement.
28. THIRD PARTY BENEFICIARIES. This Agreement and attachments hereto, are not intended to confer any rights to any person or entity not a party hereto.
29. NOTICES: All notices permitted or required under this Agreement shall be made by personal delivery, overnight delivery, or 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

XXX

BY SIGNING BELOW, the Parties agree that they have read, understand, and agree to the conditions set forth above and have caused their duly authorized representatives to execute this Agreement.

**BUSINESS ASSOCIATE AGREEMENT
BETWEEN
SOUTHERN NEVADA HEALTH DISTRICT
AND
XXX**

This Business Associate Agreement (“Agreement”) is made and entered into this ____ day of _____, 20____ between the Southern Nevada Health District (“Covered Entity”), and XXX (“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 Agreements:
[NAME OF AGREEMENT]

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.
- vi) All notifications as permitted or required pursuant to this Agreement must be in writing, and shall be made by personal delivery, overnight delivery, or via U.S. certified mail, postage prepaid to Covered Entity at the address set forth below:

Andrew J. Glass
Director of Administration and Privacy Officer
280 S. Decatur Boulevard
Las Vegas, NV 89107

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) This Agreement shall terminate in the event that the underlying relationship, functions, or services that gives rise to the necessity of this Agreement terminates for any reason. Upon such termination, the provisions of this Agreement which expressly or by their nature survive expiration or termination will remain in effect.
- iv) 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) Waiver of any term, provision or condition of this Agreement, in any one or more instances, shall not be deemed to be construed as a further waiver from any such term, provision or condition, or as a waiver of any other term, provision or condition of this Agreement.
- x) 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.
- xi) Any reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
- xii) 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.
- xiii) This Agreement is the result of the joint efforts of Covered Entity and Business Associate, and each provision hereof has been subject to the mutual consultation, negotiation and agreement of the Parties and there shall be no construction against any Party based on any presumption of that Party's involvement in the drafting thereof.
- xiv) This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original, but all of which together will constitute one and the same instrument.

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

COVERED ENTITY

BUSINESS ASSOCIATE