



**REQUEST FOR PROPOSALS
FOR
COLLECTION AGENCY SERVICES**

SNHD-9-RFP-16-014

JUNE 8, 2016

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

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SECTION I – INTRODUCTION

A. Purpose: The Southern Nevada Health District (Health District) is seeking proposals for Collection Agency services from a qualified and licensed Collection Agency (Agency/ Proposer).

B. Entity Information:

The mission of the Health District is “to protect and promote the health, the environment, and the well-being of Southern Nevada residents and visitors.” The Health District is one of the largest local public health organizations in the United States.

The Health District was created in 1962, following statutory authorization from the Nevada State Legislature to combine the Health District health department and the health departments of several surrounding cities. The Health District serves over 2 million residents and 40 million visitors to the Las Vegas valley each year.

C. Anticipated Contract Term and Conditions:

1. The resulting agreement(s) 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and shall be terminated immediately if for any reason the funding budgeted to satisfy this RFP and/or Agreement is withdrawn, limited, or impaired.
2. The Health District does not guarantee to award a contract under this RFP.

SECTION II: SCOPE OF SERVICES

A. Collection Services:

The selected Agency shall provide various services related to the verification and recovery of bad debt as further described below. The Health District estimates that annually it will submit for collection approximately \$250,000 for Environmental Health Receivables and \$250,000 for Medical Billing Receivables. (These amounts are estimates and are subject to change).

1. Transmittal of Accounts – Health District will transmit account information to the Agency via an agreed upon method. The Agency(s) will receive an information sheet for each outstanding debt, which will reflect the total outstanding balance, fees/interest, and amount of last payment, if applicable
2. Direct Payment Reports – Agency will report all payments received directly to the Health District immediately upon receipt.
3. Activity – All direct and indirect collection activities performed by the Agency shall be in accordance with all applicable federal and state laws and regulations. All employees of the Agency that will be handling Health District accounts must be adequately trained and knowledgeable regarding applicable federal regulations and requirements of the specific collection program.
4. Ultimate Authority – In contracting with any collection services agency, the Health District retains the ultimate responsibility and authority on decisions concerning collection, canceling, or deferment of any account and to include accounts closed and returned to the Health District initially remitted for collections.
5. Billing Statements – Health District requires monthly itemized statements by account type (installments, NSF, and payment plans) accompanied by a full remittance check for accounts collected in that billing cycle. Details of outstanding account balances are also required.
6. Agency must designate an individual or group of individuals who will be the agency's formal contact with Health District for all matters related to the proposed collection services. The Agency must guarantee prompt response and information.
7. Adhere to all Federal requirements including but not limited to the Fair Debt Collection Practices Act (FDCPA).
8. Other services – Any additional services the agency may deem essential and effective in assisting Health District in optimizing its collections efforts.

SECTION III – TIMETABLE

A. **Release Date of the Request for Proposals:** June 8, 2016

B. **Designated Contacts/Questions:**

Questions about this Request for Proposals (RFP) may be e-mailed to the Southern Nevada Health District (Health District) authorized agency contact e-mail addresses as listed below:

Health District Contact Persons: Michael Harris and Loni Benard

Question/Clarification Deadline:

Date: June 17, 2016

Time: 4:00 pm

E-Mail Address: harrism@snhdmail.org and benard@snhdmail.org

Phone: (702) 759-1645 and (702) 759-1244

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 designated 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 designated 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:**

Date: June 27, 2016

Time: 4:00 pm

Submittal: Submit your proposal in a sealed envelope clearly marked: "SNHD-9-RFP-16-014, Collection Agency Services" and mail to:

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

If Hand-Carried. (Monday through Friday, 8:00 AM to 4:00 PM) 280 S. Decatur, Las Vegas, NV 89107. Please call (702) 759-1645 or (702) 759-1244 from the lobby.

If E-Mailed. You may e-mail your proposal in Adobe by the due date to harrism@snhdmail.org and benard@snhdmail.org. Faxed proposals will not be accepted.

D. Proposal Submission: The original Proposal plus one electronic copy on CD or flash drive (if e-mailed, just the electronic version is acceptable), must be submitted in a sealed envelope marked "SNHD-9-RFP-16-014, Collection Agency Services." 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 received and/or date stamped after the Proposal Due Date and Time are late and will not be considered by the Health District. Proposals must be received in the Health District Administration Office by the Due Date and Time stated above. Proposals received after that date and time will be rejected and will not be considered. 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.

G. 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. Proposals received after the specified date and time of proposal opening are late. Late hand-carried proposals shall not be accepted. Proposals received by other methods shall remain unopened in the proposal file.
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.

H. Anticipated Award Dates: August 5, 2016

SECTION IV. 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. Organizational Information:

1. Provide your organization's name, address, internet URL (if any), telephone and fax numbers, include the name, title, direct phone number and address, and E-mail address of the individual who will serve as your organization's primary contact.
2. Provide a brief description of your organization locally, statewide, and nationally (if applicable). Include the year your firm was established. Optional: (Also include gross revenues for 2015 and your most recent Financial Statement).
3. Agency shall maintain in good standing in the Nevada Collectors Association. Provide a letter of endorsement from the association.
4. Indicate if your organization has an office in Clark County and the year it was established, if any.
5. If the project is to be accomplished through an affiliation or joint venture of several firms, the names and address of those firms, shall be furnished for each.
6. Proposer must provide a statement that firm will comply with insurance requirements.
7. Proposer must provide a statement that the firm will comply and maintain, during the entire term of the Contract with the Statutory (NRS 649.105) Collection Agency Bond, \$1,000,000 Comprehensive Dishonesty, Disappearance, and Destruction (3-D) Bond, and \$25,000 for Depository's Forgery.

C. Evaluation Criteria: Proposals will be evaluated by Health District staff. 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. Attachment A, Fee Schedule. Also provide first party and third party collection percentage rates for similar entities within the past 3 years.
2. Company Experience. Include a brief resume of all similar projects your firm has performed for the past 3 years. Each project listed shall include the name and phone number of a contact person for the project for review purposes. This section shall include documentation of the Proposer's history of adherence to budget and schedule constraints. All firms are encouraged to indicate their experience of performing related work within the state of Nevada. Provide an organizational chart of your organization.
3. Staff Experience. Provide information concerning the educational background, experience, and professional resumes of those persons who would actually perform work on the project. Identify if those persons presently reside in Clark County, Nevada or elsewhere. Indicate the present workload of the project staff to demonstrate their ability to devote sufficient time to meet the proposed schedule.
4. License. Describe and document the applicable licenses, which are held by the Proposer and its proposed subcontractors.

**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 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 CERTIFICATIONS AND ASSURANCES

- 1. Certification Regarding Debarment and Suspension.** The undersigned (authorized official signing for the applicant organization) certifies, to the best of his or her knowledge and belief, that the applicant, defined as the primary participant in accordance with 45 CFR Part 76, and its principals:
- (a) Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from covered transactions by any Federal Department or agency.
 - (b) Have not, within a 3-year period preceding this proposal, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
 - (c) Are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification.
 - (d) Have not, within a 3-year period preceding this application/proposal, had one or more public transactions (Federal, State, or local) terminated for cause or default.

Should the applicant not be able to provide this certification, an explanation as to why should be placed after the assurances page in the application package. The applicant agrees by submitting this proposal that it will include, without modification, the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transactions" in all lower tier covered transactions (i.e., transactions with sub-grantees and/or contractors) and in all solicitations for lower tier covered transactions in accordance with 45 CFR Part 76.

- 2. Certification Regarding Drug-Free Workplace Requirements.** The undersigned (authorized official signing for the applicant organization) certifies that the applicant will, or will continue to, provide a drug-free work-place in accordance with 45 CFR Part 76 by:
- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
 - (b) Establishing an ongoing drug-free awareness program to inform employees about:
 - (1) The dangers of drug abuse in the workplace.
 - (2) The grantee's policy of maintaining a drug-free workplace.
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs.
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
 - (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a) above.
 - (d) Notifying the employee in the statement required by paragraph (a), above, that as a condition of employment under the grant, the employee will –

- (1) Abide by the terms of the statement.
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.
- (e) Notifying the agency in writing within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant.
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted –
- (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended.
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by Federal, State, or local health, law enforcement, or other appropriate agency.
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

3. Certification Regarding Lobbying. Title 31, United States Code, Section 1352, entitled “Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,” generally prohibits recipients of Federal grants and cooperative agreements from using Federal (appropriated) funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a SPECIFIC grant or cooperative agreement. Section 1352 also requires that each person who requests or receives a Federal grant or cooperative agreement must disclose lobbying undertaken with non-Federal (non-appropriated) funds. These requirements apply to grants and cooperative agreements EXCEEDING \$100,000 in total costs (45 CFR Part 93). The undersigned (authorized official signing for the applicant organization) certifies, to the best of his or her knowledge and belief, that:

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure of Lobbying Activities,” in accordance with its instructions.
- (c) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

4. **Certification Regarding Program Fraud Civil Remedies Act (PFCRA).** The undersigned (authorized official signing for the applicant organization) certifies that the statements herein are true, complete, and accurate to the best of his or her knowledge, and that he or she is aware that any false, fictitious, or fraudulent statements or claims may subject him or her to criminal, civil, or administrative penalties. The undersigned agrees that the applicant organization will comply with the Public Health Service terms and conditions of award if a grant is awarded as a result of this application.

5. **Certification Regarding Environmental Tobacco Smoke.** Public Law 103-227, also known as the Pro-Children Act of 1994 (ACT), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds. The law does not apply to children's services provided in private residence, portions of facilities used for inpatient drug or alcohol treatment, service providers whose sole source of applicable Federal funds is Medicare or Medicaid, or facilities where WIC coupons are redeemed.

Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing the certification, the undersigned certifies that the applicant organization will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The applicant organization agrees that it will require that the language of this certification be included in any sub-awards which contain provisions for children's services and that all sub-recipients shall certify accordingly.

The Public Health Services strongly encourage all grant recipients to provide a smoke-free workplace and promote the non-use of tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

6. **Conflict Of Interest:** By submitting a Proposal, proposer certifies that it has had no contact with an employee or Board member of the Health District in any manner which would give that proposer, any advantage over any other proposer. Health District employees and Board members shall not receive any compensation, in any manner or form, nor have any interest, direct or indirect, of any kind or nature inconsistent with loyal service to the public. A violation of any of the above is grounds for rejection without further consideration.

Signature of Authorized Certifying (Responder) Official: _____

Title: _____

Applicant Organization: _____

Date Signed & Submitted: _____

ATTACHMENT C FEE SCHEDULE

Company Name: _____

Proposer shall complete the following table accordingly and disclose all pricing and costs.

Period of Performance						
Item No.	Description of Services	Initial Term	1st Renewal Term	2nd Renewal Term	3rd Renewal Term	4th Renewal Term
First Party Collection Fees						
1	Health District will pay Agency the following percentage of all recoveries from assigned accounts, as follows:	%	%	%	%	%
2	Any additional costs:					
		\$	\$	\$	\$	\$
		\$	\$	\$	\$	\$

Period of Performance						
Item No.	Description of Services	Initial Term	1st Renewal Term	2nd Renewal Term	3rd Renewal Term	4th Renewal Term
Third Party Collection Fees						
1	Health District will pay Agency the following percentage of all recoveries from assigned accounts, as follows:	%	%	%	%	%
2	Any additional costs:					
		\$	\$	\$	\$	\$
		\$	\$	\$	\$	\$

ATTACHMENT D SAMPLE CONTRACT

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 XXX 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 XX to XX, unless sooner terminated by either Party as permitted in this Agreement.

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 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.

2. INCORPORATED DOCUMENTS. The services to be performed and/or the goods to be provided 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: FEE SCHEDULE

3. COMPENSATION. Contractor shall complete the services in a timely manner and consistent with the Scope of Work outlined in Attachment A, attached hereto. Contractor will be paid at rate of XX% commission per US Dollar collected on the Health District’s behalf as provided in Attachment B: Payment.

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. BOOKS AND RECORDS.

5.01 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.

5.02 Health District shall, at all reasonable times, have access to Contractor's records, calculations, presentations and reports for inspection and reproduction.

6. CONFIDENTIALITY. No protected health information as that term is defined in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") or personally identifiable information will be shared with Contractor during the course of this Agreement. Accordingly, no Business Associate Agreement is required.

7. 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 right to seek reasonable attorneys' fees and costs.

8. 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.

9. LIMITED LIABILITY. The Health District 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.

10. 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.

11. INDEMNIFICATION. Neither Party waives any right or defense to indemnification that may exist in law or equity.

12. 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.

13. 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.
14. 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.
15. PUBLIC RECORDS. Pursuant to NRS 239.010, information or documents, including this Agreement, and any other documents generated incidental thereto may be opened by Health District to public inspection and copying. Health District will have a duty to disclose unless a particular record is made confidential by law or a common law balancing of interests.
16. 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.
17. 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.
18. 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.
19. 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, with Clark Health District, Nevada as the exclusive venue of any action or proceeding related to or arising out of this agreement.
20. 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

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

ATTACHMENT E
BUSINESS ASSOCIATE AGREEMENT
BETWEEN
SOUTHERN NEVADA HEALTH DISTRICT
AND
XXX

This Business Associate Agreement (“Agreement”) is made and entered into this ___ day of _____, 2016 between the Southern Nevada Health District (“Covered Entity”), and XX (“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.

AGREEMENTS AFFECTED BY THIS BUSINESS ASSOCIATE AGREEMENT

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

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.

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.

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.

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).

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.

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.

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:

BUSINESS ASSOCIATE:

By: _____

By: _____

Name: Andrew J. Glass, FACHE, MS

Name:

Title: Director of Administration

Title:

Date: _____

Date: _____