



**REQUEST FOR PROPOSALS
FOR
RECORDS MANAGEMENT
CONSULTANT**

SNHD-9-RFP-17-003

October 26, 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 from qualified consultants to provide professional services for reviewing and advising the existing records management plan. 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 Dr
Henderson, Nevada

Mesquite Public Health Center
830 Hafen Lane
Mesquite, Nevada

Laughlin Public Health Center
3650 South Point Circle, Suite 205
Laughlin, Nevada

Henderson Health Cards
240 Water Street
Henderson, Nevada

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and shall be terminated immediately if for any reason the funding budgeted to satisfy this RFP and/or Agreement is withdrawn, limited, or impaired.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. Scope of Services

The Health District is required to manage their records and non-records in accordance with the Nevada Revised Statutes (NRS), Federal regulations, and policies and procedures. The majority of unstructured records and non records are stored via e-mail, DocuShare and shared drives.

1. Procedure and Policy Review

- a) Successful Contractor will develop a sustainable process for managing records and deleting non-records.
- b) Contractor will review Health District policies and procedures to ensure they are compliant with Nevada Revised Statutes (NRS), Federal regulations, and good business practices. Work flows will be analyzed to ensure they are appropriate and compliant.
- c) Contractor will review existing forms and revise as necessary. Any forms not deemed necessary will be recommended for removal; and forms required will be recommended.
- d) Contractor will identify the appropriate NRS and Nevada Administrative Code (NAC), and recommend citations for policies and procedures.

2. Contractor will also:

- a) Recommend system software and processes.
- b) Recommend RIM quality assurance.
- c) Review current retention schedules and make changes, as required.
- d) Meet with applicable staff for training, by program, including review of retention schedule.
- e) Recommend assigned roles of Health District programs to implement and maintain RIM.
- f) Provide a risk assessment and recommendation

SECTION III – TIMETABLE

A. Release Date of the Request for Proposals: October 26, 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: Loni Benard and Gabi Montaldo

Question/Clarification Deadline:

Date: November 16, 2016

Time: 4:00 pm

E-Mail Address: benard@snhdmail.org and montaldo@snhdmail.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-notice.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: November 23, 2016

Time: 4:00 pm

Submittal: Submit your proposal in a sealed envelope clearly marked: "SNHD-9-RFP-17-003, Records Management Consultant" 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-17-003, Records Management Consultant." 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.

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. 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.

G. Anticipated Award Date: December 01, 2016

H. Anticipated Contract Term: The anticipated Contract duration is 90 days. The Project's anticipated completion date is February 28, 2017.

SECTION IV - INSTRUCTIONS

Submission Requirements: Please submit your technical proposal with the following sections. Your cost proposal will be submitted in a separate sealed envelope clearly marked “Cost Proposal.”

Technical Proposal

Tab 1 – Table of Contents

Tab 2 – Corporate Background

Tab 3 – Executive Summary

Tab 4 – Qualifications and Experience

Tab 5 – Prior Record of Performance

Tab 6 – References

Tab 7 – Proposal Form (Attachment A)

Tab 8 – Cost Proposal (Attachment B) submitted in a separate envelope

TAB 1 – Table of Contents: The Table of Contents shall include an index of the proposal contents and attachments.

TAB 2 – Corporate Background:

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

- Proposer’s full organization, company or corporate name
- Headquarters’ address
- Type of ownership
- If proposer is a subsidiary or affiliate and the name of the parent organization
- State where the proposer is incorporated or otherwise organized to do business

TAB 3 – Executive Summary:

An executive summary should be provided which gives in brief; concise terms a summation of your proposal. Identify the points that make your firm uniquely qualified for this engagement.

TAB 4 – Qualifications and Experience:

- Key Personnel. Identify and describe the proposer’s labor skill set and provide resume’s of all proposed key personnel.
- Licenses and Professional Credentials

TAB 5 – Prior Record of Performance:

Prior record of performance that is relevant to the requirements of this RFP. Include at least three previous projects.

TAB 6 – References:

A minimum of 3 references of similar projects performed in the past 5 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.

TAB 7 – Proposal Form (Attachment A)

TAB 8 – Cost Proposal (Attachment B) submitted in a separate envelope

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. 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. Qualifications and Experience
2. Cost Proposal
3. Proposer's prior record of performance that is relevant to the requirements of this RFP. Include at least three previous projects.
4. References.

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
COST PROPOSAL**

Company Name: _____

Deliverable	Fully Loaded Hourly Rate
Professional Services	\$

Hourly Rate:

The fully loaded hourly rate listed above will include all cost associated with completion of this project described herein, including, but not limited to, salary, including benefits, overtime and all other associated costs, materials, shipping, insurance, taxes, overhead, travel, fee, etc.)

ATTACHMENT C SAMPLE CONTRACT

THIS SERVICES AGREEMENT is by and between the Southern Nevada Health District (“Health District”) and _____ (“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 _____ 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 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 ____% 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 performance of Services pursuant to this Agreement. In the performance of such Services, Contractor shall at all times be an independent Contractor with respect to Health District. Contractor is 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.
5. **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

6. 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. 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.
8. 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.
9. 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.
10. 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.
11. LIMITED LIABILITY. The Parties will not waive and intend to assert available NRS Chapter 41 liability limitations in all cases. Agreement liability of both Parties shall not be subject to punitive damages. To the extent applicable, actual agreement damages for any breach shall be limited by NRS 353.260 and NRS 354.626.
12. 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.
13. INDEMNIFICATION. Neither Party waives any right or defense to indemnification that may exist in law or equity.

14. 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, or sexual orientation. Contractor likewise agrees that it will comply with all state and federal employment discrimination statutes, including but not limited to Title VII, rules enforced by the Nevada Equal Rights Commission, and the American with Disabilities Act, in connection with this Agreement.
15. 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.
16. 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.
17. 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.
18. OWNERSHIP OF PROPRIETARY INFORMATION. Unless otherwise provided by law or this Agreement, any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code, or any other documents or drawings, prepared or in the course of preparation by either Party in performance of its obligations under this Agreement shall be the joint property of both Parties.
19. 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.
20. 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.
21. 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.
22. 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.
23. 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**

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