

## DRUG IMPAIRED DRIVING ORAL FLUID TEST DEVICE GRANT AGREEMENT

Your agency has been selected to receive oral fluid test devices and cartridges to assist with DUI enforcement and test evaluation. Please review the information and grant requirements below, fill in your agency information, sign and return to the Office of Traffic Safety by **December 29, 2023**.

### PROJECT DESCRIPTION

Deployment of oral fluid test devices for use by law enforcement agency in DUI evaluation. Law enforcement agency will use oral fluid testing as an accessory to the Standard Field Sobriety Tests where reasonable suspicion warrants further determination of impaired driving for the purpose of requesting accurate laboratory testing.

### PROJECT PURPOSE

In 2021, substance impaired crashes represented 57.5% of all Nevada crashes, and 58% of all traffic fatalities according to NHTSA's Fatality Analysis Report System. Of those impaired driving cases, polysubstance impairments were more than double alcohol only and marijuana only impairments. Law enforcement officers conducting roadside DUI evaluation are faced with situations where the SFST or ARIDE evaluation indicates reasonable suspicion of impairment, but preliminary breath tests do not indicate the presence of alcohol, or other indicators suggest drug impairment. The roadside oral fluid test can provide an indication of drug presence in the driver and allow the officer to request applicable laboratory testing.

The roadside oral fluid test is a screening test, not an evidentiary test. Similar to the preliminary breath test, the purpose of the oral fluid test is to assist the law enforcement officer in determining whether to administer the evidentiary breath test or the evidentiary blood test. Unlike the preliminary breath test, however, the roadside oral fluid test is not to be used to establish probable cause for an arrest. At this time, the purpose of oral testing is limited to assisting with test decisions, not arrest decisions.

To that end, the roadside oral fluid test should be administered after completion of the DUI investigation. Because results take a few minutes to appear on the oral fluid testing device, it is recommended that the test be administered immediately before preliminary breath testing, at which point the officer will set the oral fluid testing device aside and administer the preliminary breath test. After the officer has the preliminary breath test results, has made an arrest decision, and arrested or determined not to arrest the subject, the officer should then observe the oral fluid test results, which will then assist with making an evidentiary test decision if the subject is arrested for DUI. If the subject is not arrested and the oral fluid test is positive, the officer should note and report this to his/her supervisor for the program analysis, but it does not affect the decision not to arrest the driver since the oral fluid test does not test for impairment.

It is important to remember that the roadside oral fluid test is a minimally invasive search, but it is still a search subject to Fourth Amendment analysis. Because it is administered pre-arrest and during your investigation, it must therefore be consensual just like the roadside preliminary breath test.

### COUNTERMEASURES

Countermeasures That Work, 10<sup>th</sup> Edition, 2020  
Impaired Driving Prevention

- DUI Laws and Enforcement

### PROJECT GOALS

1. Evaluate roadside oral fluid testing devices for effectiveness in determining evidentiary laboratory testing for suspected DUI enforcement.

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| <b>TIMELINE</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <ol style="list-style-type: none"> <li>Agency will complete training in proper use of oral fluid devices by viewing the following instructional videos: <ol style="list-style-type: none"> <li><a href="#">SoToxa Mobile Test System Training</a></li> <li><a href="#">Zero Fatalities NV Roadside Oral Fluid Pilot Program Legal Considerations</a></li> </ol> <p>Officers will begin using the devices, as indicated, during DUI enforcement after reasonable suspicion of impairment has been observed in driving patterns and detected through use of the SFST or ARIDE.</p> </li> <li>Data will be collected during each stop where the device is implemented and logged onto a stat sheet provided by OTS.</li> <li>Activities will continue as long as oral fluid testing supplies last, or until December 31, 2024.</li> </ol> |
| <b>PROJECT ACTIVITIES</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <ul style="list-style-type: none"> <li>Law enforcement officers assigned to use oral fluid roadside test devices will complete training described above.</li> <li>Law enforcement agencies will coordinate with other agencies for Joining Forces DUI events or other planned DUI enforcement events.</li> <li>Oral fluid testing devices will be used as deemed appropriate for DUI testing determination.</li> <li>Oral fluid testing devices will be used regularly during DUI enforcement.</li> <li>Agency representative will attend quarterly Nevada DUI Task Force Meetings.</li> <li>Agency will submit accurate monthly reports using the provided report template.</li> </ul>                                                                                                                                                |
| <b>PROJECT PERFORMANCE</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Subrecipient will begin collecting data for baseline measures using the stat sheet provided by OTS. Data is required to be collected and submitted to OTS monthly.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>PROJECT EVALUATION</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Project evaluation will be conducted by OTS through information gathered on the stat sheets and will include frequency of use and thoroughness of data collection.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>GRANT CONDITIONS</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <p>The Office of Traffic Safety, through funding received from the National Highway Traffic Safety Administration, is providing the law enforcement agency with Sotoxa oral fluid testing devices and testing cartridges, as indicated below, for use in DUI enforcement activities described in this agreement.</p> <ul style="list-style-type: none"> <li>Oral fluid testing devices become the property of the law enforcement agency upon execution of this agreement.</li> <li>Oral fluid testing cartridges are supplied by OTS at the beginning of the grant period for use throughout the grant period. Additional testing cartridges are the responsibility of the receiving agency.</li> <li>Agency agrees to complete all Project Activities described above.</li> </ul>                                                    |
| <b>BUDGET</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <p><b>**Your agency should currently be receiving OTS DUI enforcement grant funds for personnel and other related expenses. Award of oral fluid test devices and cartridges under this agreement are separate from other grant awards. If additional grant funds are requested, please describe here:</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>NOTES</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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Law Enforcement Agency:

Washoe County Sheriff's Office

Number of Oral Fluid Devices Awarded:

2

Number of Oral Fluid Device Testing Cartridges Awarded:

25

Agency Project Director Name/Signature:

Ami Irby/

 1/12/24

Agency Authorizing Official Name/Signature:

Darin Balaam, Sheriff/

 1/8/24

Office of Traffic Safety Project Director Name/Signature:

Todd Hartline/

Office of Traffic Safety Authorizing Official Name/Signature:

Amy Davey/

Date of Executed Agreement: