

CETS #:	21460
Agency Reference #:	

AMENDMENT # 1

TO INTERLOCAL CONTRACT BETWEEN PUBLIC AGENCIES

Between the State of Nevada
Acting By and Through Its

Public Entity #1:	Department of Health and Human Services Division of Health Care Financing and Policy
Address:	1100 E. William Street, #101
City, State, Zip Code:	Carson City, NV 89701
Contact:	Debbie Martinez, Contract Manager
Phone:	(775) 684-3676 (main)
Fax:	
Email:	debrah.martinez@dhefp.nv.gov / dhefpccu@dhefp.nv.gov

Public Entity #2:	Clark County
Address:	500 S. Grand Central Parkway
City, State, Zip Code:	Las Vegas, NV 89155
Contact:	Jessica Colvin
Phone:	(702) 455-3530
Fax:	
Email:	Jessica.Colvin@ClarkCounty.nv.gov

1. **AMENDMENTS.** For and in consideration of mutual promises and other valuable consideration, all provisions of the original Contract dated March 12, 2019, attached hereto as Exhibit A, remain in full force and effect with the exception of the following:

A. Provide a brief explanation for contract amendment.

This is the first amendment to the original interlocal contract which continues the services of receiving funds to support and fund the state's share of the supplemental Disproportionate Share Hospital (DSH) program for hospitals that serve a disproportionate share of uninsured, indigent, and Medicaid patients pursuant to NRS 422.382. This amendment increases the contract maximum from \$137,414,021.00 to \$155,555,926.00 due to the postponement of the federal DSH allotment.

B. Current Contract Language:

7. **CONSIDERATION.** The County agrees to provide the services set forth in paragraph 6 at a cost of approximately \$55,565,623 for State Fiscal Year (SFY) 2019, \$44,364,846 for SFY 2020, \$37,483,552 for SFY 2021, OR an amount for the SFY determined by DHCFP pursuant to NAC 422.105, with the total Contract or installments payable: as set forth in Attachment A, not to exceed \$137,414,021 for the contract term. The amount the County is required to transfer to DHCFP each quarter will be reduced by a credit amount as set forth in Attachment A. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the results of legislative appropriation may require.

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C. Amended Contract Language:

7. **CONSIDERATION.** The parties agree that the services specified in *Section 6, Incorporated Documents* at a cost as noted below:

Total Contract Not to Exceed:	\$155,555,926.00
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Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the result of legislative appropriation may require.

2. **INCORPORATED DOCUMENTS.** Exhibit A (original Contract) is attached hereto, incorporated by reference herein and made a part of this amended contract.
3. **REQUIRED APPROVAL.** This amendment to the original Contract shall not become effective until and unless approved by the Nevada State Board of Examiners.

EXHIBIT A

INTRASTATE INTERLOCAL CONTRACT BETWEEN PUBLIC AGENCIES

A Contract Between the State of Nevada
Acting By and Through Its

**DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS)
DIVISION OF HEALTH CARE FINANCING AND POLICY (DHCFP)**

1100 E. William Street, #101
Carson City, Nevada 89701
Phone: (775) 684-3763 Fax: (775) 684-3763

and

CLARK COUNTY

500 S Grand Central Parkway
Las Vegas, Nevada 89155
Phone: (702) 455-3530

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

WHEREAS, it is deemed that the services of Clark County hereinafter set forth are both necessary to DHCFP and in the best interests of the State of Nevada;

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. **REQUIRED APPROVAL.** This Contract shall not become effective until and unless approved by appropriate official action of the governing body of each party.
2. **DEFINITIONS.** "State" means the State of Nevada and any state agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307.
3. **CONTRACT TERM.** This Contract shall be retroactively effective from July 1, 2018 to June 30, 2021, unless sooner terminated by either party as set forth in this Contract.
4. **TERMINATION.** This Contract may be terminated by either party prior to the date set forth in paragraph (3), provided that a termination shall not be effective until 30 days after a party has served written notice upon the other party. This Contract may be terminated by mutual consent of both parties or unilaterally by either party without cause. The parties expressly agree that this Contract shall be terminated immediately if for any reason federal and/or State Legislature funding ability to satisfy this Contract is withdrawn, limited, or impaired.
5. **NOTICE.** All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address set forth above.

6. INCORPORATED DOCUMENTS. The parties agree that the services to be performed shall be specifically described; this Contract incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT A: SCOPE OF WORK

ATTACHMENT B: BUDGET PROPOSAL

7. CONSIDERATION. The County agrees to provide the services set forth in paragraph 6 at a cost of approximately \$55,565,623 for State Fiscal Year (SFY) 2019, \$44,364,846 for SFY 2020, \$37,483,552 for SFY 2021, OR an amount for the SFY determined by DHCFF pursuant to NAC 422.105, with the total Contract or installments payable: as set forth in Attachment A, not to exceed \$137,414,021 for the contract term. The amount the County is required to transfer to DHCFF each quarter will be reduced by a credit amount as set forth in Attachment A. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the results of legislative appropriation may require.
8. ASSENT. The parties agree that the terms and conditions listed on incorporated attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations expressly provided.
9. INSPECTION & AUDIT.
- a. Books and Records. Each party agrees to keep and maintain under general accepted accounting principles full, true and complete records, agreements, books, and documents as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes.
- b. Inspection & Audit. Each party agrees that the relevant books, records (written, electronic, computer related or otherwise), including but not limited to relevant accounting procedures and practices of the party, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location where such records may be found, with or without notice by the State Auditor, Employment Security, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives.
- c. Period of Retention. All books, records, reports, and statements relevant to this Contract must be retained a minimum three years and for five years if any federal funds are used in this Contract. The retention period runs from the date of termination of this Contract. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.
10. BREACH; REMEDIES. Failure of either party to perform any obligation of this Contract shall be deemed a breach. Except as otherwise provided for by law or this Contract, 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 reasonable attorneys' fees and costs. It is specifically agreed that reasonable attorneys' fees shall include without limitation \$125 per hour for State-employed attorneys.

11. LIMITED LIABILITY. The parties will not waive and intend to assert available NRS chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Actual damages for any State breach shall never exceed the amount of funds which have been appropriated for payment under this Contract, but not yet paid, for the fiscal year budget in existence at the time of the breach.
12. FORCE MAJEURE. Neither party shall be deemed to be in violation of this Contract 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 Contract after the intervening cause ceases.
13. INDEMNIFICATION. Neither party waives any right or defense to indemnification that may exist in law or equity.
14. INDEPENDENT PUBLIC AGENCIES. The parties are associated with each other only for the purposes and to the extent set forth in this Contract, and in respect to performance of services pursuant to this Contract, each party is and shall be a public agency separate and distinct from the other party and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for one agency whatsoever with respect to the indebtedness, liabilities, and obligations of the other agency or any other party.
15. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of the Contract 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.
16. SEVERABILITY. If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the unenforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.
17. ASSIGNMENT. Neither party shall assign, transfer or delegate any rights, obligations or duties under this Contract without the prior written consent of the other party.
18. OWNERSHIP OF PROPRIETARY INFORMATION. Unless otherwise provided by law any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under this Contract), or any other documents or drawings, prepared or in the course of preparation by either party in performance of its obligations under this Contract shall be the joint property of both parties.
19. PUBLIC RECORDS. Pursuant to NRS 239.010, information or documents may be open to public inspection and copying. The parties will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests.
20. CONFIDENTIALITY. Each party shall keep confidential all information, in whatever form, produced, prepared, observed or received by that party to the extent that such information is confidential by law or otherwise required by this Contract.

21. PROPER AUTHORITY. The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract and that the parties are authorized by law to perform the services set forth in paragraph (6).
22. GOVERNING LAW; JURISDICTION. This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. The parties consent to the jurisdiction of the Nevada district courts for enforcement of this Contract.
23. ENTIRE AGREEMENT AND MODIFICATION. This Contract and its integrated attachment(s) constitute the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto, approved by the Office of the Attorney General.

IN WITNESS WHEREOF, the parties hereto have caused this amendment to the original contract to be signed and intend to be legally bound thereby.

Clark County

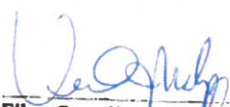

Steve Sisolak

Date

12/4/18

Board of Commissioners, Chairman
Title

Department of Health and Human Services
Division of Health Care Financing and Policy


Ellen Crecelius

Date

1/3/19

Chief Fiscal Officer, DHCFP
Title


Marta Jensen

Date

1/31/19

Administrator, DHCFP
Title


Richard Whitley

Date

2/4/19

Director, DHHS
Title


Signature - Board of Examiners

Date

3-12-19

APPROVED BY BOARD OF EXAMINERS

Approved as to form by:


Deputy Attorney General for Attorney General

Date

1/23/19

ATTACHMENT A

Clark County DSH IGT Scope of Work

- A. This contract is undertaken between the Department of Health and Human Services, Division of Health Care Financing and Policy (DHCFP) and Clark County (County) in an effort to provide a means by which funds allocated by County for certain indigent services can be combined with federal matching funds for persons eligible for Medicaid or other indigent individuals in Nevada. Nothing in this contract is intended to diminish the scope and quality of medical services provided to individuals qualified by eligibility standards adopted by County.
- B. DHCFP and County, by joining in this contract, agree that existing medical coverage and services to individuals will be maintained in a manner so as to prevent the transfer of responsibility for medical care for such individuals from the State of Nevada to any county government in the state.
- C. The parties agree that the services or activities to be performed are as follows:
1. Pursuant to NRS 422.382 and NAC 422.105, the County shall pay to DHCFP 70% (Seventy Percent) of the total amount of disproportionate share payments distributed to all hospitals for State Fiscal Year (SFY) 2018 pursuant to NAC 422.115, less \$1,050,000.00 (One Million Fifty Thousand Dollars and Zero Cents) or 68.54% (Sixty-Eight and Fifty-Four One Hundredths Percent) of the total amount of disproportionate share payments distributed to all hospitals for SFY 2019 pursuant to NAC 422.115, whichever is less.
 2. Due upon execution of this contract, the County shall make the required payment for any quarter retroactive to the effective date of this agreement. Thereafter, the payment for each quarter shall be due no later than the 30th day of the first month of each quarter (July 30, October 30, January 30 and April 30).
 3. The amount the County is required to transfer to DHCFP each quarter will be reduced by a credit amount determined pursuant to NAC 422.105.
 4. DHCFP shall notify County of any adjustments promptly and adjust subsequent payments accordingly.
- D. Nothing in this contract shall be construed in such a manner as to limit the ability of County to determine eligibility for medical and financial assistance to indigent persons in accordance with NRS 428.015.
- E. The parties agree that all services rendered under this contract shall be provided in compliance with the Federal Civil Rights Act of 1964, and the Americans with Disabilities Act, as amended, and no person shall be unlawfully denied service on the grounds of age, race, creed, color, sex, national origin, or handicap.
- F. The parties hereby agree that all information regarding individuals receiving services as a result of this contract is and shall remain confidential, and shall not be disseminated by any party except for purposes directly related to the provision of services under this contract. See NRS 428.045(3).

- G. The parties must expend and account for contract funds in accordance with applicable federal regulations. Fiscal control and accounting procedures must be sufficient to:
1. Permit the tracing of funds to a level of expenditure adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable contract or regulatory requirements and statutes; and
 2. Provide information pertaining to the actual cost of making eligibility determinations pursuant to NRS 428.015 and this contract.
- H. The parties shall comply with all applicable local, state, and federal laws in carrying out the obligations of this contract, including all federal and state accounting procedures and requirements.

Attachment B IGT Budget Proposal (DSH)

BUDGET PROPOSAL

SFY 2019	SFY 2020	SFY 2021	Contract Total
\$55,565,623	\$44,364,846	\$37,483,552	\$137,414,021

PROJECTED PAYMENTS

SFY 2019	SFY 2020	SFY 2021	Total
\$81,070,358	\$64,728,402	\$54,688,580	\$200,487,339
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Methodology

IGT % is set per NAC 422.105. Federal DSH reductions are scheduled to begin in FFY 2020.