

CETS #:	21461
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:	Debrah 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 July 3, 2018, 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 contract to continue the service of receiving funds to support and fund the state's share of the supplemental Practitioner Upper Payment Limit program for practitioners who are contributing to meaningful medical education within University Medical Center. This amendment increases the contract maximum from \$774,718.00 to \$3,108,879.00 due to higher than expected claims volume and designated practitioners by the public teaching entities. This amendment extends the current contract from June 30, 2021 to June 30, 2022.

B. Current Contract Language:

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.

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 B. BUDGET PROPOSAL

CETS #:	21461
Agency Reference #:	

7. CONSIDERATION

- a. Clark County agrees to provide the services set forth in paragraph (6) and shall pay DHCFP an amount equal to the State’s federally required participation share of approximately \$186,512 in State Fiscal Year (SFY) 2019, \$193,277 in SFY 2020, \$192,638 in SFY 2021 with the total Contract payable not exceeding approximately \$572,427 for the contract term. DHCFP shall pay to University Medical Center through Clark County Supplemental Payments pursuant to Attachment A and the Nevada Medicaid State Plan. 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.
- b. In addition, Clark County shall pay an administrative fee to DHCFP of approximately 12.5% of the total supplemental payment per quarter with the total Contract payable not exceeding approximately \$202,291. 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.
- c. The total Contract Value is approximately \$774,718. The total value is calculated adding the Federally Required State Participation Share and the Administrative Fee.

C. Amended Contract Language:

- 3. **CONTRACT TERM.** This Contract shall be retroactively effective from July 1, 2018 to June 30, 2022, unless sooner terminated by either party as set forth in this Contract.
- 6. **INCORPORATED DOCUMENTS.** The parties agree that this Contract, inclusive of the following Attachments, specifically describes the Scope of Work. This Contract incorporates the following Attachments in descending order of constructive precedence:

ATTACHMENT B:	BUDGET PROPOSAL (revised February 2021)
---------------	---

- 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:	\$3,108,879.00
-------------------------------	----------------

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.

Attachment B

Clark County Practitioner UPL Budget Worksheet

	SFY 2019	SFY 2020	SFY 2021	SFY2022	Contract Total
Contract	\$253,295	\$260,705	\$260,718		\$774,718
Amendment #1	\$175,130	\$481,532	\$718,928	\$958,571	\$2,334,161
Total	\$428,425	\$742,237	\$979,646	\$958,571	\$3,108,879
	Actual	Actual	Approx	Approx	Not to Exceed

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 University Medical Center through 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.

- a. Clark County agrees to provide the services set forth in paragraph (6) and shall pay DHCFP an amount equal to the State's federally required participation share of approximately \$186,512 in State Fiscal Year (SFY) 2019, \$193,277 in SFY 2020, \$192,638 in SFY 2021 with the total Contract payable not exceeding approximately \$572,427 for the contract term. DHCFP shall pay to University Medical Center through Clark County Supplemental Payments pursuant to Attachment A and the Nevada Medicaid State Plan. 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.
- b. In addition, Clark County shall pay an administrative fee to DHCFP of approximately 12.5% of the total supplemental payment per quarter with the total Contract payable not exceeding approximately \$202,291. 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.
- c. The total Contract Value is approximately \$774,718. The total value is calculated adding the Federally Required State Participation Share and the Administrative Fee.

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
Marilyn Kirkpatrick 3/5/19
Marilyn Kirkpatrick Date

Board of Commissioners, Chairman
Title

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

Ellen Grezelus 4/26/19
Ellen Grezelus Date

Chief Financial Officer, DHCFP
Title

Suzanne Bierman 5/3/19
Cody Phinney Date
SUZANNE BIERMAN

~~Acting Administrator, DHCFP~~
Title

Richard Whitley
Richard Whitley Date

Director, DHHS
Title

Suzanne Bierman 6-13-19
Signature - Board of Examiners Date

APPROVED BY BOARD OF EXAMINERS

Approved as to form by:

Deputy Attorney General 4/4/19
Deputy Attorney General for Attorney General Date

ATTACHMENT A
Scope of Agreement

Supplemental Payments

In order to preserve access to practitioner services for needy individuals in the State of Nevada at non state governmentally owned hospitals, and to recognize the higher costs incurred by teaching programs when providing said services, the State of Nevada, Division of Health Care Financing and Policy (DHCFP) shall provide Supplemental Payments to non-state, governmental owned or operated teaching hospitals. In consideration of these payments, Clark County (hereinafter referred to as "County") as owners and operators of the non-state, governmental owned or operated teaching hospital in the County, University Medical Center (hereinafter referred to as "UMC"), shall make payment to the DHCFP as follows:

1. Commencing for the quarterly period July 1, 2018 through September 30, 2018 and for each quarterly period thereafter, DHCFP shall pay UMC, not later than the last business day of the month following the quarter end, the Supplemental Payment described in the Nevada Medicaid State Plan. Each Supplemental Payment shall be contingent upon the following:
 - a. Receipt by DHCFP from Clark County in an amount corresponding to the State's federally required participation share of the total Supplemental Payment payable to UMC;
 - b. Receipt by DHCFP of an Administrative Fee from Clark County that shall be 12.5% of the total Supplemental Payment payable to UMC each quarter, at this time estimated to be approximately \$68,000 annually or \$17,000 per quarter.
2. The parties hereto further agree as follows:
 - a. Funds used to pay the State's federally required participation share and the Administrative Fee shall be non-federal funds not used as match for any other federal grant. Funds used to pay these amounts must also meet the requirements for the State share at 42 C.F.R. 433.51
 - b. In the event an audit results in findings that federal funds were obtained or paid incorrectly for any activities provided under this Agreement, and those findings require repayment of such funds, the repayment will come from UMC. Such repayments may be obtained by offset of future payments due under this Agreement or by offset of other payments due to UMC from DHCFP, or by any other legal means.
 - c. UMC shall be totally responsible for UMC data which forms the basis of any claim submitted or payment received by UMC.
 - d. Approval by the federal Centers for Medicare and Medicaid Services ("CMS"), of the payments, terms and conditions of this Agreement, are a condition precedent to the obligations of either party under this Agreement. The parties shall comply with any conditions imposed currently or in the future by CMS, related to the Supplemental Payments.
 - e. All payments under this Agreement are contingent upon:
 - i. The availability to DHCFP of the necessary funds from the federal government; and,
 - ii. The availability of funds to provide the State share of Supplemental Payments and of Administrative Fees.
 - f. In the event that sufficient funds, as determined by DHCFP, are not available for any reason, DHCFP shall not be obligated to make any payments to UMC under this Agreement. DHCFP will notify UMC of the insufficient funds within a reasonable time after making that decision. If the State Share and/ or Administrative Fees have been paid to DHCFP for a quarter in which the County has been notified there were insufficient federal funds to issue the supplemental payment as described above, the portion of the State Share and Administrative Fees that cannot be matched by Federal Funds will be returned to the County. Nothing in this Agreement shall be construed to provide UMC with a right to payment over any other entity. If any payments which are otherwise due to UMC under this Agreement are deferred because of the unavailability of sufficient funds, such payments will be made to UMC if sufficient funds later become available.
 - g. The county shall receive a credit on their voluntary contribution invoices equal to 87.5% of the additional federal funds claimed for the Expansion Population by DHCFP for supplemental payments issued to the Hospital under this contract. These credits will begin on the SFY 2020 Q1 invoice for SFY 2019 Q1 as there is a 1 year wait period for these claims. This credit is contingent on the continued availability of additional federal funds for the Expansion Population.

Attachment B

Clark County Practitioner UPL and Administrative Fee Budget Worksheet

BUDGET PROPOSAL at 12.5% Above State Match

	SFY 2019	SFY 2020	SFY 2021	Total
Practitioners UPL 4103 IGT	\$186,512	\$193,277	\$192,638	\$572,427
Practitioners UPL 4103 Admin Fee	\$66,783	\$67,428	\$68,080	\$202,291
Total	<u>\$253,295</u>	<u>\$260,705</u>	<u>\$260,718</u>	<u>\$774,718</u>

PROJECTED PAYMENTS

	SFY 2019	SFY 2020	SFY 2021	Total
Projected Practitioner UPL Payments	\$534,267	\$539,427	\$544,637	\$1,618,331
Total	<u>\$534,267</u>	<u>\$539,427</u>	<u>\$544,637</u>	<u>\$1,618,331</u>

Methodology

The Admin Fee for the Practitioner UPL Supplemental Payment will be 12.5% above State Match.