

CETS #:	24025
Agency Reference #:	

## INTERLOCAL CONTRACT BETWEEN PUBLIC AGENCIES

A Contract Between the State of Nevada  
Acting by and through its

Public Entity #1:	<b>Department of Health and Human Services Division of Health Care Financing and Policy</b>
Address:	<b>1100 E. William St., Suite 101</b>
City, State, Zip Code:	<b>Carson City, NV 89706</b>
Contact:	<b>Lisa Tuttle, Contract Manager</b>
Phone:	<b>775-684-3676 (main)</b>
Fax:	
Email:	<a href="mailto:dhcfppcu@dhcfp.nv.gov">dhcfppcu@dhcfp.nv.gov</a>

Public Entity #2:	<b>Clark County</b>
Address:	<b>500 Grand Central Parkway</b>
City, State, Zip Code:	<b>Las Vegas, NV 89155</b>
Contact:	<b>Jessica Colvin, Chief Financial Officer</b>
Phone:	<b>702-455-3324</b>
Fax:	<b>702-379-9724</b>
Email:	<a href="mailto:Jessica.Colvin@clarkcountynv.gov">Jessica.Colvin@clarkcountynv.gov</a>

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 hereinafter set forth are both necessary 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**

TERM	DEFINITION
State	The State of Nevada and any State agency identified herein, its officers, employees and immune contractors.
Contracting Entity	The public entities identified above.
Fiscal Year	The period beginning July 1 <sup>st</sup> and ending June 30 <sup>th</sup> of the following year.
Contract	Unless the context otherwise requires, 'Contract' means this document titled Interlocal Contract Between Public Agencies and all Attachments or Incorporated Documents.

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3. **CONTRACT TERM.** This Contract shall be effective as noted below, unless sooner terminated by either party as specified in *Section 4, Termination*.

Effective From:	January 1, 2020	To:	June 30, 2023
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4. **TERMINATION.** This Contract may be terminated by either party prior to the date set forth in *Section 3, Contract Term*, 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 State and/or federal funding ability to satisfy this Contract is withdrawn, limited, or impaired.
5. **NOTICE.** All communications, including notices, required or permitted to be given under this Contract shall be in writing and directed to the parties at the addresses stated above. Notices may be given: (a) by delivery in person; (b) by a nationally recognized next day courier service, return receipt requested; or (c) by certified mail, return receipt requested. If specifically requested by the party to be notified, valid notice may be given by facsimile transmission or email to the address(es) such party has specified in writing.
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 A:	SCOPE OF WORK AND DELIVERABLES
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Any provision, term or condition of an Attachment that contradicts the terms of this Contract, or that would change the obligations of the State under this Contract, shall be void and unenforceable.

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:	\$81,360,051.00
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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.

8. **ASSENT.** The parties agree that the terms and conditions listed in the 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 document 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.

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- 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 not exceed \$150.00 per hour.
  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, acts of public enemy, acts of terrorism, 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 constructed 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 non-enforceability 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.

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21. **FEDERAL FUNDING.** In the event, federal funds are used for payment of all or part of this Contract, the parties agree to comply with all applicable federal laws, regulations and executive orders, including, without limitation the following:
- A. The parties certify, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to Executive Orders 12549 and 12689 and Federal Acquisition Regulation Subpart 9.4, and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.
  - B. The parties and its subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder, including 28 C.F.R. Section 35, inclusive, and any relevant program-specific regulations.
  - C. The parties and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964 (P.L. 88-352), as amended, the Rehabilitation Act of 1973 (P.L. 93-112), as amended, and any relevant program-specific regulations, and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions.)
  - D. Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
22. **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 *Section 6, Incorporated Documents*.
23. **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 exclusive jurisdiction of and venue in the First Judicial District Court, Carson City, Nevada for enforcement of this Contract.
24. **ENTIRE AGREEMENT AND MODIFICATION.** This Contract and its integrated Attachment(s) constitute the entire agreement of the parties and as 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.

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

**CLARK COUNTY**

\_\_\_\_\_  
Marilyn Kirkpatrick Date Chairman, Board of County Commissioners  
Title

ATTESTED BY:

\_\_\_\_\_  
Clark County Clerk

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

\_\_\_\_\_  
Suzanne Bierman, JD, MPH Date Administrator, DHCFP  
Title

\_\_\_\_\_  
Richard Whitley, MS Date Director, DHHS  
Title

**APPROVED BY BOARD OF EXAMINERS**

\_\_\_\_\_  
Signature – Board of Examiners On: \_\_\_\_\_  
Date

Approved as to form by:  
On: \_\_\_\_\_  
\_\_\_\_\_  
Deputy Attorney General for Attorney General Date

**ATTACHMENT A  
SCOPE OF WORK**

**CLARK COUNTY CONTRIBUTIONS IN SUPPORT OF DIRECTED MANAGED  
CARE ORGANIZATION (MCO) CAPITATED PAYMENTS**

- A. Clark County agrees to voluntarily transfer public funds to the Division of Health Care Financing and Policy (DHCFP) to be used as the non-federal share of general Medicaid expenditures. This will preserve access to care for the needy individuals in the State of Nevada via Directed Managed Care Organization payments.
- B. As a political sub-division organized under the laws of the State of Nevada, the County is authorized to levy and collect ad valorem taxes, generate public revenue, or receive and expend appropriated public funds, and is legally able to contribute such funds to the State Medicaid program. The County certifies it is not required by the State of Nevada to make this contribution. There is no law, statute, administrative code, or other legal mandate from the State of Nevada requiring the transfer of funds for the specific purpose described herein.
- C. While the contributions are voluntary in nature, the County agrees it cannot revoke its contribution once the non-state, governmentally owned or operated Hospital in the County deemed by DHCFP as a Safety Net Provider for Inpatient and Outpatient hospital services (hereinafter referred to as “Hospital”) has received the Directed Managed Care Organization payments referenced in paragraph (7) from the State for the respective quarter.
- D. The County shall make the payment to DHCFP as follows.
  - 1. The amount equal to the sum of:
    - a. The product of:
      - i. The Directed Managed Care Organization (MCO) payment received by the Hospital for Nevada Medicaid Newly Eligible (Expansion Population), defined as those recipients who are made eligible as part of the Patient Protection and Affordable Care Act:
        - a) CA (Childless Adults ages 19-64)
        - b) AM1 (Expanded Parents and Caretakers ages 19-64)
      - ii. The contribution percentage for the Expansion Population as set forth in Section D (2).
    - b. The product of:
      - i. The Directed MCO payment received by the Hospital for those recipients not included in the Expansion Population (Current Population) and
      - ii. The contribution percentage for the Current Population as set forth in Section D (2).

2. “The percentage” referenced in Section D(1)(a) ii and Section D(1)(b) ii for the Directed MCO payment is determined to be as follows for each State Fiscal Year:

For the period January 1, 2020 to June 30, 2020:

Non-federal share of general Medicaid expenditures as defined in Section A + 12.5%

For the period July 1, 2020 to June 30, 2021:

Non-federal share of general Medicaid expenditures as defined in Section A + 12.5%

For the period July 1, 2021 to June 30, 2022:

Non-federal share of general Medicaid expenditures as defined in Section A + 12.5%

For the period July 1, 2022 to June 30, 2023:

Non-federal share of general Medicaid expenditures as defined in Section A + 12.5%

- E. The County shall make payments to DHCFP as follows:

1. Payment frequency:

- a. For the Directed MCO program, IGT payment shall be made in advance on a quarterly basis. Payments will be made from the county and will continue as funding is available to support the non-federal share of the Centers for Medicare & Medicaid Services (CMS) approved and certified actuarially sound Directed MCO rates. The County will provide the DHCFP a 60-day advance notice when discontinuing the funding for the Directed MCO Payment program.

2. If there is a retroactive change in the directed rates received by the MCOs, as a result of an audit by any federal or state agency, DHCFP shall promptly notify the County of the corresponding change in the contribution amount and adjust subsequent payments accordingly.

3. Payments made by the County shall be derived from general county tax revenues or other general revenues of the County, and shall not be derived from Hospital operating revenues, or any other impermissible source of funding for the State’s share such as recycled Medicaid payments, Federal dollars excluded from use as State match, and impermissible taxes.