

CETS #:	21457
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:	dhcfppcu@dhcfp.nv.gov / debrah.martinez@dhcfp.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 1, 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 receipt of funds to support the state's share of the supplemental inpatient, outpatient and Graduate Medical Education (GME) Upper Payment Limit program for non-state, governmental owned or operated hospitals and the Managed Care Organization capitated payment program. This amendment updates the Scope of Work to change the percentage of the additional funds claimed and increases the contract maximum from \$103,382,599.00 to \$103,932,299.00 due to final demonstration amounts being slightly higher than program projections.

B. Current Contract Language:

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

Section E.5. 87.5% of the additional funds claimed in SFY 2022 for the Expansion Population by DHCFP for supplemental payments issued to the Hospital in SFY 2021 will be returned to the County in SFY 2022 otherwise credited to the County in a future agreement.

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7. **CONSIDERATION.** The County shall make payment to DHCFP as set forth in Attachment A: Scope of Work and the total voluntary contribution shall not exceed approximately \$41,094,083 for State Fiscal Year (SFY) 2019, approximately \$32,825,693 for SFY 2020, \$29,462,823 for SFY 2021 with the total not to exceed approximately \$103,382,599 for the contract term. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal SFY not changing the overall Contract term) or termination as the results of legislative appropriation may require.

C. Amended Contract Language:

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

Section E.5. 60% of the additional funds claimed in SFY 2022 for the Expansion Population by DHCFP for supplemental payments issued to the Hospital in SFY 2021 will be returned to the County in SFY 2022 otherwise credited to the County in a future agreement.

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

\$30,012,523.00	per	SFY 2021
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Total Contract Not to Exceed:	\$103,932,299.00
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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

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 effective retroactively 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 shall make payment to DHCFP as set forth in Attachment A: Scope of Work and the total voluntary contribution shall not exceed approximately \$41,094,083 for State Fiscal Year (SFY) 2019, approximately \$32,825,693 for SFY 2020, \$29,462,823 for SFY 2021 with the total not to exceed approximately \$103,382,599 for the contract term. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal SFY not changing the overall Contract term) or 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 Contract to be signed and intend to be legally bound thereby.

Clark County

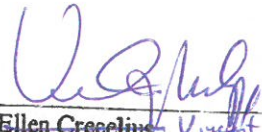


Steve Sisolak

12/4/18
Date

Board of Commissioners, Chairman
Title

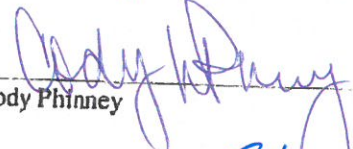
Department of Health and Human Services
Division of Health Care Financing and Policy



Ellen Creelius

1/29/19
Date

Chief Financial Officer, DHCFP
Title



Cody Phinney

1/31/19
Date

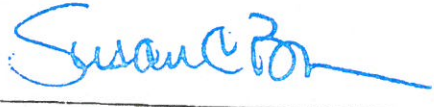
Acting Administrator, DHCFP
Title

for 

Richard Whitley

2/4/19
Date

Director, DHHS
Title

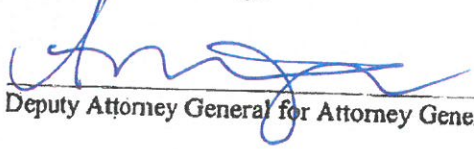


Signature - Board of Examiners

3/12/19
Date

APPROVED BY BOARD OF EXAMINERS

Approved as to form by:



Deputy Attorney General for Attorney General

1/23/19
Date

ATTACHMENT A

CLARK COUNTY VOLUNTARY CONTRIBUTIONS IN SUPPORT OF ENHANCED MANAGED CARE ORGANIZATION (MCO) CAPITATED PAYMENTS AND INPATIENT, OUTPATIENT, AND GRADUATE MEDICAL EDUCATION (GME) HOSPITAL SERVICES SCOPE OF WORK

- 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 under Fee For Service (FFS) and Managed Care Organizations (MCO) including Inpatient and Outpatient Hospital services, Graduate Medical Education (GME) and Enhanced MCO 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 (hereinafter referred to as "Hospital") has received the supplemental 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 County shall voluntarily pay to DHCFP an amount equal to the sum of the product of:
 - a. The contribution percentage as set forth in Section D(3), and
 - b. The supplemental inpatient and outpatient Upper Payment Limit (UPL) and Graduate Medical Education (GME) supplemental payments received by the hospital.
 2. The amount equal to the required state match of the Enhanced MCO payment received by the Hospital and the sum of:
 - a. The product of:
 - i. The Enhanced Managed Care Organization (MCO) payment received by the non-state publically owned or operated hospital in the County deemed by DHCFP as a Safety Net Provider for Inpatient and Outpatient hospital services for Nevada Medicaid Newly Eligibles (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(4).

- b. The product of:
 - i. The Enhanced MCO payment received by the non-state publically owned or operated hospital in the County deemed by DHCFP as a Safety Net Provider for Inpatient and Outpatient hospital services 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(4).
- 3. "The percentage" referenced in Section D(1)a for the inpatient and outpatient UPL and GME programs is determined to be as follows:

For the period July 1, 2018 to June 30, 2019:
12.5%

For the period July 1, 2019 to June 30, 2020:
12.5%

For the period July 1, 2020 to June 30, 2021:
12.5%

- 4. "The percentage" referenced in Section D(2)(a)ii and Section D(2)(b)ii for the Enhanced MCO payment is determined to be as follows for each calendar year:

For the period July 1, 2018 to June 30, 2019:
12.5%

For the period July 1, 2019 to June 30, 2020:
12.5%

For the period July 1, 2020 to June 30, 2021:
12.5%

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

- 1. Payment frequency:

- a. For the FFS Inpatient and Outpatient Hospital Services and GME programs, IGT 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) of each subsequent fiscal year.
- b. For the Enhanced 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 Enhanced MCO rates. The County will provide the DHCFP a 60 day advance notice when discontinuing the funding for the Enhanced MCO program.

2. If there is a retroactive change in the supplemental payments received by the Hospital, or the enhanced 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.
4. 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.
5. 87.5% of the additional funds claimed in SFY 2022 for the Expansion Population by DHCFP for supplemental payments issued to the Hospital in SFY 2021 will be returned to the County in SFY 2022 unless otherwise credited to the County in a future agreement.

**ATTACHMENT B
BUDGET PROPOSAL (TOTAL CONTRACT)**

	SFY 2019	SFY 2020	SFY 2021	Total
UPL IP 4104	\$6,091,772	\$6,974,261	\$8,291,757	
FMAP Claiming Credit	\$0	\$4,511,259	\$3,636,964	
Total UPL IP 4104	\$6,091,772	\$2,463,001	\$4,654,793	\$13,209,566
UPL OP 4107	\$1,046,829	\$1,056,940	\$1,066,415	
FMAP Claiming Credit	\$0	\$579,455	\$512,302	
Total UPL OP 4107	\$1,046,829	\$477,485	\$554,113	\$2,078,428
GME	\$3,343,920	\$3,376,219	\$3,406,484	
FMAP Claiming Credit	\$0	\$1,755,799	\$1,533,722	
Total GME 4106	\$3,343,920	\$1,620,420	\$1,872,762	\$6,837,102
Total	\$10,482,521	\$4,560,907	\$7,081,669	\$22,125,096

	SFY 2019	SFY 2020	SFY 2021	Total
MCO Rate Enhancement 4108	\$30,611,562	\$28,264,787	\$22,381,155	\$81,257,503
Subtotal	\$30,611,562	\$28,264,787	\$22,381,155	\$81,257,503

Contract Total	\$41,094,083	\$32,825,693	\$29,462,823	\$103,382,599
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BUDGET PROPOSAL (MCO Enhancement) at 12.5% Above State Match

	SFY 2019	SFY 2020	SFY 2021	Total
MCO Rate Enhancement 4108	\$30,611,562	\$28,264,787	\$22,381,155	\$81,257,503
Subtotal	\$30,611,562	\$28,264,787	\$22,381,155	\$81,257,503

PROJECTED PAYMENTS

	SFY 2019	SFY 2020	SFY 2021	Total
Projected MCO Rate Enhancement Payments	\$64,567,732	\$58,482,902	\$46,754,031	\$169,804,665
Total	\$64,567,732	\$58,482,902	\$46,754,031	\$169,804,665

Methodology

Clark county is currently paying 12.5% above actual SM % (Regular & NE Populations) for this program. These calculations are at 12.50% above SM. As of SFY 2019, this program is subject to a 10 year "phase out" and will be reduced by 10% each year.