

Assessor's Parcel Number:   N/A  

Date:   AUGUST 2, 2019  

Recording Requested By:

Name:   KERI SCHEETZ, DCSO  

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Real Property Transfer Tax: \$   N/A  



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KAREN ELLISON, RECORDER

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**CONTRACT #2019.139**

(Title of Document)

**CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR**

BETWEEN

**DOUGLAS COUNTY  
&  
DAVID KALE**

FILED  
NO. 2019.134  
8-2-19  
DATE  
DOUGLAS COUNTY CLERK  
MINDEN, NV  
BY [Signature] DEPUTY

WHEREAS, Douglas County (hereinafter County), a political subdivision of the State of Nevada, from time to time requires the services of independent contractors; and

WHEREAS, it is deemed that the services of Mr. David Kale, LCSW (hereinafter Contractor) are both necessary and desirable and in the best interests of Douglas County; and

WHEREAS, Contractor represents that he is licensed to provide mental health services in the State of Nevada, and is qualified, equipped, willing and able to perform and render the mental health services hereinafter described;

Now, therefore, in consideration of the agreements herein made, the parties mutually agree as follows:

1. **EFFECTIVE DATE OF CONTRACT.** This contract shall be in effect July 1, 2019 through June 30, 2021.
2. **INDEPENDENT CONTRACTOR STATUS.** The parties agree that Contractor shall have the status of independent contractor, and that this contract, by explicit agreement of the parties, incorporates and applies the provisions of NRS 333.700, as necessarily adapted to the parties, including that Contractor is not a Douglas County employee and that there shall be no:
  1. Withholding of income taxes by the County;
  2. Industrial insurance coverage provided by the County;
  3. Participation in group insurance plans which may be available to employees of the County;
  4. Participation or contributions by either the independent contractor or the County to the public employee's retirement system;
  5. Accumulation of vacation leave or sick leave;
  6. Unemployment compensation coverage provided by the County if the requirements of NRS 612.085 for independent contractors are met.
3. **INDUSTRIAL INSURANCE.** Contractor further agrees, as a precondition to the performance of any work under this contract and as a precondition to any obligation of the County to make any payment under this contract, to provide the County with a work certificate issued by a qualified insurer in accordance with NRS 616B.627. Contractor agrees, prior to commencing any work under the contract, to complete and to provide the following written request to the qualified insurer:

David Kale, LCSW. has entered into a contract with Douglas County to perform work from July 1, 2019 to June 30, 2021 and requests that an industrial insurance provider qualified and licensed to offer such insurance within Nevada, provide to Douglas County:

1. A certificate of coverage issued pursuant to NRS 616B.627.
2. Notice of any lapse in coverage or nonpayment of coverage that the contractor is required to maintain.

The certificate and notice should be mailed to:

Douglas County Manager  
Post Office Box 218  
Minden, Nevada 89423

Contractor agrees to maintain required workers compensation coverage throughout the entire term of the contract. If contractor does not maintain coverage throughout the entire term of the contract, contractor agrees that County may, at any time the coverage is not maintained by contractor, order the contractor to stop work, suspend the contract, or terminate the contract.

Contractor may, in lieu of furnishing a certificate of insurance, provide an affidavit indicating that he is sole proprietor and that;

1. In accordance with the provisions of NRS 616B.659, has not elected to be included within the terms, conditions and provisions of chapter 616A to 616D inclusive, of NRS; and
2. Is otherwise in compliance with those terms, conditions and provisions.

- 4. SERVICES TO BE PERFORMED.** On an on-call basis and at the request of the Douglas County Sheriff's Office only, the Contractor will provide emergency mental health screening and counseling services to inmates incarcerated in the Douglas County Sheriff's Office Jails. The care shall be limited to emergencies wherein an inmate expresses specific thoughts or intent to harm themselves or others, or when Douglas County Sheriff's Office personnel deem an inmate appears gravely distraught or disabled due to an emotional or mental health issue.

The care provided shall be in accordance with the Douglas County Sheriff's Office Jail Division Manual and National Commission on Correctional Health Care (NCCHC) guidelines.

As part of services rendered, Contractor shall:

1. Record on a patient record all information regarding services rendered (mental health screening, counseling, etc...) to inmates provided services.
2. Provide a monthly invoice/bill and summary report to the secretary of the Douglas County Sheriff's Office Jail Division. The bill/invoice shall list the total time worked during the month. The summary report shall include:

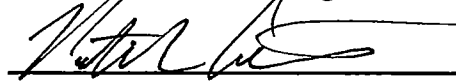
- a. Name of inmate(s) who received services
  - b. Date services were rendered
  - c. Duration of services rendered (15 minutes, 30 minutes, 1 hour, etc...)
3. Comply with all essential standards as set forth by NCCHC guidelines.
4. Attend and participate in in all quarterly medical meetings and triennial jail facility inspections/evaluatons as required by NCCHC.
5. **PAYMENT FOR SERVICES.** During the effective date of this contract, Contractor agrees to provide the services set forth in Paragraph 4 at a cost of \$100.00 per hour. Contractor shall be paid a minimum of 2 hours for any callout. Contractor is not entitled to a minimum number of callouts or a minimum total billable amount under the Contract. Contractor is responsible for invoicing Douglas County at the end of each month for services rendered during the month.
6. **TERMINATION OF CONTRACT.** This contract may be revoked without cause by either party prior to the contract term end date set forth in paragraph (1), provided that a revocation shall not be effective until 90 days after a party has served written notice upon the other party. The Contractor shall submit invoices for work performed up to the effective date of termination on a pro rata basis.
7. **MEDICAL LICENSE AND MALPRACTICE INSURANCE.** Contractor agrees to maintain his professional license in active status and good standing for the State of Nevada during the term of this Contract. Failure to maintain this license will result in immediate termination of this contract. Any complaints filed against the Contractor arising out of his duties as a LCSW or mental health professional must be reported to the County within ten days of being filed with an appropriate licensing board. Contractor also agrees to acquire and maintain malpractice insurance in the minimum amount of \$1,000,000 during the term of this contract. Copies of both the license and certificate of professional liability insurance must be sent to the Douglas County Manager and the Douglas County Sheriff's Office.
8. **CONSTRUCTION OF CONTRACT.** This contract shall be construed and interpreted according to the laws of the State of Nevada. There will be no presumption for or against the drafter in interpreting or enforcing the Contract. In the event a dispute arises between the Parties, the Parties promise and agree to first meet and confer to resolve any dispute. If such meeting does not resolve the dispute, then the Parties agree to mediate any dispute arising from or relating to the Contract before an independent mediator mutually agreed to by the parties. The fee rate or charge of the mediator will be shared equally by the Parties, who will otherwise be responsible for their own attorney's fees and costs. If mediation is unsuccessful, litigation may only proceed before a department of the Ninth Judicial Court of the State of Nevada in and for the County of Douglas that was not involved in the mediation process and attorney's fees and costs will be awarded to the prevailing party at the discretion

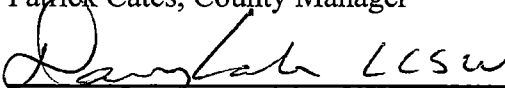
of the court. The Parties mutually agree to not seek punitive damages against either Party.

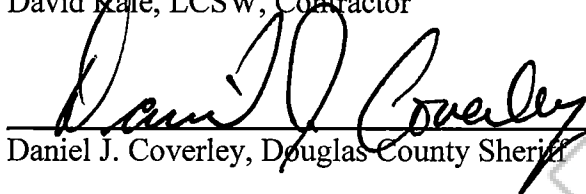
9. **APPLICABLE LAWS AND HIPAA REQUIREMENTS.** Contractor shall fully and completely comply with all applicable local, state and federal laws, regulations, orders, or requirements of any sort in carrying out the obligations of this contract, including, but not limited to, all federal, state, and local accounting procedures and requirements, all immigration and naturalization laws, and the Health Information Portability and Accountability Act (HIPAA) as further detailed in Attachment A.
10. **ASSIGNMENT.** Contractor shall neither assign nor delegate any rights, obligations or duties under this contract without the prior written consent of the County.
11. **COUNTY INSPECTION.** The books, records, documents and accounting procedures and practices of Contractor related to this contract shall be subject to inspection, examination and audit by the County.
12. **DISPOSITION OF CONTRACT MATERIALS.** Any books, reports, studies, photographs, negatives or other documents, data, or other materials prepared by or supplied to Contractor in the performance of its obligations under this contract shall be the exclusive property of the County and all such materials shall be remitted and delivered, at Contractor's expense, by Contractor to the County upon completion of the project, or termination or cancellation of this contract
13. **PUBLIC RECORDS LAW.** Contractor expressly agrees that all documents submitted, filed, or deposited with the County by Contractor, unless designated as confidential by a specific statute of the United States or the State of Nevada, shall be treated as public records pursuant to NRS Ch. 239 and shall be available for inspection and copying by any person or any governmental entity in compliance with NRS 239.0107.
14. **INDEMNIFICATION.** Contractor agrees to indemnify, defend, save and hold the County, its agents and employees harmless from any and all third party claims, causes of action or liability arising from the performance of this contract by Contractor or Contractor's agents or employees. Notwithstanding the obligation of Contractor to defend County as set forth in this paragraph, County may elect to participate in the defense of any claim brought against County because of the conduct of Contractor, its officers, employees and agents. Such participation shall be at County's own expense and County shall be responsible for the payment of its own attorney's fees it incurs in participating in its own defense.

**15. MODIFICATION OF CONTRACT.** This contract constitutes the entire contract between the parties and may only be modified by a written amendment signed by the parties and approved by the Board of County Commissioners.

*IN WITNESS WHEREOF, the parties hereto have caused this contract for detention facility medical services to be signed and intend to be legally bound thereby.*

7/24/19  
Patrick Cates, County Manager Date

8-1-19  
David Kale, LCSW, Contractor Date

  
Daniel J. Coverley, Douglas County Sheriff Date



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## ATTACHMENT A

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### HEALTH INFORMATION PORTABILITY AND ACCOUNTABILITY ACT

#### 1. DEFINITIONS.

- 1.1 Contractor shall mean David Kale, LCSW
- 1.2 Covered Entity shall mean Douglas County.
- 1.3 Individual shall have the same meaning as the term “individual” in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- 1.4 Privacy Rule shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.
- 1.5 Protected Health Information shall have the same meaning as the term “protected health information” in 45 CFR 164.501, limited to the information created or received by Contractor from or on behalf of Covered Entity.
- 1.6 Required by Law shall have the same meaning as the term “required by law” in 45 CFR 164.501.
- 1.7 Secretary shall mean the Secretary of the Department of Health and Human Services or his designee.
- 1.8 Service Agreement or Agreement shall mean that certain agreement between Contractor and Covered Entity.

All other capitalized terms not defined herein shall have the meanings assigned in the Privacy Rule.

#### 2. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR.

- 2.1 Contractor agrees to not use or further disclose Protected Health Information other than as permitted or required by the Agreement or as Required by Law.
- 2.2 Contractor agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- 2.3 Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use of or disclosure of Protected Health Information by Contractor in violation of the requirement of this Agreement.
- 2.4 Contractor agrees to report to Covered Entity any use of or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware.
- 2.5 Contractor agrees to report to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Contractor on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Contractor with respect to such information.
- 2.6 Contractor agrees to provide access, at the request of Covered Entity, and in the time and manner designated by Covered Entity, to Protected Health Information

in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR 164.524.

- 2.7 Contractor agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526 at the request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity.
- 2.8 Contractor agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Contractor on behalf of, Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- 2.9 Contractor agrees to document and such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with CFR 164.528.
- 2.10 Contractor agrees to provide to Covered Entity or an Individual, in time and manner designated by Covered Entity, information collected in accordance with Section 2.9 of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

### 3. PERMITTED USES AND DISCLOSURES BY CONTRACTOR.

- 3.1 General Use and Disclosure Provisions: Except as otherwise limited in this Agreement, Contractor may use or disclose Protected Health Information on behalf of, or to provide services to, a Covered Entity for the following purposes, if such use or disclosure of Protected Health Information would not violate the Privacy Rule if done by Covered Entity, or violate the minimum necessary policies and procedures of Covered Entity, for the purpose of performing the Service Agreement.
- 3.2 Specific Use and Disclosure Provisions:
  - 3.2.1 Except as otherwise limited in the Agreement, Contractor may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Contractor.
  - 3.2.2 Except as otherwise limited in this Agreement, Contractor may disclose Protected Health Information for the proper management and administration of the Contractor, provided that disclosures are required by law, or Contractor obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or the purpose for which it was disclosed to the person, and the person notifies the Contractor of any instances of which it is aware in which the confidentiality of the information has been breached.



- 3.2.3 Except as otherwise limited in this Agreement, Contractor may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 42 CFR 164.504(e)(2)(i)(B).
- 3.2.4 Contractor may use Protected Health Information to report violations of law to appropriate federal and State authorities, consistent with 164.502(j)(1).

#### 4. OBLIGATIONS OF COVERED ENTITY.

- 4.1 Covered Entity shall notify Contractor of any limitation(s) in its notice of privacy practices to the extent that such limitation may effect Contractor's use or disclosure of Protected Health Information.
- 4.2 Covered Entity shall provide Contractor with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes effect Contractor's permitted or required uses and disclosures.
- 4.3 Covered Entity shall notify Contractor of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that the same may effect Contractor's use or disclosure of Protected Health Information.
- 4.4 Permissible Requests by Covered Entity: Covered Entity shall not request Contractor to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity (unless permitted for a Contractor under the Rule for the data aggregation or the management and administrative activities of Contractor.)

#### 5. TERM AND TERMINATION.

- 5.1 Term. The Term of this Agreement shall be effective as of the date first written above, and shall terminate when all of the Protected Health Information provided by Covered Entity to Contractor, or created or received by Contractor on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section. Termination of this Agreement shall automatically terminate the Service Agreement.
- 5.2 Termination for Cause. Upon Covered Entity's knowledge of a material breach by Contractor, Covered Entity shall provide an opportunity for Contractor to cure the breach or end the violation, and Covered Entity shall:
  - 5.2.1 Provide an opportunity for Contractor to cure the breach or end the violation, and Covered Entity, or
  - 5.2.2 Immediately terminate this Agreement if Contractor as breached a material term of this Agreement and cure is not possible.
  - 5.2.3 If neither termination nor cure are feasible, Covered Entity will report the violation to the Secretary.
- 5.3 Effect of Termination.

- 5.3.1 Except as provided in the following paragraph, upon termination of this Agreement, for any reason, Contractor shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Contractor on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Contractor. Contractor shall retain no copies of the Protected Health Information.
- 5.3.2 In the event that Contractor determines that returning or destroying the Protected Health Information is infeasible, Contractor shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, Contractor shall extend the protections of this Agreement to such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Contractor maintains such Protected Health Information.

## 6. MISCELLANEOUS.

- 6.1 Regulatory References. A reference in this Agreement to a section in the Privacy means the section as in effect or as amended, and for which compliance is required.
- 6.2 Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191.
- 6.3 Survival. The respective rights and obligations of Contractor under Section 5.3 of this Agreement shall survive the termination of this Agreement.
- 6.4 Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy Rule.

  
By Contractor: David Kale, LCSW

8-1-19  
(Date)

**AFFIDAVIT**

I, David Kale, on behalf of my company, David Kale,  
(Name of Applicant) (Name of Business)

being duly sworn, depose and declare:

1. I am a Sole Proprietor;
2. I will not use the services of any employees in the performance of this contract;
3. I have elected to not be included in the terms, conditions and provisions of NRS Chapters 616A-616D, inclusive; and
4. I am otherwise in compliance with all the terms and conditions and provisions of NRS Chapters 616A-616D.

I hereby release the Douglas County Sheriffs Office and Douglas County from all liability associated with claims made against me and my company, in the performance of this contract that relate to compliance with NRS Chapters 616A-616D, inclusive.

Signed this 1<sup>st</sup> day of August, 2019

David Kale  
Signature

State of Nevada  
County of Douglas County

On this 1 day of August, 2019, before the undersigned Notary Public, personally appeared David Kale, having proved on a satisfactory basis to be the person whom executed it.

Witness my hand and official seal  
Kirsten Scheetz  
Notary's Signature

Douglas County State of Nevada

**CERTIFIED COPY**

I certify that the document to which this certificate is attached is a full and correct copy of the original record on file in the Clerk, Treasurer's Office on this

day of August, 2019  
By [Signature] Deputy

