

**A G R E E M E N T**

THIS AGREEMENT ("Agreement") is made and entered into this 23<sup>rd</sup> day of June, 2020, by and between the COUNTY OF FRESNO, a political subdivision of the State of California, ("COUNTY"), and Community Justice Conferencing ("CJC"), formerly known as Victim Offender Reconciliation Program ("VORP"), a program operated by Circles of Support and Accountability – Fresno, Inc. ("COSA"), a 501(c)(3) non-profit corporation, whose address is 4840 N. First Street #101, Fresno, California 93726 ("CONTRACTOR").

**WITNESSETH:**

WHEREAS, COUNTY, through its Probation Department, is in need of mediation services to seek redress for victims of crime and restitution by offenders; and

WHEREAS, CONTRACTOR represents that it has personnel skilled in the provision of such services.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the parties hereto agree as follows:

**1. OBLIGATIONS OF THE CONTRACTOR**

A. **SERVICES** - CONTRACTOR shall provide mediation services as set forth in Exhibit A, attached and incorporated by this reference.

**2. TERM**

The term of this Agreement shall be for a period of three (3) years, commencing on July 1, 2020 through and including June 30, 2023. This Agreement may be extended for two (2) additional consecutive twelve (12) month periods upon written approval of both parties no later than thirty (30) days prior to the first day of the next twelve (12) month extension period. The Chief Probation Officer or his or her designee is authorized to execute such written approval on behalf of COUNTY based on CONTRACTOR'S satisfactory performance.

**3. TERMINATION**

A. **Non-Allocation of Funds** - The terms of this Agreement, and the services to be provided hereunder, are contingent on the approval of funds by the appropriating government agency.

1 Should sufficient funds not be allocated, the services provided may be modified, or this Agreement  
2 terminated, at any time by giving the CONTRACTOR thirty (30) days advance written notice.

3 B. Breach of Contract - The COUNTY may immediately suspend or terminate this  
4 Agreement in whole or in part, where in the determination of the COUNTY there is:

- 5 1) An illegal or improper use of funds;
- 6 2) A failure to comply with any term of this Agreement;
- 7 3) A substantially incorrect or incomplete report submitted to the COUNTY;
- 8 4) Improperly performed service.

9 In no event shall any payment by the COUNTY constitute a waiver by the COUNTY of any breach  
10 of this Agreement or any default which may then exist on the part of the CONTRACTOR. Neither shall such  
11 payment impair or prejudice any remedy available to the COUNTY with respect to the breach or default.

12 The COUNTY shall have the right to demand of the CONTRACTOR the repayment to the COUNTY of any  
13 funds disbursed to the CONTRACTOR under this Agreement, which in the judgment of the COUNTY were  
14 not expended in accordance with the terms of this Agreement. The CONTRACTOR shall promptly refund  
15 any such funds upon demand.

16 C. Without Cause - Under circumstances other than those set forth above, this  
17 Agreement may be terminated by COUNTY upon the giving of thirty (30) days advance written notice of an  
18 intention to terminate to CONTRACTOR.

19 4. COMPENSATION/INVOICING: COUNTY agrees to pay CONTRACTOR and  
20 CONTRACTOR agrees to receive compensation at a rate of \$11,000 per month during the term of this  
21 Agreement. CONTRACTOR shall submit monthly invoices in triplicate to the County of Fresno Probation  
22 Department. In no event shall compensation paid to CONTRACTOR for the initial three-year term of this  
23 Agreement exceed \$396,000.

24 In the event this Agreement is extended for an additional fourth year, in no event shall  
25 compensation paid to CONTRACTOR for the four-year term exceed \$528,000. In the event this Agreement  
26 is extended for an additional fifth year, in no event shall compensation paid to CONTRACTOR for the total  
27 possible five-year term exceed \$660,000. It is understood that all expenses incidental to CONTRACTOR'S  
28 performance of services under this Agreement shall be borne by CONTRACTOR.

1           Payments by COUNTY shall be made in arrears, for services provided during the preceding month,  
2 and made within forty-five days (45) days after receipt and verification of CONTRACTOR's properly  
3 completed invoices by COUNTY's Probation Department. If CONTRACTOR should fail to comply with any  
4 provision of this Agreement, COUNTY shall be relieved of its obligation for further compensation

5           5.       INDEPENDENT CONTRACTOR: In performance of the work, duties and obligations  
6 assumed by CONTRACTOR under this Agreement, it is mutually understood and agreed that  
7 CONTRACTOR, including any and all of the CONTRACTOR'S officers, agents, and employees will at all  
8 times be acting and performing as an independent contractor, and shall act in an independent capacity and  
9 not as an officer, agent, servant, employee, joint venturer, partner, or associate of the COUNTY.  
10 Furthermore, COUNTY shall have no right to control or supervise or direct the manner or method by which  
11 CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer  
12 this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the  
13 terms and conditions thereof.

14           CONTRACTOR and COUNTY shall comply with all applicable provisions of law and the rules and  
15 regulations, if any, of governmental authorities having jurisdiction over matters the subject thereof.

16           Because of its status as an independent contractor, CONTRACTOR shall have absolutely no right  
17 to employment rights and benefits available to COUNTY employees. CONTRACTOR shall be solely liable  
18 and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In  
19 addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating  
20 to payment of CONTRACTOR'S employees, including compliance with Social Security withholding and all  
21 other regulations governing such matters. It is acknowledged that during the term of this Agreement,  
22 CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement.

23           6.       MODIFICATION: Any matters of this Agreement may be modified from time to time by the  
24 written consent of all the parties without, in any way, affecting the remainder.

25           7.       NON-ASSIGNMENT: Neither party shall assign, transfer or sub-contract this Agreement  
26 nor their rights or duties under this Agreement without the prior written consent of the other party.

27           8.       HOLD HARMLESS: CONTRACTOR agrees to indemnify, save, hold harmless, and at  
28 COUNTY'S request, defend the COUNTY, its officers, agents, and employees from any and all costs and

1 expenses (including attorney's fees and costs), damages, liabilities, claims, and losses occurring or  
2 resulting to COUNTY in connection with the performance, or failure to perform, by CONTRACTOR, its  
3 officers, agents, or employees under this Agreement, and from any and all costs and expenses (including  
4 attorney's fees and costs), damages, liabilities, claims, and losses occurring or resulting to any person, firm,  
5 or corporation who may be injured or damaged by the performance, or failure to perform, of  
6 CONTRACTOR, its officers, agents, or employees under this Agreement.

7 The provisions of this Section 8 shall survive termination of this Agreement.

8 9. INSURANCE

9 Without limiting the COUNTY's right to obtain indemnification from CONTRACTOR or any third  
10 parties, CONTRACTOR, at its sole expense, shall maintain in full force and effect, the following insurance  
11 policies or a program of self-insurance, including but not limited to, an insurance pooling arrangement or  
12 Joint Powers Agreement (JPA) throughout the term of the Agreement:

13 A. Commercial General Liability

14 Commercial General Liability Insurance with limits of not less than Two Million Dollars  
15 (\$2,000,000.00) per occurrence and an annual aggregate of Four Million Dollars (\$4,000,000.00). This  
16 policy shall be issued on a per occurrence basis. COUNTY may require specific coverages including  
17 completed operations, products liability, contractual liability, Explosion-Collapse-Underground, fire legal  
18 liability or any other liability insurance deemed necessary because of the nature of this contract.

19 B. Automobile Liability

20 Comprehensive Automobile Liability Insurance with limits of not less than One Million Dollars  
21 (\$1,000,000.00) per accident for bodily injury and for property damages. Coverage should include any auto  
22 used in connection with this Agreement.

23 C. Professional Liability

24 If CONTRACTOR employs licensed professional staff, (e.g., Ph.D., R.N., L.C.S.W., M.F.C.C.) in  
25 providing services, Professional Liability Insurance with limits of not less than One Million Dollars  
26 (\$1,000,000.00) per occurrence, Three Million Dollars (\$3,000,000.00) annual aggregate.

27 D. Worker's Compensation

28 A policy of Worker's Compensation insurance as may be required by the California Labor

1 Code.

2 E. Molestation

3 Sexual abuse / molestation liability insurance with limits of not less than One Million Dollars  
4 (\$1,000,000.00) per occurrence, Two Million Dollars (\$2,000,000.00) annual aggregate. This policy shall be  
5 issued on a per occurrence basis.

6 Additional Requirements Relating to Insurance

7 CONTRACTOR shall obtain endorsements to the Commercial General Liability insurance naming  
8 the County of Fresno, its officers, agents, and employees, individually and collectively, as additional  
9 insured, but only insofar as the operations under this Agreement are concerned. Such coverage for  
10 additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained  
11 by COUNTY, its officers, agents and employees shall be excess only and not contributing with insurance  
12 provided under CONTRACTOR's policies herein. This insurance shall not be cancelled or changed without  
13 a minimum of thirty (30) days advance written notice given to COUNTY.

14 CONTRACTOR hereby waives its right to recover from COUNTY, its officers, agents, and  
15 employees any amounts paid by the policy of worker's compensation insurance required by this  
16 Agreement. CONTRACTOR is solely responsible to obtain any endorsement to such policy that may be  
17 necessary to accomplish such waiver of subrogation, but CONTRACTOR's waiver of subrogation under  
18 this paragraph is effective whether or not CONTRACTOR obtains such an endorsement.

19 Within Thirty (30) days from the date CONTRACTOR signs and executes this Agreement,  
20 CONTRACTOR shall provide certificates of insurance and endorsement as stated above for all of the  
21 foregoing policies, as required herein, to the County of Fresno, Staff Analyst (Probation Administrative  
22 Division), Fresno County Probation Department, 3333 E. American Avenue, Suite B, Fresno, California  
23 93725, stating that such insurance coverage have been obtained and are in full force; that the County of  
24 Fresno, its officers, agents and employees will not be responsible for any premiums on the policies; that for  
25 such worker's compensation insurance the CONTRACTOR has waived its right to recover from the  
26 COUNTY, its officers, agents, and employees any amounts paid under the insurance policy and that waiver  
27 does not invalidate the insurance policy; that such Commercial General Liability insurance names the  
28 County of Fresno, its officers, agents and employees, individually and collectively, as additional insured, but

1 only insofar as the operations under this Agreement are concerned; that such coverage for additional  
2 insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by  
3 COUNTY, its officers, agents and employees, shall be excess only and not contributing with insurance  
4 provided under CONTRACTOR's policies herein; and that this insurance shall not be cancelled or changed  
5 without a minimum of thirty (30) days advance, written notice given to COUNTY.

6 In the event CONTRACTOR fails to keep in effect at all times insurance coverage as herein  
7 provided, the COUNTY may, in addition to other remedies it may have, suspend or terminate this  
8 Agreement upon the occurrence of such event.

9 All policies shall be issued by admitted insurers licensed to do business in the State of California,  
10 and such insurance shall be purchased from companies possessing a current A.M. Best, Inc. rating of A  
11 FSC VII or better.

12 10. AUDITS AND INSPECTIONS: The CONTRACTOR shall at any time during business  
13 hours, and as often as the COUNTY may deem necessary, make available to the COUNTY for examination  
14 all of its records and data with respect to the matters covered by this Agreement. The CONTRACTOR  
15 shall, upon request by the COUNTY, permit the COUNTY to audit and inspect all of such records and data  
16 necessary to ensure CONTRACTOR'S compliance with the terms of this Agreement.

17 If this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to  
18 the examination and audit of the California State Auditor for a period of three (3) years after final payment  
19 under contract (Government Code Section 8546.7).

20 11. NOTICES: The persons and their addresses having authority to give and receive notices  
21 under this Agreement include the following:

<u>COUNTY</u>	<u>CONTRACTOR</u>
COUNTY OF FRESNO	CIRCLES OF SUPPORT AND
Chief Probation Officer	ACCOUNTABILITY – FRESNO, INC.
Fresno County Probation Department	Community Justice Conferencing (CJC)
3333 E. American Avenue, Suite B	4840 N. Fresno Street # 101
Fresno, California 93725	Fresno, California, 93726

22 All notices between the COUNTY and CONTRACTOR provided for or permitted under this  
23 Agreement must be in writing and delivered either by personal service, by first-class United States mail, by  
24 an overnight commercial courier service, or by telephonic facsimile transmission. A notice delivered by  
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1 personal service is effective upon service to the recipient. A notice delivered by first-class United States  
2 mail is effective three COUNTY business days after deposit in the United States mail, postage prepaid,  
3 addressed to the recipient. A notice delivered by an overnight commercial courier service is effective one  
4 COUNTY business day after deposit with the overnight commercial courier service, delivery fees prepaid,  
5 with delivery instructions given for next day delivery, addressed to the recipient. A notice delivered by  
6 telephonic facsimile is effective when transmission to the recipient is completed (but, if such transmission is  
7 completed outside of COUNTY business hours, then such delivery shall be deemed to be effective at the  
8 next beginning of a COUNTY business day), provided that the sender maintains a machine record of the  
9 completed transmission. For all claims arising out of or related to this Agreement, nothing in this section  
10 establishes, waives, or modifies any claims presentation requirements or procedures provided by law,  
11 including but not limited to the Government Claims Act (Division 3.6 of Title 1 of the Government Code,  
12 beginning with section 810).

13       12.    GOVERNING LAW: Venue for any action arising out of or related to this Agreement shall  
14 only be in Fresno County, California.

15       The rights and obligations of the parties and all interpretation and performance of this Agreement  
16 shall be governed in all respects by the laws of the State of California.

17       13.    DISCLOSURE OF SELF-DEALING TRANSACTIONS

18       This provision is only applicable if the CONTRACTOR is operating as a corporation (a for-profit  
19 or non-profit corporation) or if during the term of the agreement, the CONTRACTOR changes its status  
20 to operate as a corporation.

21       Members of the CONTRACTOR's Board of Directors shall disclose any self-dealing transactions  
22 that they are a party to while CONTRACTOR is providing goods or performing services under this  
23 agreement. A self-dealing transaction shall mean a transaction to which the CONTRACTOR is a party  
24 and in which one or more of its directors has a material financial interest. Members of the Board of  
25 Directors shall disclose any self-dealing transactions that they are a party to by completing and signing a  
26 Self-Dealing Transaction Disclosure Form, attached hereto as Exhibit B and incorporated herein by  
27 reference, and submitting it to the COUNTY prior to commencing with the self-dealing transaction or  
28 immediately thereafter.

1           14.    ENTIRE AGREEMENT: This Agreement, including Exhibits A and B, constitutes the entire  
2 agreement between the CONTRACTOR and COUNTY with respect to the subject matter hereof, and  
3 supersedes all previous Agreement negotiations, proposals, commitments, writings, advertisements,  
4 publications, and understanding of any nature whatsoever unless expressly included in this Agreement.

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1 IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first  
2 hereinabove written.

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**CONTRACTOR**

  
(Authorized Signature)

John Swenning  
CJC Advisory Board President  
Programs Director of CJC

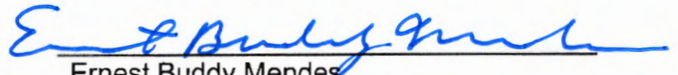
Print Name & Title

4840 N. First St. #101

Fresno, CA. 93726

Mailing Address

**COUNTY OF FRESNO**



Ernest Buddy Mendes,  
Chairman of the Board of Supervisors of  
the County of Fresno

**ATTEST:**  
Bernice E. Seidel  
Clerk of the Board of Supervisors  
County of Fresno, State of California

By:   
Deputy

**FOR ACCOUNTING USE ONLY:**

Fund: 0001

Subclass: 10000

ORG: 34309999

Account: 7295



1 **EXHIBIT B**

2 **SELF-DEALING TRANSACTION DISCLOSURE FORM**

3 In order to conduct business with the County of Fresno (hereinafter referred to as "County"), members  
4 of a contractor's board of directors (hereinafter referred to as "County Contractor"), must disclose any  
5 self-dealing transactions that they are a party to while providing goods, performing services, or both  
6 for the County. A self-dealing transaction is defined below:

7 *"A self-dealing transaction means a transaction to which the corporation is a party and in which one or  
8 more of its directors has a material financial interest"*

9 The definition above will be utilized for purposes of completing this disclosure form.

10 **INSTRUCTIONS**

- 11 (1) Enter board member's name, job title (if applicable), and date this disclosure is being made.
- 12 (2) Enter the board member's company/agency name and address.
- 13 (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the  
14 County. At a minimum, include a description of the following:
- 15 a. The name of the agency/company with which the corporation has the transaction; and
  - 16 b. The nature of the material financial interest in the Corporation's transaction that the  
17 board member has.
- 18 (4) Describe in detail why the self-dealing transaction is appropriate based on applicable  
19 provisions of the Corporations Code.
- 20 (5) Form must be signed by the board member that is involved in the self-dealing transaction  
21 described in Sections (3) and (4).
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**(1) Company Board Member Information:**

<b>Name:</b>		<b>Date:</b>	
<b>Job Title:</b>			

**(2) Company/Agency Name and Address:**

**(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to):**

**(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code 5233 (a):**

**(5) Authorized Signature**

<b>Signature:</b>		<b>Date:</b>	
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