

10 August 2016

Mike Elliott, Interim Chief Probation Officer
Fresno County Probation Department
3333 E. American Ave. Suite B
Fresno, CA 93725

Re: Agreement No. 15-227 between Victim Offender Reconciliation Program and Fresno County of Fresno

Dear Mr. Elliott,

This letter relates to your agreement with Victim Offender Reconciliation Program ("VORP"), and seeks your consent to the assignment of your agreement to Fresno Pacific University, Center for Peacemaking and Conflict Studies, a 501(c)(3) non-profit organization.

As of 19 Feb 2016 VORP ceased to exist as a separate 501(c)(3) corporation and transferred its assets to Fresno Pacific University (FPU), with the functions of VORP to be thereafter supervised by FPU's Center for Peacemaking and Conflict Studies (CPACS). VORP has had a longstanding relationship with FPU and CPACS, primarily through VORP providing FPU students with training in mediation and FPU providing management and operations support to VORP. This consolidation simplifies the operations of VORP.

The MOU facilitating the consolidation of VORP into FPU notes "that FPU presently intends to continue facilitating Victim / Offender Dialogue pursuant to the VORP Mission Statement." The contract with the Fresno County Probation Department comprises Attachment B to that MOU.

Fresno Pacific University, Center for Peacemaking and Conflict Studies has fully assumed all rights and obligations under the existing agreement (attached for reference), effective 19 February 2016.

If you have any questions or desire further information, do not hesitate to contact us at 559-453-7160. We appreciate your attention to this matter and look forward to working with you.

Sincerely,

Dale Simmons
Provost / Sr VP

Robert Lippert
VP for Finance

AGREEMENT

1
2 THIS AGREEMENT is made and entered into this 2nd day of June, 2015, by and
3 between the COUNTY OF FRESNO, a political subdivision of the State of California,
4 (hereinafter "COUNTY"), and the VICTIM OFFENDER RECONCILIATION PROGRAM, a 501
5 (c)(3) non-profit organization, whose principal address is 4882 E. Townsend Avenue, Fresno,
6 California 93727 (hereinafter "CONTRACTOR"). COUNTY and CONTRACTOR each are a
7 "Party" to this Agreement, and together they are the "Parties" to this Agreement.

WITNESSETH

8
9 WHEREAS, COUNTY, through its Probation Department, is in need of mediation
10 services to seek redress for victims of crime and recompense by offenders; and

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

13 NOW, THEREFORE, the parties agree as follows:

14 I. **SERVICES**

15 CONTRACTOR shall provide mediation services as set forth in Exhibit A,
16 attached hereto and by this reference incorporated herein.

17 II. **TERM**

18 The initial term of this Agreement ("Initial Term") shall be for a period of three (3)
19 years, commencing on July 1, 2015 and ending on June 30, 2018. This Agreement may be
20 extended under the same terms and conditions for a maximum of two (2) separate twelve-
21 month time periods (each additional twelve-month time period shall be known as an
22 "Extended Term") upon written Notice of the Chief Probation Officer or his designee to be
23 provided to CONTRACTOR no later than 30 days prior to the expiration of the Initial Term or
24 Extended Term of this Agreement. The Chief Probation Officer or his designee is authorized

1 to execute such written Notice on behalf of the COUNTY. Under no circumstances shall this
2 Agreement extend beyond June 30, 2020.

3 **III. TERMINATION**

4 A. Non-Allocation of Funds - The terms of this Agreement, and the provision of
5 services to be provided thereunder, are contingent on the approval of funds by the appropriating
6 government agency. Should sufficient funds not be allocated, the services provided may be
7 modified, or this Agreement terminated, at any time by COUNTY giving CONTRACTOR thirty
8 (30) days advance written notice.

9 B. Breach of Contract

10 COUNTY may immediately suspend or terminate this Agreement in whole
11 or in part, where in the determination of COUNTY there is:

- 12 (1) An illegal or improper use of funds;
- 13 (2) A failure to comply with any terms of this Agreement;
- 14 (3) A substantially incorrect or incomplete report submitted to

15 COUNTY;

- 16 (4) Improperly performed service;

17 In no event shall any payment by COUNTY constitute a waiver by
18 COUNTY of any breach of this Agreement or any default which may then exist on the part of
19 CONTRACTOR. Neither shall such payment impair or prejudice any remedy available to
20 COUNTY with respect to the breach or default. COUNTY shall have the right to demand of
21 CONTRACTOR the repayment to COUNTY of any funds disbursed to CONTRACTOR under
22 this Agreement, which in the judgment of COUNTY were not expended in accordance with the
23 terms of this Agreement. CONTRACTOR shall promptly refund any such funds upon demand.

24 C. Without Cause

1 Under circumstances other than those set forth above, this Agreement
2 may be terminated by either Party upon the giving of thirty (30) days advance written notice of
3 an intention to terminate.

4 **IV. COMPENSATION/INVOICING**

5 For the satisfactory performance of CONTRACTOR's services under this
6 Agreement, COUNTY agrees to pay CONTRACTOR and CONTRACTOR agrees to receive
7 compensation at the rate of \$2,000 per month. CONTRACTOR shall submit monthly invoices
8 addressed to the Fresno County Probation Department, 3333 E. American Avenue, Suite B,
9 Fresno, CA 93725, Attention: Probation Business Office or via email sent to
10 ProbationInvoices@co.fresno.ca.us. Each invoice shall report the number of Restorative
11 Justice Conferences held that month.

12 In no event shall compensation for services performed under this Agreement be
13 in excess of \$24,000 during each twelve month period of this Agreement. The maximum
14 amount payable over the Initial Term of this Agreement is \$72,000; the maximum total
15 payments made by COUNTY to CONTRACTOR under this Agreement shall not exceed
16 \$120,000. It is understood that all expenses incidental to CONTRACTOR's provision of
17 services under this Agreement shall be borne by CONTRACTOR.

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

23 **V. INDEPENDENT CONTRACTOR**

24 In performance of the work, duties, and obligations assumed by CONTRACTOR

1 under this Agreement, it is mutually understood and agreed that CONTRACTOR, including
2 any and all of CONTRACTOR's officers, agents, and employees will at all times be acting and
3 performing as an independent contractor, and shall act in an independent capacity and not as
4 an officer, agent, servant, employee, joint venturer, partner, or associate of the COUNTY.
5 Furthermore, COUNTY shall have no right to control or supervise or direct the manner or
6 method by which CONTRACTOR shall perform its work and function. However, COUNTY
7 shall retain the right to administer this Agreement so as to verify that CONTRACTOR is
8 performing its obligations in accordance with the terms and conditions thereof.
9 CONTRACTOR and COUNTY shall comply with all applicable provisions of law and the rules
10 and regulations, if any, of governmental authorities having jurisdiction over matters the subject
11 thereof.

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

21 **VI. MODIFICATION**

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

24 **VII. NON-ASSIGNMENT**

1 Neither party shall assign, transfer or sub-contract this Agreement or their rights
2 or duties under this Agreement without the prior written consent of the other party.

3 **VIII. HOLD-HARMLESS**

4 CONTRACTOR agrees to indemnify, save, hold harmless, and at COUNTY's
5 request, defend COUNTY, including its officers, agents and employees from any and all costs
6 and expenses (including attorneys fees and costs), damages, liabilities, claims and losses
7 occurring or resulting to COUNTY in connection with the performance, or failure to perform, by
8 CONTRACTOR, including its officers, agents and employees under this Agreement, and from
9 any and all costs and expenses (including attorneys fees and costs), damages, liabilities,
10 claims and losses occurring or resulting to any person, firm or corporation who may be injured
11 or damaged by the performance, or failure to perform, of CONTRACTOR, including its
12 officers, agents or employees under this Agreement.

13 **IX. INSURANCE**

14 Without limiting the COUNTY's right to obtain indemnification from
15 CONTRACTOR or any third parties, CONTRACTOR, at its sole expense, shall maintain in full
16 force and effect the following insurance policies throughout the term of this Agreement:

17 A. General Liability

18 Commercial General Liability Insurance with limits of not less than One
19 Million Dollars and No/100s (\$1,000,000.00) per occurrence and an annual aggregate of Two
20 Million Dollars and No/100s (\$2,000,000.00). This policy shall be issued on a per occurrence
21 basis. COUNTY may require specific coverages including completed operations, products
22 liability, contractual liability, fire legal liability or any other liability insurance deemed necessary
23 because of the nature of this contract.

24 B. Automobile Liability

1 Comprehensive Automobile Liability Insurance with limits for bodily injury
2 of not less than Two Hundred Fifty Thousand Dollars and No/100s (\$250,000.00) per person,
3 Five Hundred Thousand Dollars and No/100s (\$500,000.00) per accident and for property
4 damages of not less than Fifty Thousand Dollars and No/100s (\$50,000.00), or such coverage
5 with a combined single limit of Five Hundred Thousand Dollars and No/100s (\$500,000.00).
6 Coverage shall include owned and non-owned vehicles used in connection with this
7 Agreement.

8 C. Worker's Compensation

9 A policy of worker's compensation insurance as may be required by the
10 California Labor Code.

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

19 Within thirty (30) days from the date CONTRACTOR executes this
20 Agreement, CONTRACTOR shall provide certificates of insurance and endorsement as stated
21 above for all of the foregoing policies, as required herein, to COUNTY'S Probation
22 Department, Attention: Probation Business Manager, stating that such insurance coverages
23 have been obtained and are in full force; that the County of Fresno, including its officers,
24 agents and employees will not be responsible for any premiums on the policies; that such

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

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

12 All policies shall be with admitted insurers licensed to do business in the
13 State of California. Insurance purchased shall be purchased from companies possessing a
14 current A.M. Best, Inc. rating of A FSC VII or better.

15 X. DISCLOSURE OF SELF-DEALING TRANSACTIONS:

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

19 Members of the CONTRACTOR's Board of Directors shall disclose any self-
20 dealing transactions that they are a party to while CONTRACTOR is providing goods or
21 performing services under this agreement. A self-dealing transaction shall mean a transaction
22 to which the CONTRACTOR is a party and in which one or more of its directors has a material
23 financial interest. Members of the Board of Directors shall disclose any self-dealing
24 transactions that they are a party to by completing and signing a *Self-Dealing Transaction*

1 *Disclosure Form* (Exhibit B) and submitting it to the COUNTY prior to commencing with the
2 self-dealing transaction or immediately thereafter.

3 **XI. AUDITS AND INSPECTIONS**

4 The CONTRACTOR shall at any time during business hours, and as often as
5 the COUNTY may deem necessary, make available to the COUNTY for examination all of its
6 records and data with respect to the matters covered by this Agreement. The CONTRACTOR
7 shall, upon request by the COUNTY, permit the COUNTY to audit and inspect all such
8 records and data necessary to ensure CONTRACTOR's compliance with the terms of this
9 Agreement.

10 If this Agreement exceeds Ten Thousand and No/100 Dollars (\$10,000.00),
11 CONTRACTOR shall be subject to the examination and audit of the Auditor General for a
12 period of three (3) years after final payment under this contract (Govt. Code section 8546.7).

13 **XII. NOTICES**

14 The persons and their addresses having authority to give and receive notices
15 under this Agreement include the following:

16 COUNTY: Chief Probation Officer
17 Fresno County Probation Department
18 3333 E. American Avenue, Suite B
Fresno, California, 93725

19 CONTRACTOR: Director
20 Victim Offender Reconciliation Program
4882 E. Townsend Avenue
Fresno, California 93727

21 Any and all notices between the COUNTY and the CONTRACTOR provided for
22 or permitted under this Agreement or by law shall be in writing and shall be deemed duly
23 served when personally delivered to one of the parties, or in lieu of such personal service,
24 when deposited in the United States Mail, postage prepaid, addressed to such party.

1 **XIII. GOVERNING LAW**

2 Venue for any action arising out of or relating to this Agreement shall only be in
3 Fresno County, California. The rights and obligations of the parties and all interpretation and
4 performance of this Agreement shall be governed in all respects by the laws of the State of
5 California.

6 **XIV. ENTIRE AGREEMENT**

7 This Agreement, including Exhibits A and B, constitutes the entire Agreement
8 between the CONTRACTOR and COUNTY with respect to the subject matter hereof and
9 supersedes all previous Agreement negotiations, proposals, commitments, writings,
10 advertisements, publications, and understandings of any nature whatsoever unless expressly
11 included in this Agreement.

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

CONTRACTOR

Victim Offender Reconciliation Program



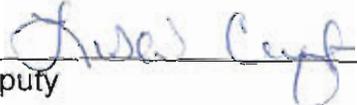
Tim Nightingale
Director

COUNTY OF FRESNO



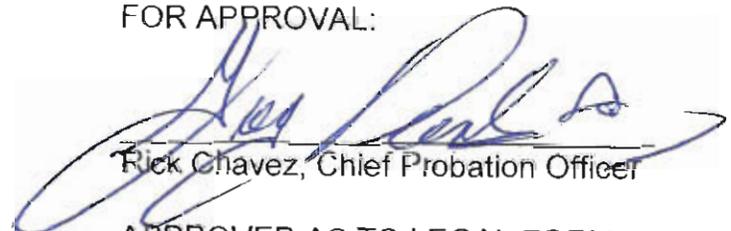
Deborah A. Poochigian
Chairman, Board of Supervisors

ATTEST:
Bernice Seidel, Clerk to Board of Supervisors

By 

Deputy

REVIEWED & RECOMMENDED
FOR APPROVAL:



Rick Chavez, Chief Probation Officer

APPROVED AS TO LEGAL FORM:
Daniel C. Cederborg, County Counsel

By 

Deputy

APPROVED AS TO ACCOUNTING FORM:
Vicki Crow, CPA
Auditor-Controller/Treasurer-Tax Collector

By 

Deputy

FOR ACCOUNTING USE ONLY:

Org. No.: 34300200
Acct. No.: 7295

1 **EXHIBIT A**

2 Referrals will be made to the Contractor by the Court, Public Defender, District Attorney, or
3 Probation Department for services as follows:

4 **SERVICES**

- 5 1) Contractor will provide fully trained mediators to initiate, monitor and complete the
6 Restorative Justice Conference (RJC). The RJC unites the offender, victim, and
7 contractor, with the assistance of the Probation Department when needed. An
8 agreement will be established and signed by the offender and victim. This may be, but
9 is not limited to restitution, public service, and/or counseling.
- 10 2) The Contractor will contact the victim, offender and his or her family to determine their
11 participation in the RJC.
- 12 3) The Contractor will provide all necessary arrangements for the RJC.
- 13 4) The Contractor will contact and make preparations for the RJC with all the appropriate
14 individuals and agencies (Police, Probation Officer, District Attorney, Offender,
15 Offender's Family, Victim and any other agency necessary to complete the RJC).
- 16 5) The Contractor will facilitate and directly participate in the RJC and prepare an
17 agreement to be executed by participating parties.
- 18 6) The Contractor will ensure proper monitoring of the Offender's performance of his or
19 her obligation under the agreement until its completion (or failure to fully perform under
20 the agreement) for whatever necessary timeframe.
- 21 7) It is anticipated that the Contractor will provide an average of 8 RJC's per month,
22 including preparation of related agreements and provision of related services.
23
24

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 of a
4 contractor's board of directors (hereinafter referred to as "County Contractor"), must disclose any self-
5 dealing transactions that they are a party to while providing goods, performing services, or both for the
6 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 more
8 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 County. At a
14 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 board
17 member has.
- 18 (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of
19 the Corporations Code.
- 20 (5) Form must be signed by the board member that is involved in the self-dealing transaction described
21 in Sections (3) and (4).
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(1) Company Board Member Information:

| | | | |
|------------|--|-------|--|
| Name: | | Date: | |
| Job Title: | | | |

(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

| | | | |
|------------|--|-------|--|
| Signature: | | Date: | |
|------------|--|-------|--|

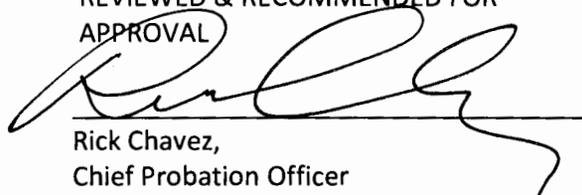
CONSENT AND APPROVAL:

The COUNTY OF FRESNO hereby consents to and approves of the assignment of the rights and duties of the Victim Offender Reconciliation Program (VORP) under County Agreement No. 15-227 to Fresno Pacific University's Center for Peacemaking and Conflicts Studies (FPU).


Ernest Buddy Mendes
Chairman, Board of Supervisors

Date: October 18, 2016

REVIEWED & RECOMMENDED FOR
APPROVAL

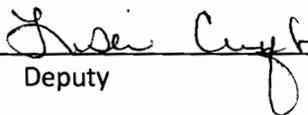

Rick Chavez,
Chief Probation Officer

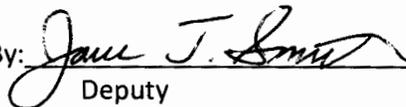
Date: 9-23-16

ATTEST:

Bernice E. Seidel, Clerk
Board of Supervisors

APPROVED AS TO LEGAL FORM
Daniel C. Cederborg, County Counsel

By: 
Deputy

By: 
Deputy

APPROVED AS TO ACCOUNTING FORM
Vicki Crow, CPA
Auditor-Controller/Treasurer-Tax Collector

By: 
Deputy

Fund: 0001
Subclass: 10000
ORG: 34300200
Account: 7295