

## **AGREEMENT**

This Agreement is by and between the Dispute Resolution Center of Yakima and Kittitas Counties (hereinafter referred to as "DRC") and the Juvenile Court of Kittitas County (hereinafter referred to as "County") and shall be in full force and effect for the duration of the current CJAA Evidence Based Enhancement Grant that funds the Victim Offender Meeting Program (hereinafter referred to as "VOM").

1. **DURATION.** This Agreement shall be effective when executed by both parties and shall continue through June 30, 2011.
2. **BUDGET.**
  - 2.01 Payments shall be made by the County within thirty (30) days of receiving billing from the DRC for services pertaining to the VOM.
  - 2.02 The DRC/VOM Program shall bill the County on a monthly basis for items agreed to in the DRC offered budget that is attached as Appendix A and by this reference is incorporated into this Agreement. All expenses shall be invoiced within ten (10) days of the end of the State Fiscal Year.
  - 2.03 The DRC may add up to thirteen (13) percent of the monthly bill to be billed as administrative expenses.
  - 2.04 The DRC Coordinator of the VOM Program and any assistants will be considered employees of the DRC, with the understanding that the DRC/VOM must provide its own money to pay the salaries of DRC/VOM employees. The DRC's services under this Agreement shall be furnished by the DRC as an independent contractor and nothing herein contained shall be construed to create a relationship with the County of employer-employee or master-servant.
  - 2.05 Expenses incurred by the DRC/VOM Program such as rent, phone bill, and supplies, upon approval by the Kittitas County Juvenile Court Administrator, shall be billed by the DRC and paid with VOM budgeted monies.
3. **DRC MEDIATORS.**
  - 3.01 Mediators for the DRC who have been endorsed for the Victim Offender Meetings shall be deemed to fall under the auspices of the DRC pursuant to Chapter 7.75 of the Revised Code of Washington when they conduct victim offender meetings within the program.
  - 3.02 DRC Mediators serving as a victim offender meeting facilitators under the VOM, are afforded the mediator liability coverage provided by statute under Chapter 7.75 of the Revised Code of Washington.
  - 3.03 The DRC'S certification committee, in conjunction with the County, will endorse the VOM mediator candidates as qualified to conduct victim offender meetings.
4. **ADMINISTRATION.**

- 4.01 Victim offender meetings shall be supervised by the DRC/VOM and subject to Quality Assurance review by the County.
- 4.02 The County shall provide copies to the DRC of any reports or business documents.
- 4.03 The DRC shall include the VOM mediations in its annual report.
- 4.04 Each party shall maintain books, records, documents and other materials relevant to its performance under this Agreement. These records shall be subjected to inspection, review and audit by either party or its designee, and the Washington State Auditor's Office. Each party shall retain all such books, records, documents and other materials for the applicable retention period under federal and Washington law.

## **5. DRC DUTIES.**

### **THE DRC SHALL IN THIS AGREEMENT:**

- 5.01 Recruit, train and provide qualified VOM mediators.
- 5.02 Accept referrals from Kittitas County Juvenile Court Services Department.
- 5.03 Coordinate mediations with victims and offenders.
- 5.04 Meet fact to face with victims and offenders to explain VOM and determine amenability to mediation.
- 5.05 Provide notice of time and date of mediations to Juvenile Courts for assistance in assuring offenders and victims will be present.
- 5.06 Perform VOM mediations.
- 5.07 Track and report to Kittitas County Juvenile Court Services Department individual mediations' terms of agreement, progress and outcome.
- 5.08 Collaborate with Juvenile Court's CJAA Coordinator and Juvenile Court staff to ensure continuing engagement in the VOM process.
- 5.09 Cooperate with State VOM Quality Assurance Plan development and compliance.
- 5.10 Insure confidentiality of records maintained as per State law.
- 5.11 Identify, report and participate in efforts to correct offender's failure to meet obligations.
- 5.12 Participate in VOM reviews and recommend enhancements of the VOM to Juvenile Court staff.
- 5.13 Report any perceived situation of child abuse or neglect to CPS and/or law enforcement.
- 5.14 Ensure all individual VOM mediators meet all background conditions to be in compliance with JRA background, criminal history and new criminal violation requirements.
- 5.15 Report any new criminal violations or concerns for possible violations to Kittitas County Juvenile Court Administrator or his designee immediately.

## **6. COUNTY DUTIES.**

**THE COUNTY SHALL IN THIS AGREEMENT:**

- 6.01 Assist in training of VOM mediators.
- 6.02 Identify referrals for VOM from Diversion and Formal Court juvenile offenders.
- 6.03 Conduct WAJCA Risk Assessment/CMAP Pre-Screens to determine offender eligibility.
- 6.04 Review VOM process and appropriate behavior for VOM participation with juvenile offenders and the offender's parents/guardians.
- 6.05 Prepare and make referrals to the DRC/VOM designated contact and provide agreed necessary information in proper format.
- 6.06 Receive VOM individual referral scheduling information and concerns from DRC/VOM.
- 6.07 Assist ensuring presence of offenders and victims at scheduled mediations.
- 6.08 Monitor and assist with juvenile offender compliance with VOM agreements.
- 6.09 Pursue non-compliance with VOM mediations in Juvenile Court.
- 6.10 Accept reporting from DRC and provide said reports to JRA.
- 6.11 Process and pay claims from DRC for VOM services performed.
- 6.12 Participate in Quality Assurance plan development and monitoring.
- 6.13 Encourage continuing engagement with VOM by Juvenile Court personnel.
- 6.14 Participate in regular reviews of VOM with DRC/VOM staff.
- 6.15 Participate in Restorative Justice Network.

**7. LOCATION, ASSETS AND PROPERTY.**

- 7.01 The County's CJAA Program's Coordinator may use the DRC's mediation room in Ellensburg when it is not otherwise in use by the Center with scheduling as arranged through the DRC/VOM Coordinator.
- 7.02 No fixed assets or personal or real property will be jointly or cooperatively, acquired, held, used, or disposed of pursuant to this Agreement.
- 7.03 The computer and printer acquired for the DRC's use in this Agreement will remain with the DRC upon completion of this Agreement.

**8. IMPROPER INFLUENCE.**

Each party agrees, warrants and represents that it did not and will not employ, retain or contract with any person or entity on a contingent compensation basis for the purpose of seeking, obtaining, maintaining or extending this Agreement. Each party agrees, warrants and represents that no gratuity whatsoever has been or will be offered or conferred with a view towards obtaining, maintaining or extending this Agreement.

**9. CONFLICT OF INTEREST.**

The elected and appointed officials and employees of the parties shall not have any personal interest, direct or indirect, which gives rise to a conflict of interest

**10. INDEMNIFICATION.**

Each party agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions or those of their officials, officers, agents, or employees to the fullest extent required by law, and further agrees to save, indemnify, defend, and hold the other party harmless from any such liability. It is further provided that no liability shall attach to the County by reason of entering into this contract except as expressly provided herein.

**11. GOVERNING LAW AND VENUE.**

11.01 This Agreement shall be governed exclusively by the laws and jurisdiction of the State of Washington. In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the Superior Court of the State of Washington in and for the County of Kittitas.

11.02 Should a dispute arise concerning the terms and conditions of this Agreement that cannot be resolved, the parties agree to seek mediation by a neutral party before pursuing other remedies, and they further agree to share any costs of such mediation equally.

**12. ATTORNEY'S FEES.**

If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, each party shall pay its own attorney's fees incurred in that action, arbitration or proceeding.

**13. TERMINATION.**

Any party hereto may terminate this Agreement upon thirty (30) days notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

**14. CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS.**

The Agreement may be changed, modified, amended or waived only by written agreement signed by the parties. Any waiver of a term or condition of this Agreement shall apply only to the specific act, occurrence or omission and shall not constitute a waiver as to any other term or condition or future act, occurrence or omission. Waiver or breach of any term or condition of this

Agreement shall not be considered a waiver of any prior or subsequent breach. If there is an agreement between parties to move monies within the budget's categories, any change that is ten percent (10%) or greater must require written preapproval of both parties.

**15. ASSIGNMENT.**

Neither party may assign its rights or delegate its duties under this Agreement, whether by assignment, further, subcontract or other means. Any such attempted assignment or delegation shall be void and shall constitute a material breach of this Agreement.

**16. SEVERABILITY.**

In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.

**17. ENTIRE AGREEMENT.**

This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

**18. CONFIDENTIALITY.**

The DRC, its employees, sub-Contractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the DRC in performance of this Agreement, except upon the prior written consent of the Kittitas County Prosecuting Attorney or an order entered by a court after having acquired jurisdiction over the County. DRC shall immediately give to the County notice of any judicial proceedings seeking disclosure of such information. DRC shall indemnify and hold harmless the County, its officials, agents or employees from all loss or expense, including, but not limited to settlements, judgments, setoffs, attorneys' fees and costs resulting from DRC's breach of this provision.

**19. NOTICE.**

Except as set forth elsewhere in the Agreement, for all purposes under this Agreement, except service of process, notice shall be given by the DRC to Juvenile Court Services: William D. Holmes, Juvenile Court Administrator, 205 West Fifth Avenue, Suite 211, Ellensburg, Washington 98926. Notice to DRC for all purposes under this Agreement shall be given to

MATT FAIRBANK, 303 East "D" Street, Suite 4, YAKIMA, WA 98901

Notice may be given by delivery or by depositing in the U.S. Mail, first class, postage prepaid.

**20. NONDISCRIMINATION.**

The County is an equal opportunity employer.

In the performance of this Agreement, DRC will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap; provided that the prohibition against discrimination in employment because of handicap shall not apply if the particular disability prevents the proper performance of the particular worker involved. DRC shall ensure that applicants are employed, and that employees are treated during employment without discrimination because of their race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. DRC shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.

The DRC will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.

**21. TAXES.**

The DRC understands and acknowledges that the County will not withhold Federal or State income taxes. The DRC hereby agrees to indemnify the County against any demand to pay taxes arising from the DRC's failure to pay taxes on compensation earned pursuant to this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement this \_\_\_\_ day of January, 2010.

APPROVED:

BOARD OF COUNTY COMMISSIONERS



KITTITAS COUNTY, WASHINGTON

\_\_\_\_\_  
Mark D. McClain, Chairman

\_\_\_\_\_  
Paul Jewell, Vice Chair

\_\_\_\_\_  
Alan A. Crankovich, Commissioner

RECOMMENDED:

By:   
Director of Dispute Resolution Center  
of Yakima and Kittitas County


RECOMMENDED:

By:   
Kittitas County Juvenile Court  
Administrator

ATTEST:

\_\_\_\_\_  
Julie Kjorsvik, Clerk of the Board

APPROVED AS TO FORM:

By:   
Stephanie U. Haggold WSBA #38112  
Deputy Prosecuting Attorney

## APPENDIX A

July 2009 to June 2010

VOM program	Kittitas Co.	
salary	\$ 11,000	hourly wage at \$19 per hour, 10.3 hours per week
benefits and taxes	\$ 1,001	calculated at 9.1%
internet/communicatio	\$ 1,200	100 per month communication expense
VOM training	\$ 1,250	share cost to put on VOM training proportionally
supplies	\$ 600	\$50 per month
travel	\$ 621	mileage for coordinator, director and vols. at state rate
rent	\$ 1,320	\$110 per month
staff support/supervis	\$ 1,700	supervision & other staff's time
administrative	\$ 1,308	bookkeeping, payroll, etc.
total	\$ 20,000	

July 2010 to June 2011

VOM program	Kittitas Co.	
salary	\$ 11,000	hourly wage at \$19.57 per hour, 10 hours per week
benefits and taxes	\$ 1,001	calculated at 9.1%
internet/communicatio	\$ 1,200	100 per month communication expense
training	\$ 1,250	share cost to put on VOM training proportionally
supplies	\$ 600	\$50 per month
travel	\$ 621	mileage for coordinator, director and vols. at state rate
rent	\$ 1,320	\$110 per month
staff support/supervis	\$ 1,700	supervision & other staff's time
administrative	\$ 1,308	bookkeeping, payroll, etc.
total	\$ 20,000	