

CONTRACT FOR VICTIM-OFFENDER MEDIATION

1) **BETWEEN:** The Delaware Victim-Offender Mediation Committee, hereinafter referred to as the "Committee", and the Delaware Center for Justice Incorporated, hereinafter referred to as "Contractor."

2) **TERM:** The Contract shall initiate on July 1, 2014 or on the date of an executed purchase order whichever is later. The contract shall expire June 30, 2016. At its sole discretion, the Committee may elect to renew the contract at that time with two one (1) year extension from July 1, 2016 to June 30, 2017 and July 1, 2017 to June 30, 2018. The Contractor shall provide written notice to the Administrative Office of the Courts sixty (60) days prior to the expiration of this Contract if the Contractor does not wish to renew this Contract. This requirement does not create an automatic renewal of the contract or a right to contract renewal. An evaluation of Contractor's performance under this contract shall be conducted and reviewed by the Committee prior to renewal.

3) **SCOPE OF WORK/TERMS OF PAYMENT:** Subject to paragraph 4 below, the Committee retains the services of Contractor and Contractor agrees to supply services to the State in accordance with Exhibit "A". In consideration of the work to be performed by the Contractor, the Committee agrees to pay Contractor \$160,618.60 per Fiscal Year.

4) **NON-APPROPRIATION:** In the event, the General Assembly fails to appropriate the specific funds necessary to continue the contractual agreement, in whole or in part, the agreement shall be terminated, as to any obligation of the State or the Committee requiring the expenditure of money for which no specific appropriation is available, at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.

5) **NOTICE:** Any notice to the Committee required under this Contract shall be sent by registered mail to:

Attention: James H. Wright, Deputy State Court Administrator
Administrative Office of the Courts
New Castle County Courthouse
500 N. King Street, Suite 11600
Wilmington, DE 19801

6) **FORMAL CONTRACT AND PURCHASE ORDER:** The Contractor shall promptly execute this Contract within twenty (20) days after the award of this Contract. A State of Delaware purchase order signed by two authorized representatives of the agency requesting service, properly processed through the State of Delaware Accounting Office and the Committee, shall serve as the authorization to proceed in accordance with the specifications in Exhibit "A" once it is received by the Contractor.

7) **INDEMNIFICATION:** The Contractor agrees that it will indemnify and otherwise hold harmless the State of Delaware, its agents and employees from any and all liability, suits,

actions, or claims, together with all costs, expenses for attorney's fees, arising out of the Contractor's, its agents' and employees' performance of work or services in connection with the contract, regardless of whether such suits, actions, claims or liabilities are based upon acts or failures to act attributable, in whole or in part, to the State, its employees or agents.

8) **PERFORMANCE:** In performance of this contract, the Contractor is required to comply with all applicable federal, state and local laws, ordinances, codes and regulations. The cost of permits and other relevant costs required in the performance of this contract shall be borne by the Contractor.

9) **INSURANCE:** The Contractor shall maintain the following insurance during the term of this Contract:

A. Commercial General Liability insurance in the amount of at least
\$1,000,000 per person
\$3,000,000 per occurrence, **and**

B. Medical/Professional Liability Insurance in the amount of at least
\$1,000,000 per person
\$3,000,000 per occurrence; or

C. Miscellaneous Errors and Omissions in the amount of at least
\$1,000,000 per person
\$3,000,000 per occurrence; or

D. Product Liability in the amount of at least
\$1,000,000 per person
\$3,000,000 per occurrence, **and**

E. If the Contractor is required to transport clients or state employees, Automotive Liability (Bodily Injury) Insurance in the amount of at least \$100,000 each person and \$300,000 each accident and Automotive Property Damage in the amount of at least \$25,000.

10) **BUSINESS LICENSE:** The Contractor must possess an active Delaware Business License as issued by the Department of Finance through its Division of Revenue or provide evidence of its status as a 501(c)(3) tax exempt organization. The Contractor must remain in good financial standing with the State of Delaware.

11) **NON-DISCRIMINATION:** In performing the services subject to this Contract, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. The Contractor shall comply with all federal and state laws, regulations and policies pertaining to the prevention of discriminatory employment practice. Failure to perform under this provision constitutes a material breach of contract.

12) **COVENANT AGAINST CONTINGENT FEES:** Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement of understanding for a commission or percentage, brokerage of contingent fee excepting bona-fide employees, bona-fide establishment commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the State shall have the right to annul the Contract without liability or at its discretion to deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

13) **CONTRACT DOCUMENTS:** The 2014 RFP and Addendum, the Contractor's Response to the 2014 RFP, the Purchase Order and the executed Contract between the State and the Contractor shall constitute the Contract between the State and the Contractor. In the event there is any discrepancy between any of these contract documents, the following order of documents governs so that the former prevails over the latter: Contract, Purchase Order, 2014 RFP and Addendum, and Contractor's Response to the 2014 RFP. No other documents shall be considered. These documents contain the entire agreement between the State and the Contractor.

14) **APPLICABLE LAW:** The Laws of the State of Delaware shall apply except where Federal Law has precedence. The Contractor consents to jurisdiction and venue in the State of Delaware.

15) **SOVEREIGNTY:** The State of Delaware is a sovereign entity, and shall not be liable for the payment of federal, state and local sales, use and excise taxes, including any interest and penalties from any related deficiency, which may become due and payable as a consequence of this Contract.

The State of Delaware does not waive its sovereign immunity by entering into this Contract and fully retains all immunities and defenses provided by law with regard to any action based on this Contract.

16) **SCOPE OF AGREEMENT:** If the scope of any provision of this Contract is too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judiciously modified accordingly and that the whole of such provisions of the contract shall not thereby fail, but the scope of such provisions shall be curtailed only to the extent necessary to conform to the law.

17) **ASSIGNMENT:** This agreement may not be assigned by the Contractor without the written consent of the Committee.

Signature page to follow

IN WITNESS WHEREOF, the parties hereto have signed this AGREEMENT:

DELAWARE VICTIM-OFFENDER MEDIATION COMMITTEE

BY: Original on File DATE: 7/8/14
Patricia W. Griffin
TITLE: State Court Administrator, AOC

DELAWARE CENTER FOR JUSTICE INCORPORATED

BY: Original on File DATE: 7/1/14
TITLE: Original on File
Executive Director

EXHIBIT "A"

1) **SCOPE OF SERVICE:** The Contractor shall administer Victim-Offender Mediation Programs (hereafter "program") in the State of Delaware.

The program shall 1) in conjunction with the Committee develop criteria for participation in the program; 2) provide trained victim-offender mediation facilitators; and, 3) maintain necessary records and perform other fiscal functions. The specific statutory requirements are outlined in detail below.

The program shall satisfy the following requirements pursuant to 11 Del. C. §9502(b) to qualify for funding:

- (1) Be operated by a Delaware 501(c)(3) tax-exempt organization;
- (2) Provide neutral mediators who have received training in conflict resolution techniques;
- (3) Comply with Chapter 95 of Title 11 of the Delaware Code as well as any rules promulgated by the Committee;
- (4) Provide victim-offender mediation in felony, misdemeanor and juvenile delinquency cases without cost to the participants; and,
- (5) At the conclusion of the mediation process provide a written agreement or decision to the referral source setting forth the settlement of the issues and future responsibilities of each participant.

The Chair or appropriate designee of the Committee may inspect the financial records and audit the Contractor. 11 Del. C. §9502(e). The Contractor shall be an independent contractor of the State. Therefore, employees and volunteers of the Contractor are not State employees. 11 Del. C. §9502(f).

The Contractor shall supply annually the following statistical information to the Committee as required by 11 Del. C. §9502(g):

- (1) The operating budget;
- (2) The number of case referrals, categories, or types of cases referred;
- (3) The number of parties serviced;
- (4) The number of cases resolved;
- (5) The nature of the resolution, amount and type of restitution to victim and/or

community;

- (6) The rate of compliance;
- (7) The length of total case processing time by the Victim-Offender Mediation Program;
- (8) Community service hours agreed to, if applicable; and,
- (9) Community service hours completed, if applicable.

The Contractor shall supply the quarterly statistical report as contained in the Section F of the RFP. This report must be submitted to the Administrative Office of the Courts quarterly and funding will not be released until the report has been received. However, the initial payment under the Contract shall be made in advance.

The Contractor shall maintain the confidentiality and anonymity of all mediation participants. The Contractor shall protect confidential information as specified in 11 Del. C. §9503:

All memoranda, work notes or products, or case files or programs established under this chapter are confidential and privileged and are not subject to disclosure in any judicial or administrative proceeding unless the court or administrative tribunal determines that the materials were submitted by a participant to the program for the purpose of avoiding discovery of the material in a subsequent proceeding. Any communication relating to the subject matter of the resolution made during the mediation process by any participant, mediator or any other person is a privileged communication and is not subject to disclosure in a any judicial or administrative proceeding unless all parties to the communication waive the privilege. The foregoing privilege and limitation of evidentiary use does not apply to any communication of a threat that injury or damage may be inflicted on any person or on the property of a party to the dispute, to the extent the communication may be relevant evidence in a criminal matter. Nothing in this section shall prevent the Victim-Offender Mediation Committee from obtaining access to any information it deems necessary to administer this chapter.

2) ADMINISTRATION OF PROGRAM: Cases for the Victim-Offender Mediation Program shall be identified by the Delaware Attorney General's Office, the Court, or the program after it is determined that the case meets criteria. Victim(s) and offender(s) shall be contacted by the program and receive information explaining the program services and options available. Mediation will be offered to persons who voluntarily agree to participate.

For individuals who choose to participate in the program, individual assessment sessions shall be held with each victim and offender prior to actual mediation in order to explain the process and address any questions or concerns. Mediations shall be scheduled at the convenience of the victim and held at locations within in the community. The program shall be

provided at no cost to the victim or offender. A written agreement shall be drafted by the mediator at the conclusion of the mediation process, which shall reflect the interests of the parties and provide the conditions and future responsibilities of each of the parties. If appropriate, the agreement will include any restitution. The Delaware Attorney General's Office shall be informed of the outcome of mediation.

All mediated agreements and program documents shall be confidential, and program staff shall maintain systems and procedures to protect program participants and mediators. The program shall document case management using forms outlined in the Contractor's Response to the RFP.

The program shall participate in the collection and disbursement of restitution through the negotiation of payment plans which allow offenders to pay their pro rata share of the restitution. In cases involving victims of juvenile offenders, the program shall work with referred cases to facilitate a court order for a determined amount of restitution. The program shall interface with system principals who include but are not limited to Juvenile Probation, Family Court, the Delaware Attorney General's Office and others on behalf of the victim to identify and secure a restitution amount that ultimately becomes an order of the Court. All mediated agreement and restitution determinations involving juvenile offenders shall be reviewed by the Family Court and signed by a Family Court Judge or Commissioner, thereby becoming an order of the Court.

The program shall send program evaluation forms to all participants. The evaluation shall be based upon the client's sense of satisfaction with the program and program staff and mediators.

CONTRACT FOR VICTIM-OFFENDER MEDIATION

- 1) **BETWEEN:** The Delaware Victim-Offender Mediation Committee, hereinafter referred to as the "Committee", and the People's Place II, Inc., hereinafter referred to as "Contractor."
- 2) **TERM:** The Contract shall initiate on July 1, 2014 or on the date of an executed purchase order whichever is later. The contract shall expire on June 30, 2016. At its sole discretion, the Committee may elect to renew the contract at that time with two one (1) year extension from July 1, 2016 to June 30, 2017 and July 1, 2017 to June 30, 2018. The Contractor shall provide written notice to the Administrative Office of the Courts sixty (60) days prior to the expiration of this Contract if the Contractor does not wish to renew this Contract. This requirement does not create an automatic renewal of the contract or a right to contract renewal. An evaluation of Contractor's performance under this contract shall be conducted and reviewed by the Committee prior to renewal.
- 3) **SCOPE OF WORK/TERMS OF PAYMENT:** Subject to paragraph 4 below, the Committee retains the services of Contractor and Contractor agrees to supply services to the State in accordance with Exhibit "A". In consideration of the work to be performed by the Contractor, the Committee agrees to pay Contractor \$200,481.40 per Fiscal Year.
- 4) **NON-APPROPRIATION:** In the event, the General Assembly fails to appropriate the specific funds necessary to continue the contractual agreement, in whole or in part, the agreement shall be terminated, as to any obligation of the State or the Committee requiring the expenditure of money for which no specific appropriation is available, at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.
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actions, or claims, together with all costs, expenses for attorney's fees, arising out of the Contractor's, its agents' and employees' performance of work or services in connection with the contract, regardless of whether such suits, actions, claims or liabilities are based upon acts or failures to act attributable, in whole or in part, to the State, its employees or agents.

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\$3,000,000 per occurrence; or

D. Product Liability in the amount of at least
\$1,000,000 per person
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E. If the Contractor is required to transport clients or state employees, Automotive Liability (Bodily Injury) Insurance in the amount of at least \$100,000 each person and \$300,000 each accident and Automotive Property Damage in the amount of at least \$25,000.

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contract.

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DELAWARE VICTIM-OFFENDER MEDIATION COMMITTEE

BY: Original on File DATE: 7/8/14
Patricia W. Griffin
TITLE: State Court Administrator, AOC

PEOPLE'S PLACE II, INC.

BY: Original on File DATE: 6/22/14
TITLE: Original on File

EXHIBIT "A"

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community;

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2) ADMINISTRATION OF PROGRAM: Cases for the Victim-Offender Mediation Program shall be identified by the Delaware Attorney General's Office, the Court, or the program after it is determined that the case meets criteria. Victim(s) and offender(s) shall be contacted by the program and receive information explaining the program services and options available. Mediation will be offered to persons who voluntarily agree to participate.

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