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1. Relevant Documents, Studies and Practices - Yukon

1.1. Yukon Department of Justice¹

- Ross River Justice Committee - Ross River Dena Council, Ross River, Yukon
 - New Justice Committee;
 - Planning to start with pre-charge diversion, using the Family Group Conferencing model;
 - Developing guidelines and procedures to follow; have a draft information pamphlet.
-

1.2. 2001-2002 Aboriginal Justice Strategy Contribution Agreement

THIS AGREEMENT made the 29th day of June, 2001.

BETWEEN:

GOVERNMENT OF YUKON, as represented by the Minister of Justice (“Yukon”)

AND:

ROSS RIVER DENA COUNCIL (hereinafter referred to as “the Recipient”), as represented by its duly authorized representative

WHEREAS:

- A. Her Majesty the Queen in Right of Canada represented by the Minister of Justice of Canada (“Canada”) will provide financial assistance to the Recipient under the terms of the Aboriginal Justice Strategy Fund (the “Strategy”); and
- B. Yukon has agreed to share costs with Canada as a condition of the Strategy;

NOW THEREFORE the Parties hereto, in consideration of the covenants, understandings and undertakings hereinafter set out, do hereby agree as follows:

1. CARRYING OUT THE PROJECT

1.1 The Recipient agrees to carry out the operation and development of the Ross River Community Justice Project (referred herein as the “Project”) in a manner acceptable to Yukon and, without limiting the generality of the foregoing, in accordance with:

1.1.1 the Project Description (attached as Schedule A);

¹ Government of Yukon, Department of Justice, Community Justice, <http://www.justice.gov.yk.ca/prog/cjps/cj/comjuscom.html>

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- 1.1.2 the Goals and Objectives, (attached as Schedule B);
- 1.1.3 the Work Plan (attached as Schedule C); and,
- 1.1.4 the Budget and Payment Schedule (attached as Schedule D and hereinafter referred to as the “Budget”).

2. TERM

- 2.1 The term of this Agreement shall be from April 1, 2001 to March 31, 2002.

3. ASSISTANCE

- 3.1 The Yukon agrees to provide the Recipient with an amount not to exceed \$16,300, which amount consists of \$14,995 New Funding (hereinafter referred to as the “New Funding”) and \$1,305 surplus from 2000/01 for the operation of the Project during the term of this Agreement.

- 3.2 The financial assistance provided under 3.1 will be paid in the following manner:

- 3.2.1 A payment of \$7,500 upon execution of this Agreement;
- 3.2.2 An interim payment on November 30, 2001 not to exceed \$5,050 depending on the cash flow requirements of the Recipient, and upon receipt and approval by Yukon of an interim financial statement in accordance with 4.1.5 and upon receipt and approval by Yukon of the first and second quarterly written activity reports in accordance with 8.1.2; and
- 3.2.3 A final payment not to exceed \$2,445 (which sum represents a holdback of 15% of the financial assistance provided under 3.1) upon receipt and approval of an audited final financial statement in accordance with 4.1.6 and upon receipt and approval of the third quarterly written activity report and the final Project report in accordance with 8.1.2.

- 3.3 The Yukon’s obligation to provide assistance under 3.1 is subject to the following:

- 3.3.1 money being appropriated by the Legislature for the purpose of this Agreement;
- 3.3.2 Canada agreeing to provide financial assistance to the Recipient in the amount set out in the Budget; and
- 3.3.3 the Recipient complying with the terms of this Agreement.

4. FINANCIAL ACCOUNTABILITY

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4.1 With respect to the assistance provided by Yukon under 3.1 and the monies described in 3.3.2 the Recipient agrees:

- 4.1.1 to make expenditures only for the purpose of carrying out the Project;
- 4.1.2 to make expenditures only in accordance with the Budget;
- 4.1.3 to allocate the assistance received in accordance with this Agreement;
- 4.1.4 to maintain financial books and records, in accordance with generally accepted accounting procedures and methods, as well as other records to which the parties may agree, and to account for the assistance received under this Agreement separately from any other funds of the Recipient;
- 4.1.5 to deliver to the Yukon an interim financial statement of its expenditures with respect to the Project for the period April 1, 2001 to September 30, 2001 due October 30, 2001, which statement shall be in a form acceptable to Yukon;
- 4.1.6 to deliver to Yukon an audited final financial statement of its expenditures with respect to the Project for the period April 1, 2001 to March 31, 2002 due May 31, 2002, which statement shall be in a form acceptable to the Yukon; and
- 4.1.7 to make available, during the term of this Agreement and up to and including one year from the date of termination of this Agreement, to the officers or agents of Yukon or Canada, for the purposes of audit or review, all financial books, records and statements upon reasonable notice and during the normal business hours of the Recipient.

4.2 Despite paragraph 4.1.2, reallocations between the budget items set out in the Budget, not exceeding twenty per cent (20%), are permissible. Reallocations that exceed the 20% limit require the prior written approval of Yukon.

4.3 Any assistance provided through this Agreement that is

- 4.3.1 unexpended by the Recipient at the termination of this Agreement;
- 4.3.2 not properly expended for the purposes of the Agreement, in the opinion of Yukon; or,
- 4.3.3 in excess of the reduced amount of assistance under 5.2;

shall constitute a debt due to Yukon and shall either be repaid immediately by the Recipient to Yukon or withheld by Yukon from funds otherwise due to the Recipient under this Agreement.

5. REDUCTION OF ASSISTANCE

5.1 The Recipient shall immediately advise the Yukon in writing if it receives additional payments or any other form of contribution, gift, or grant in respect of the Project from sources other

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than those set out in the Budget, or if Canada increases or reduces its contribution to the Project.

- 5.2 If it comes to the attention of Yukon that the Recipient received additional payments or any other form of contribution, gift, or grant in respect of the Project from sources other than those set out in the Budget, or that Canada has increased or reduced its contribution to the Project, Yukon may reduce the assistance provided under 3.1 by any amount it may decide.
- 5.3 Yukon will give the Recipient 30 days written notice before reducing its assistance.
- 5.4 The reduced amount of assistance under 5.2 shall be the amount of assistance for the purposes of this Agreement.

6. IMPACT ON SELF-GOVERNMENT NEGOTIATIONS

- 6.1 The parties agree that any assistance provided by Yukon under the terms of the Strategy is without prejudice to the administration of justice program and service transfer negotiations (the “Negotiations”) which may take place pursuant to a Yukon First Nation Self-Government Agreement.
- 6.2 For the purposes of the Negotiations, the Recipient acknowledges that any assistance provided by Yukon under the terms of the Strategy will be determined by Yukon on an annual basis.
- 6.3 Unless the Parties otherwise agree, the provision of assistance by Yukon to the Recipient hereunder is not intended, in and of itself, to create a program or service for the purposes of the Negotiations.

7. CONFIDENTIALITY

- 7.1 Subject to paragraph 7.2, all information which the Recipient may obtain from clients or their legal counsel in carrying out the Project shall be treated by the Recipient as having the same confidentiality as solicitor and client communications. Any records maintained by the Recipient in respect of clients shall not be open to inspection except in accordance with the aforementioned principle.
- 7.2 Paragraph 7.1 is not intended to impede the compiling of information for evaluation or statistical purposes, provided that the identity of any particular client is not disclosed.

8. EVALUATION AND REPORTS

- 8.1 The Recipient agrees
 - 8.1.1 to maintain, in a manner acceptable to the Yukon, case files and other data which may be required for on-going monitoring, review, and evaluation of the Project;
 - 8.1.2 to provide Yukon written activity reports of Project activities due October 30, 2001, and January 30, 2002, and a final Project report due April 30, 2002; which reports, shall be in a form acceptable to Yukon;
 - 8.1.3 to undertake a self-evaluation of the Project in co-operation with, and at the request of, Yukon and Canada

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- 8.1.4 to co-operate with the Yukon Department of Justice, in the event that Yukon undertakes any evaluation studies in respect of this Project, the costs of such studies to be borne by Yukon; and
- 8.1.5 to provide copies of any existing information, data, and statistics that Yukon reasonably requires to carry out such evaluation studies.

9. USE OF RESULTS

- 9.1 The Recipient shall retain copyright in any work produced by it as part of this Project; but the Recipient shall not contract away its copyright interest without the prior written approval of Yukon, and the Recipient hereby authorizes Yukon to produce, reproduce, or publish in any form or by any means the original work or any adaptation thereof in any language for use within the Yukon public service and for non-commercial distribution or dissemination.

10. PUBLIC ACKNOWLEDGMENT

- 10.1 Any information released or announced to the public by the Recipient concerning the Project shall adequately acknowledge the contribution made by Yukon.
- 10.2 Any information released or announced to the public by Yukon concerning the Project shall adequately acknowledge the contribution made by the Recipient.

11. TERMINATION

- 11.1 Either party may terminate this Agreement without cause by giving the other party 30 days written notice of its intention to terminate.
- 11.2 If this Agreement is terminated under 11.1:
 - 11.2.1 the Recipient shall, within 90 days of the date of termination, provide the Yukon with an audited financial statement pertaining to the Project for the applicable period of time up to and including the date of termination; and
 - 11.2.2 clause 4.3 of this Agreement shall apply to any assistance that is unexpended at the termination of this Agreement.
 - 11.2.3 Yukon shall withhold any assistance not advanced to the Recipient as at the date of termination, other than assistance due to the Recipient in accordance with the terms of this Agreement up to the termination date.

12. DISPUTE RESOLUTION

- 12.1 In the event of a dispute between the parties arising out of this Agreement, the parties agree to attempt resolution through negotiation or other appropriate dispute resolution procedures.

13. DISCLAIMER

- 13.1 Nothing in this Agreement is intended to make the Recipient an agent of Yukon for any purpose whatsoever and the Recipient and its employees shall not be considered to be employees of Yukon.

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- 13.2 The Recipient agrees not to hold itself or allow any person associated with the Project to hold himself or herself out as representing Yukon for any purpose whatsoever.

14. INDEMNIFICATION

- 14.1 The Recipient shall use due care in carrying out the Project and in performing this Agreement to ensure that no person is injured, no property is damaged or lost, and no rights infringed.

- 14.2 The Recipient agrees that Yukon shall not be liable for any injury to the Recipient, or for any damage to or loss of property of the Recipient caused by, arising from, or in any way related to the Project or to the performance of this Agreement.

- 14.3 The Recipient shall be solely responsible for

14.3.1 any injury (including death) to persons (including any officers, employees or agents of the Recipient), damage or loss to property or infringement of rights caused by, arising from, or related to the Project, the performance of this Agreement, or the breach of any term or condition of this Agreement by the Recipient or the officers, employees or agents of the Recipient; and

14.3.2 any omission or wrongful or negligent act of the Recipient, or of the officers, employees, or agents of the Recipient;

and the Recipient shall save harmless and indemnify Yukon, its officers, employees, and agents from and against all claims, liabilities and demands with respect to paragraphs 14.3.1 and 14.3.2 with such indemnity surviving the expiry or termination of this Agreement.

- 14.4 Paragraphs 14.2 and 14.3 do not apply to the extent that the injury, damage, or loss was caused by the wrongful or negligent act of an officer or employee of Yukon while acting in the scope of his or her employment.

15. ASSIGNMENT

- 15.1 This Agreement may not be assigned by the Recipient without the prior written consent of Yukon.

16. SCHEDULES

- 16.1 The following schedules are incorporated into and form part of this Agreement:

Schedule A: Project Description
Schedule B: Goals and Objectives
Schedule C: Work Plan
Schedule D: Budget and Payment Schedule

17. PROJECT NEGOTIATIONS

- 17.1 The parties shall conduct negotiations associated with the Project in a mutually respectful manner.

- 17.2 While the parties share a desire to keep the public informed, details of positions and documents exchanged or developed by the parties during negotiations associated with the

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Project will be confidential unless otherwise agreed to by the parties or unless public disclosure is required by any legislation relating to access to information or privacy.

- 17.3 The parties may issue joint statements to, or jointly attend meetings with, the media, individuals, groups, or organizations on the progress of any negotiations associated with the Project.
- 17.4 The parties shall consult with each other prior to any release to the media or the public of any information relating to Project negotiations.
- 17.5 No public consultation or public information process shall be used by any party as a means of encouraging support or developing public pressure for a particular negotiating position.

18. NOTICE

- 18.1 Any written communication, report or notice required pursuant to this Agreement may be given by delivering the same by prepaid post:

If to the Yukon to:

Community Justice Coordinator
J-10/Department of Justice
Government of Yukon
P.O. Box 2703
Whitehorse, Yukon
Y1A 2C6

If to the Recipient to:

Ross River Community Justice
c/o Ross River Dena Council
General Delivery
Ross River, Yukon
Y0B 1S0

IN WITNESS WHEREOF the parties by their duly authorized representatives have executed this Agreement hereunder this day of July, 2001.

Government of Yukon

Ross River Dena Council

per:

per:

Witness Witness

SCHEDULE A

PROJECT BACKGROUND AND DESCRIPTION

The Ross River Dena Council and Community

Ross River is located 360 KM Northeast of Whitehorse near the Junction of the Campbell Highway and the Canol Road, in the Tintina Trench beside the Pelly River. Ross River is a Community of 400 people approximately 70% of which are aboriginal. The Canol Road intersects the town.

The original aboriginal people of the Upper Pelly River area used the Ross River site as a seasonal camp. As prospecting and mining grew in the area, Tlingit control of trade among the Kaskas was broken. A trading post was established near the present site in 1903.

Construction of the Canol Road and pipeline in the 1940's opened the area to overland traffic. Government offices were established in Ross River after the second world war. In 1952, a split occurred in the First Nation and half the members went South to join the Liard First Nation. The Ross River First Nation was officially recognized by Indian and Inuit Affairs in 1966.

Ross River is an unincorporated community directly administered by the Yukon Government. An attempt was made to have Ross River become a self-administered village, but that issue has been stalled until land claims have been finalized.

Community-Based Justice in Ross River

1. Background - The Dena Gude' Guk'E; Kuk'Uts'Ets (The People Talk, Everybody Decides) Justice Committee

In 1998, the community of Ross River voiced their concerns to the Yukon Territorial Government Department of Justice. The community of Ross River decided that Restorative Justice would provide an alternative to the present court system, which usually contributes to high incarceration rates and ineffective reintegration into the community. Together we can assist in reducing offender relapse and offer increased accountability to the community.

Currently, the Ross River Dena Council employs a Justice Coordinator/Native Court Worker. The Justice Coordinator works under the guidance of the Justice Committee and reports to the Director of Social Programs.

The Justice Coordinator is responsible for the management and operation of the project. Regular Justice Committee meetings support the work of the Justice Coordinator. The Justice Committee is made up of Ross River Dena Council Social Programs personnel, RCMP, Health and Social Services, local nurses and community representatives.

2. Processes and Services Provided.

Ross River Justice Committee provides support to Ross River community members in the mainstream justice system and provides pre-charge and post-charge diversion services.

Pre-Charge Diversion Process

Pre-Charge Diversion is an alternative to the mainstream justice system that can occur when the RCMP refer a case to a community-based initiative rather than laying a charge, even though there is enough evidence to charge an accused with an offence.

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PROCESS:

1. The offence occurs.
2. The offender admits guilt to offence and expresses willingness to participate in a circle.
3. The victim “must” agree to the alternative to mainstream process.
4. Referral must go to the Justice Coordinator then.
5. Case-committee established to review case.
6. Case-committee approves or denies application to proceed.
7. Accepted offender will then:
 - Meet with committee members
 - Work with support people
 - Attend the Family Group Conference
 - Receive conditions of Agreement/Disposition
 - Establish a time frame to work on finishing conditions of Agreement/Disposition
 - Report to committee and supports to review progress.

Pre-Charge Diversion Process

Post-Charge Diversion is an alternative to the mainstream justice system that can occur after a charge has been laid and the Crown refers the case to a community-based initiative rather than dealing with the matter in Court.

Office Hours: Monday to Friday, 8:30 to 4:30

Mailing address: Margaret Thomson Centre
Ross River Dena Council
General Delivery
Ross River, Yukon Y0B 1S0

Financial Matters: Contact Ruth Dick, Director of Finance
Ross River Dena Council 867-969-2277

SCHEDULE B

GOALS AND OBJECTIVES

Goal 1: To provide an alternative to the present justice system through support and guidance.

Objectives	Responsibility
To work with the Justice Committee and the community of Ross River in identifying, recognizing and implementing training in relation to justice and social issues.	Justice Coordinator.
Continue to recruit and maintain an active volunteer justice committee.	Justice Coordinator and Committee.

Goal 2: To establish community support for those involved in the justice system.

Objectives	Responsibility
Involve Elders in community based justice initiatives (including support groups) and our offenders out on the land.	Justice Coordinator and Committee.

Goal 3: To inform the community of Ross River on the functions of the Justice Committee.

Objective	Responsibility
Keep communications open between community and the committee, we would have a newsletter, regular home visits, once a month interagency meeting and round table meeting when needed.	Justice Coordinator and Committee.
Have at least four potluck dinners to inform the Ross River community members of what is happening within our Justice Committee.	Justice Coordinator and Committee

Goal 4: To encourage Chief and Council to support the Ross River Justice Committee.

Objectives	Responsibility
Encourage the Chief and Council to support the implementation of our justice system to our community, go to monthly CC meetings and give reports on our Justice Committee and to receive direction.	Justice Coordinator and Committee.

Goal 5: To involve the youth to take part in the Ross River Justice Committee.

Objectives	Responsibility
By implementing training for the youth in our Justice System	Justice Coordinator and Committee

Goal 6: To involve all resource people in our Ross River Justice Committee.

Objectives	Responsibility
All persons working as RCMP, Nurses, Social Services, Recreation etc. have input to the Ross River Justice Committee to gain their knowledge and resources for our community justice system.	Justice Coordinator and Committee

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Schedule C

WORK PLAN

ROSS RIVER JUSTICE COMMITTEE

APRIL 1, 2000 TO MARCH 31, 2001

TASK	TIMELINE
1. Provide victim and offender support in the community.	Ongoing
2. Liaison with community members and resources. (Crown, RCMP, Victim Services, Probation and offenders both in the community and outside of the community)	Ongoing
3. Coordinate training opportunities for committee members and interested community members.	Ongoing
4. Maintain records system of clients and office work related to the Ross River Justice Committee.	Ongoing
5. Provide written activity, statistical and financial reports to Yukon Justice and federal Aboriginal Justice Directorate.	Ongoing
6. Recruit new Justice Committee members, including Youth and Elders, and provide orientation and training as required.	Ongoing
7. Plan and write funding proposals.	As required.
8. Prepare for and support pre-release circles supporting offenders returning to the community.	As required.
9. Attend Aboriginal Perspectives on Justice course.	May 2001
10. Attend Federal Prosecution Conference in Whitehorse.	June 2001
11. Assist with the Summer Youth Camp development and activities.	July and August 2001
12. Attend Yukon Justice Coordinator meetings in Whitehorse.	September 2001 and March 2002
13. Update and distribute Ross River Justice Committee pamphlets.	October 2001
14. Develop skills of Justice Coordinator.	Ongoing
15. Train all committee members in Conflict Resolution and Mediation when available.	Fall/Winter 2001
16. Host two community dinners to promote awareness and to consult with community members.	Spring and Fall 2001

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- To that end, various people from the community have been designated to explore justice initiatives in Teslin and elsewhere.
- The community is preparing a facility for a mobile alcohol treatment centre which is to be functional in the near future.
 - The centre is funded by NNADP and will remain for 28 days in each of three communities – Ross River, Teslin and Carmacks and accommodate 10-12 clients at each session.
 - An assessment worker will make referrals and an evaluation will be undertaken if funding is available.
 - The band is also interested in assuming more responsibility for child welfare, but parameters have not been determined.
 - Any justice initiatives would be integrated with alcohol treatment and child care initiatives to provide a more holistic approach.
- There was a discussion about justice matters at the Kaska Tribal Council General Assembly in June.
 - Approval for consultation and further justice explorations was given by the membership.
 - The Kaska Tribal Council will be an umbrella organization for any local tribal justice initiatives to ensure equal services and to act as an advocate for communities on funding.
- At the community level, respondents felt a need to designate an individual with the responsibility for initiating a tribal justice consultation process.
 - In the interim, the courtworker from Watson Lake who services Ross River, and other Kaska communities, has agreed to organize meetings to discuss justice matters.
 - Funding would be required, however, for the necessary research and development work.
 - One area of research interest is customary law.
 - Although not explicitly designated as a research area, it is clear that developing alternatives to courts is of considerable interest to the community.
 - Respondents felt that ‘culture and bush camps and not doing work for elders’ are more appropriate responses to offenders than time spent in jail.
 - Community service orders are commonly used by the present system but are very difficult to enforce at the community level.
- Tribal justice is desired but few activities are specified.
 - Elders were recommended as an integral part of any justice structure.
 - However, respondents also wanted other age groups included.
 - The existing courts would remain and a local system would be integrated, but in a way which provided a community voice in sentencing.