

PROFESSIONAL SERVICES AGREEMENT
FOR MENTAL HEALTH OUTREACH WORKER

This Agreement is entered into this November 20, 2013 (the "Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation, and MERCY HOUSE, a nonprofit organization ("Consultant").

RECITALS:

A. WHEREAS, City proposes to utilize the services of Consultant to provide an Outreach Worker from Consultant's Homeless Outreach Team to link the Costa Mesa Homeless Residents with necessary services and ultimately housing, as more fully described in the Scope of Work attached as Exhibit "A"; and

B. WHEREAS, Consultant represents that it has that degree of specialized expertise contemplated within Section 37102 of the California Government Code, and holds all necessary licenses to practice and perform the services herein contemplated; and

C. WHEREAS, City and Consultant desire to contract for the specific services described in Exhibit "A" and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and

D. WHEREAS, no official or employee of City has a financial interest, within the provisions of California Government Code, Sections 1090-1092, in the subject matter of this Agreement.

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

1.0 DEFINITIONS

1.1 Terms used in this Agreement shall have the following meaning:

(a) "Activities of daily living" shall refer to a set of common, everyday tasks, performance of which is required for personal self-care and independent living. Some examples include eating, bathing, dressing, toileting, and the ability to get from place to place.

(b) "CEO" shall mean the Chief Executive Officer of the City of Costa Mesa, and shall include his/her designee.

(c) "City" shall mean the City of Costa Mesa.

(d) "Consultant" shall mean Mercy House, and shall include Mercy House's employees, volunteers, agents, representatives, and subcontractors.

(e) "CMPD" shall mean the Costa Mesa Police Department.

(f) "CMFD" shall mean the Costa Mesa Fire Department.

(g) "Costa Mesa Homeless Resident" shall have the same meaning as that term is defined in Exhibit "A" hereto.

(h) "Effective date" shall mean November 20, 2013.

(i) "Engagement Team" shall mean the Housing Consultant and all City outreach workers under the supervision of the Housing Consultant.

(j) "Homeless Client of Special Circumstances" shall have the same meaning as that term is defined in Exhibit "A" hereto.

(k) "Homeless Outreach Program" shall mean the program headed by the Housing Consultant overseeing outreach worker engagement of homeless individuals and referrals of such individuals to available social service programs.

(l) "Housing Consultant" shall be the City's Housing Consultant, or his/her designee.

(m) "NITF" shall mean the City of Costa Mesa's Neighborhood Improvement Task Force.

(n) "Outreach Worker" shall mean a mental health outreach worker (hereafter, from Consultant's Homeless Outreach Team.

(o) "Project Reconnect Program" shall mean the City's voluntary program aimed at providing transportation for homeless individuals who are in Costa Mesa, but who are originally from another city, to return to their city of origin.

(p) "Reimbursement Request" shall have the same meaning as that term is defined in Section 3.5 of the Agreement.

2.0 SERVICES PROVIDED BY CONSULTANT

2.1 Scope of Services. Consultant shall provide the professional services described in the Scope of Work, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference.

2.2 Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by an Outreach Worker who is experienced in his/her field and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. It is understood that in the exercise of every aspect of its role, within the scope of work, Consultant will be representing the City of Costa Mesa, and all of its

actions, communications, or other work under this contract is under the direction of the City's Chief Executive Officer or his/her designee ("CEO"). Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant's performance of this Agreement.

2.3 Performance to Satisfaction of City. Consultant agrees to perform all the work to the complete satisfaction of the City and within the term herein specified. Evaluations of the work will be done by the CEO. If the quality of work is not satisfactory, City in its discretion has the right to:

- (a) Meet with Consultant to review the quality of the work and resolve the matters of concern;
- (b) Require Consultant to repeat the work at no additional fee until it is satisfactory; and/or
- (c) Terminate the Agreement as set forth herein.

2.4 Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments .of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

2.5 Non-discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender or sexual orientation, except as permitted pursuant to Section 12940 of the Government Code.

2.6 Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

2.7 Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

2.8 Confidentiality. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.

3.0 COMPENSATION AND BILLING

3.1 Compensation. As compensation for the provision of services outlined in Exhibit "A" and in accordance with this agreement, Consultant shall be paid in accordance with the payment schedule set forth in Exhibit "B," attached hereto and incorporated by reference. Consultant's total compensation shall not exceed Seven Thousand Seven Hundred Dollars (\$7,700.00).

3.2 Additional Services. Consultant shall not receive compensation for any services provided outside the Scope of Services unless the CEO, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be invalid and are unenforceable.

3.3 Method of Billing. Consultant may submit invoices to Assistant Chief Executive Officer or his/her designee ("Assistant CEO") for approval on a progress basis, but no more often than two (2) times a month. Invoices shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction as of the date the invoices are created. City shall pay Consultant's invoices within thirty (30) days from the date City receives any such invoice. Each invoice shall describe in detail the services performed and the date and duration of performance in each instance.

3.4 Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to the CEO for inspection and/or audit at mutually convenient times for a period of three (3) years from the Effective Date.

3.5 Reimbursement of Costs. City shall reimburse Consultant for certain costs incurred by Consultant in performing services under this Agreement. This includes, but is not limited to, the costs related to: obtaining birth certificates for Costa Mesa Homeless Residents; obtaining driver's licenses for Costa Mesa Homeless Residents; obtaining motel vouchers for Costa Mesa Homeless Residents; obtaining bus passes for Costa Mesa Homeless Residents; and purchasing incidental supplies deemed necessary for effective case management. In order to receive any reimbursement, Consultant must submit to the City an itemization of such costs and original receipt(s) when possible and/or copies of documents purchased, showing proof that such

costs were incurred by Consultant (“Reimbursement Request”). Reimbursement Requests shall be submitted to the City pursuant to Section 7.4 of this Agreement. The Consultant shall not receive any reimbursement until the Assistant CEO has approved such Reimbursement Request in writing.

4.0 TIME OF PERFORMANCE

4.1 Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement.

4.2 Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

5.0 TERM AND TERMINATION

5.1 Term. This Agreement shall commence on the Effective Date and shall be effective until June 30, 2014, or until the total amount of the Agreement has been disbursed, i.e., \$7,700, whichever comes first, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties. At the end of the term period, Consultant and City may mutually agree, in writing, to renew the contract for up to three (3) term periods of one (1) year each.

5.2 Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

5.2.1 Compensation in the event of termination. City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City’s written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Consultant.

5.2.2 Documents. In the event of termination of this Agreement, all documents

prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

6.0 INSURANCE

6.1 Minimum Scope and Limits of Insurance. Consultant shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:

(a) Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury, abuse and molestation with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.

(b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence for bodily injury and property damage.

(c) Workers' compensation insurance as required by the State of California. Consultant agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents, employees, and volunteers arising from work performed by Consultant for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.

(d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00) combined single limits, per occurrence and aggregate. If the policy is written as a "claims made" policy, the retro date shall be prior to the start of the contract work. Consultant shall obtain and maintain, said E&O liability insurance during the life of this Agreement and for three (3) years after completion of the work hereunder.

6.2 Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

(a) Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Consultant

pursuant to its contract with the City; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant.”

(b) Notice: “Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled, nor the coverage or limits reduced, until thirty (30) days after written notice is given to City.”

(c) Other insurance: “The Consultant’s insurance coverage shall be primary insurance as respects the City of Costa Mesa, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Costa Mesa shall be in excess of, and not contributing to, the insurance provided by this policy.”

(d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Costa Mesa, its officers, officials, agents, employees, and volunteers.

(e) The Consultant’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.

6.3 Deductible or Self Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City in writing. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

6.4 Certificates of Insurance: Consultant shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City in writing, prior to performing any services under this Agreement.

6.5 Non-limiting: Nothing in this Section shall be construed as limiting in any way the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

7.0 GENERAL PROVISIONS

7.1 Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

7.2 Representatives. The Chief Executive Officer or his or her designee shall be the

representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant, called for by this Agreement, except as otherwise expressly provided in this Agreement.

7.3 Project Managers. City shall designate a Project Manager to work directly with Consultant in the performance of this Agreement.

7.4 Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:

Mercy House
P.O. Box 1905
Santa Ana, CA 92702
Attn: Larry Haynes, Executive Director

Phone: (714) 836-7188
Fax: (714) 836-7901

IF TO CITY:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Attn: Muriel Ullman

Phone: (714) 754-5330
Fax: (714) 754-5167

7.5 Drug-free Workplace Policy. Consultant shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "C" and incorporated herein by reference. Consultant's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by City.

7.6 Live Scan. As part of a condition to employment, Consultant shall submit the fingerprints of all individuals who may serve as Outreach Workers under this Agreement via Live Scan, pay the applicable fees associated with Live Scan, and the City must receive California Department of Justice fingerprint clearance for all such individuals prior to their rendering any services hereunder.

7.7 Attorneys' Fees: In the event that litigation is brought by any party in connection

with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

7.8 Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

7.9 Assignment: Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

7.10 Indemnification and Hold Harmless. Consultant agrees to defend, indemnify, hold free and harmless the City, its elected officials, officers, agents and employees, at Consultant's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the City, its elected officials, officers, agents and employees arising out of the performance of the Consultant, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Consultant, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the Consultant, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected officials, officers, agents and employees based upon the work performed by the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City, its elected officials, officers, agents and employees.

7.11 Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its or employees are in any manner agents or employees of City. Consultant shall secure, at its sole expense, and be responsible for any and

all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, workers' compensation insurance as required by State law, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant shall indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant further agrees to indemnify and hold City harmless from any failure of Consultant to comply with the applicable workers' compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this section.

7.12 PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

7.13 Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation that City might require.

7.14 Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer discs, files and drives furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior written consent of City. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer

drives, discs, audio files or any other items related to this Agreement, as requested by City or its authorized representative, at no additional cost to the City.

7.15 Public Records Act Disclosure: Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer drives, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

7.16 Conflict of Interest. Consultant and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code Sections 81000, *et seq.*) and Government Code Section 1090. During the term of this Agreement, Consultant and its officers, employees, associates and subconsultants shall not, without the prior written approval of the CEO, perform work for another person or entity for whom Consultant is not currently performing work that would require. Consultant or one of its officers, employees, associates or subconsultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

7.17 Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the CEO, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

7.18 Prohibited Employment. Consultant will not employ any regular employee of City while this Agreement is in effect.

7.19 Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

7.20 Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as

expressly provided herein.

7.21 No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

7.22 Headings. Sections and subsection headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

7.23 Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

7.24 Amendments. Only writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

7.25 Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

7.26 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.


7.27 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

7.28 Exhibits. Exhibits "A," "B," and "C" attached hereto are incorporated herein by reference as though fully set forth.


7.29 Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers as of the Effective Date.

MERCY HOUSE

Name:  _____
Title: _____
Date: 12/3/2014


CITY OF COSTA MESA

 _____ Date: 11/26/13
Chief Executive Officer of Costa Mesa

~~APPROVED AS TO FORM:~~

 _____ Date: 11/04/13
City Attorney

APPROVED AS TO INSURANCE:

 _____ Date: 11/20/13
Risk Management

APPROVED AS TO CONTENT:

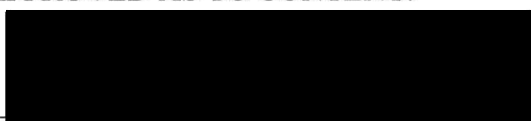
 _____ Date: 11/21/13
Project Manager

EXHIBIT A

SCOPE OF WORK

Scope of Services –Mental Health Outreach Worker

Consultant's Outreach Worker shall work primarily under the supervision of the Assistant CEO and the Housing Consultant to perform daily outreach and intervention services to homeless persons within a geographic service area as determined by the City of Costa Mesa's NITF. The Outreach Worker will perform his/her services in the field each day in a systematic pattern within an established service area, with the purpose of contacting homeless persons living on the streets of the City of Costa Mesa, provide face-to-face intervention/outreach efforts, and provide the constant care, incentive, and information necessary to assist individuals to choose to change behavior contributing to their homelessness.

Daily Duties

1. Develop relationships with homeless individuals deemed Costa Mesa Homeless Residents on the City of Costa Mesa Homeless Resident List or to clients who can be classified as a Homeless Client of Special Circumstances, and provide assistance to those individuals seeking out particular services. This may include reaching out to other social service and housing providers, such as the faith-based community, in order to obtain referrals and participate in collaborative solutions.

- a. Costa Mesa Homeless Resident.

A Costa Mesa Homeless Resident is an individual who has had strong ties to the community since no later than September, 2010. These ties include, but are not limited to:

- Current residency of an immediate family member (for example, parent, sibling, grandparent, child);
- Proof that the individual and/or their dependent(s) attended a Costa Mesa K-12 school;
- Knowledge – either first-hand or recorded – by the Costa Mesa Police Department and/or the Costa Mesa Code Enforcement Department that the individual has been living on Costa Mesa's streets since prior to September, 2010;

Examples of acceptable documentation to confirm Costa Mesa residency include:

- Copy of a previous lease for housing in Costa Mesa;

- Confirmation of previous utility services provided at a residence in Costa Mesa;
 - Written confirmation of residency in Costa Mesa from a previous landlord, or proof of residency in transitional housing in Costa Mesa;
 - Confirmation of school records confirming previous residency in Costa Mesa.
- b. Homeless Client of Special Circumstances.
- Homeless individuals who are medically compromised—i.e., those individuals who are no longer able to perform the activities of daily living. Most often the person is diagnosed with co-morbidities that can include, but are not limited to, diabetes, coronary artery disease, hypertension, high blood pressure, cancer, liver disease, and mental illness. Added to this definition can be individuals who, by virtue of the treatment for their condition or illness, are susceptible to infections or serious complications.
 - Elderly homeless individuals (age 60 plus);
 - Any other homeless individual, not a Costa Mesa homeless resident, who the Assistant CEO, City Housing Consultant, or Costa Mesa Police Department identifies as someone who needs to leave the City because the individual has engaged in violence, drug abuse, harassment of other individuals, or repeated criminal activity.
- c. Exclusions- the following individuals may be excluded from the definition of a Costa Mesa Homeless Resident:
- An individual living in temporary housing, such as a motel or recovery home;
 - Any individual who is intentionally homeless— i.e., an individual who has the means to occupy reasonable accommodations and refuses to do so, or a person who deliberately does or fails to do anything, which would allow them to occupy or continue to occupy such reasonable accommodations.
2. Offer peer support, including assistance in obtaining formal identification, supplemental security income, first and last month rent, a medical diagnosis, reunification with family members, arranging transportation to homeless court and any follow-up needed.
 3. Assist in the development of an ongoing database designed to evaluate outcomes and/or placements/linkages of homeless clients with appropriate services; preparation of weekly field logs which track case management efforts in the field; and utilize client interview forms designed to gather relevant data and statistics about homeless individuals served. Relevant data and statistics shall include, but not be limited to, the homeless individual's

name, date of birth, race, ethnicity, and income level, as well as actions taken to assist the homeless individual, and the date that those actions were taken. The Outreach Worker will also assist the City's Housing and Homeless Consultant in maintaining a list of City of Costa Mesa Homeless Residents including additions of new Costa Mesa Homeless Residents, homeless individuals that meet the criteria for a Costa Mesa Homeless Resident who the City has not previously recognized as being homeless, and deletion from the list of individuals who are no longer living and receiving services in Costa Mesa. Additionally, the Outreach Worker will maintain a list of former Costa Mesa Homeless Residents who are no longer receiving case management services in an effort to track their progress over a one-year period. The Outreach Worker will contact these individuals a minimum of twice during that one-year period.

4. The Outreach Worker will assist the CMPD and the CMFD in "non-enforcement" response where appropriate. This may include non-psychiatric emergencies involving individuals who are ready to accept substance abuse treatment or those needing transportation arranged to homeless court. Duties may also include interfacing with hospital personnel regarding recuperative care for homeless clients who have been brought to the hospital by paramedics, as well as seeking appropriate board and care and/or housing placements.
5. The Outreach Worker will provide recent arrivals with information they need to deter them from taking up residency on the streets of Costa Mesa, such as referrals to service providers from areas they left or wish to return to and/or offer participation in the Project Reconnect Program.

Performance Requirements

1. Provide at a minimum two to three days per week of availability during a wide range of variable hours according to the needs of the Homeless Outreach Program, the geographic area to be served, and the working hours of the Engagement Team. Generally, services will be provided during weekdays. The Outreach Worker may be required to work on a rotational "on call" schedule to ensure that coverage is available on both evenings and weekends.
2. Provide around-the-clock availability via telephone and email to the City of Costa Mesa CEO's Office, CMPD, CMFD, and other interrelated social service providers and clients. Consultant is required to purchase or utilize a "smart phone," which number shall be available to City staff, consultants and homeless clients.
3. Be available to attend in court to advocate for criminal case resolutions that will allow subjects to be returned to family members.
4. Provide notification to CMPD regarding criminal activity encountered during outreach efforts in order to allow the CMPD to promptly formulate a proper law enforcement response.

5. Attend weekly NITF, project update, and case management meetings as needed.

Client Record Maintenance

1. Consultant shall maintain detailed interview questionnaires, weekly field logs, assist in the implementation of an ongoing data base designed to evaluate outcomes and/or placements/linkages of homeless clients with appropriate services, and shall assist in updating the Homeless Costa Mesa Resident List.
2. Consultant shall assist in the administration of Project Reconnect Program, including maintenance of case files for all homeless clients partaking in this program.
3. Consultant shall conduct two, six-month status checks over a one-year period for homeless clients who have received services but are no longer living in Costa Mesa. These status checks will be maintained via a data base designed to track “closed cases” involving homeless clients. Consultant will also be responsible for “post-relocation” follow-up for all clients participating in Project Reconnect. City reserves the right to require Consultant to conduct additional status checks as needed.

EXHIBIT B

FEE SCHEDULE

FEE SCHEDULE – EXHIBIT B

MENTAL HEALTH OUTREACH WORKER

For all services performed under this Agreement, the Outreach Worker shall be compensated at the rate of \$28.00 per hour for approximately 10-15 hours per week. The maximum amount of this Agreement shall not exceed \$7,700.00 (seven thousand seven hundred dollars).

EXHIBIT C

CITY COUNCIL POLICY 100-5, EFFECTIVE DATE AUGUST 8, 1989

DRUG FREE WORKPLACE

BACKGROUND

Under the Federal Drug-Free Workplace Act of 1988, passed as part of omnibus drug legislation enacted November 18, 1988, contractors and grantees of Federal funds must certify that they will provide drug-free workplaces. At the present time, the City of Costa Mesa, as a sub-grantee of Federal funds under a variety of programs, is required to abide by this Act. The City Council has expressed its support of the national effort to eradicate drug abuse through the creation of a Substance Abuse Committee, institution of a City-wide D.A.R.E. program in all local schools and other activities in support of a drug-free community. This policy is intended to extend that effort to contractors and grantees of the City of Costa Mesa in the elimination of dangerous drugs in the workplace.

PURPOSE

It is the purpose of this Policy to:

1. Clearly state the City of Costa Mesa's commitment to a drug-free society.
2. Set forth guidelines to ensure that public, private, and nonprofit organizations receiving funds from the City of Costa Mesa share the commitment to a drug-free workplace.

POLICY

The City Manager, under direction by the City Council, shall take the necessary steps to see that the following provisions are included in all contracts and agreements entered into by the City of Costa Mesa involving the disbursement of funds.

1. Contractor or Sub-grantee hereby certifies that it will provide a drug-free workplace by:
 - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's and/or sub-grantee's workplace, specifically the job site or location included in this contract, and specifying the actions that will be taken against the employees for violation of such prohibition;
 - b. Establishing a Drug-Free Awareness Program to inform employees about:

1. The dangers of drug abuse in the workplace;
 2. Contractor's and/or sub-grantee's policy of maintaining a drug-free workplace;
 3. Any available drug counseling, rehabilitation and employee assistance programs; and
 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph A;
 - d. Notifying the employee in the statement required by subparagraph 1 A that, as a condition of employment under the contract, the employee will:
 1. Abide by the terms of the statement; and
 2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
 - e. Notifying the City of Costa Mesa within ten (10) days after receiving notice under subparagraph 1 D 2 from an employee or otherwise receiving the actual notice of such conviction;
 - f. Taking one of the following actions within thirty (30) days of receiving notice under subparagraph 1 D 2 with respect to an employee who is so convicted:
 1. Taking appropriate personnel action against such an employee, up to and including termination; or
 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health agency, law enforcement, or other appropriate agency;
 - g. Making a good faith effort to maintain a drug-free workplace through implementation of subparagraphs 1 A through 1 F, inclusive.
2. Contractor and/or sub-grantee shall be deemed to be in violation of this Policy if the City of Costa Mesa determines that:
 - a. Contractor and/or sub-grantee has made a false certification under paragraph 1 above;

- b. Contractor and/or sub-grantee has violated the certification by failing to carry out the requirements of subparagraphs 1 A through 1 G above;
 - c. Such number of employees of Contractor and/or sub-grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor and/or sub-grantee has failed to make a good faith effort to provide a drug-free workplace.
3. Should any contractor and/or sub-grantee be deemed to be in violation of this Policy pursuant to the provisions of 2 A, B, and C, a suspension, termination or debarment proceeding subject to applicable Federal, State, and local laws shall be conducted. Upon issuance of any final decision under this section requiring debarment of a contractor and/or sub-grantee, the contractor and/or sub-grantee shall be ineligible for award of any contract, agreement or grant from the City of Costa Mesa for a period specified in the decision, not to exceed five (5) years. Upon issuance of any final decision recommending against debarment of the contractor and/or sub-grantee, the contractor and/or sub-grantee shall be eligible for compensation as provided by law.