

**PROFESSIONAL SERVICES TO PROVIDE OPERATIONAL PLAN FOR YEAR
ROUND EMERGENCY SHELTERS/MULTI-SERVICE CENTERS**

BETWEEN

COUNTY OF ORANGE

AND

MERCY HOUSE LIVING CENTERS, INC.

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**CONTRACT MA-012-16010196
FOR
PROFESSIONAL SERVICES TO PROVIDE OPERATIONAL PLAN FOR YEAR ROUND
EMERGENCY SHELTERS/MULTI-SERVICE CENTERS**

This Contract, hereinafter referred to as (“Contract”), for professional services to provide technical assistance for Homeless Prevention Program, made and entered into as of the date fully executed by and between Mercy House Living Centers, Inc., with a place of business at 807 N. Garfield St., Santa Ana, CA 92701, (hereinafter referred to as “Contractor”), and the County of Orange, a political subdivision of the State of California, (hereinafter referred to as “County”) with County and Contractor sometimes individually referred to as “Party” or collectively as “Parties”.

RECITALS

WHEREAS, Parties desire to enter into Contract MA-012-16010196, effective August 4, 2015 through August 3, 2016; and,

WHEREAS, County desires to obtain Professional Services to Provide an Operational Plan to replace the seasonal Armory shelters with year round emergency shelters/multi-service centers as further set forth in the Scope of Work, attached hereto as Attachment A and incorporated herein; and,

WHEREAS, The County Board of Supervisors has authorized the Purchasing Agent or his designee to enter into this Contract; and

NOW, THEREFORE, the Parties mutually agree as follows:

ARTICLES

- A. Governing Law and Venue:** This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for trial to another County.
- B. Entire Contract:** This Contract, when accepted by the Contractor either in writing or by the shipment of any article or other commencement of performance hereunder, contains the entire Contract between the Parties with respect to the matters herein and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in writing County’s Deputized Purchasing Agent (“DPA”) or his designee.
- C. Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the Parties; no oral understanding or agreement not incorporated herein shall be binding on either of the Parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.

- D. Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax.
- E. Delivery:** Time of delivery of goods or services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or descriptions or services that do not conform to the prescribed statement of work. Acceptance of any part of the order for goods shall not bind County to accept future shipments nor deprive it of the right to return goods already accepted at Contractor's expense. Over-shipments and under-shipments of goods shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until all goods or services have actually been received and accepted in writing by County.
- F. Acceptance/Payment:** Unless otherwise agreed to in writing by County, 1) acceptance shall not be deemed complete unless in writing and until all the goods/services have actually been received, inspected, and tested to the satisfaction of County, and 2) payment shall be made in arrears after satisfactory acceptance.
- G. Warranty:** Contractor expressly warrants that the goods/services covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an Agreement upon Contractor's part to indemnify, defend and hold County and its indemnities as identified in paragraph "16" below, and as more fully described in paragraph "16", harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the goods/services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.
- H. Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in paragraph "16" below, it shall indemnify, defend and hold County and County Indemnities harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, but not limited to, attorney's fees, costs and expenses.
- I. Assignment or Sub-Contracting:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the Parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned or sub-contracted by Contractor without the express written consent of County. Any attempt by Contractor to assign or sub-contract the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.
- J. Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any Sub-contractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision

shall subject Contractor to all the penalties imposed for a violation of Section 1720 et seq. of the California Labor Code.

- K. Termination:** In addition to any other remedies or rights it may have by law, County has the right to terminate this Contract without penalty immediately with cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any breach of Contract, any misrepresentation or fraud on the part of the Contractor. Exercise by County of its right to terminate the Contract shall relieve County of all further obligations.
- L. Consent To Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. Any consent by any Party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
- M. Remedies Not Exclusive:** The remedies for breach set forth in this Contract are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Contract does not preclude resort by either Party to any other remedies provided by law.
- N. Independent Contractor:** Contractor shall be considered an Independent Contractor, and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor, its employees, nor anyone working under Contractor, shall qualify for workers' compensation or other fringe benefits of any kind through County.
- O. Performance:** Contractor shall perform all work under this Contract, taking all necessary steps and precautions to perform the work to County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods/services furnished by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workman-like manner; shall furnish all labor, supervision, machinery, equipment, materials, and supplies necessary therefore; shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work; and, if permitted to sub-contract, shall be fully responsible for all work performed by sub-contractors.

P. INSURANCE PROVISIONS

Prior to the provision of services under this Contract, the Contractor agrees to purchase all required insurance at Contractor's expense, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Contract have been complied with. Contractor agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with the County during the entire term of this Contract. In addition, all subcontractors performing work on behalf of Contractor pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

Contractor shall ensure that all subcontractors performing work on behalf of Contractor pursuant to this Contract shall be covered under Contractor's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for Contractor. Contractor shall not allow subcontractors to work if subcontractors have less than the level of coverage required by County from Contractor under this Contract. It is the obligation of Contractor to provide notice of the insurance requirements to every subcontractor and to receive

proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Contractor through the entirety of this Contract for inspection by County representative(s) at any reasonable time.

All self-insured retentions (SIRs) and deductibles shall be clearly stated on the Certificate of Insurance. If no SIRs or deductibles apply, indicate this on the Certificate of Insurance with a zero (0) by the appropriate line of coverage. Any self-insured retention (SIR) or deductible in an amount in excess of \$25,000 (\$5,000 for automobile liability), which shall specifically be approved by the County Executive Office (CEO)/Office of Risk Management upon review of Contractor's current audited financial report.

If the Contractor fails to maintain insurance acceptable to the County for the full term of this Contract, the County may terminate this Contract.

Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the Contractor shall provide the minimum limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers Compensation	Statutory
Employers Liability Insurance	\$1,000,000 per occurrence

Required Coverage Forms

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

- 1) An Additional Insured endorsement using ISO form CG 2010 or CG 2033 or a form at least as
- 2) broad naming the County of Orange its elected and appointed officials, officers, agents and employees as Additional Insureds.
- 3) A primary non-contributing endorsement evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees.

All insurance policies required by this Contract shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

Contractor shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which the County may suspend or terminate this Contract.

The Commercial General Liability policy shall contain a severability of interests clause also known as a "separation of insureds" clause (standard in the ISO CG 0001 policy).

Insurance certificates should be forwarded to the agency/department address listed on the solicitation.

If the Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

County expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable Certificates of Insurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this Contract may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

- Q. Bills and Liens:** Contractor shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. Contractor shall not permit any lien or charge to attach to the work

or the premises, but if any does so attach, Contractor shall promptly procure its release and, in accordance with the requirements of paragraph "16" above, indemnify, defend, and hold County harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.

- R. Changes:** Contractor shall make no changes in the work or perform any additional work without the County's specific written approval.
- S. Change of Ownership:** Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, the new owners shall be required under terms of sale or other transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of County.
- T. Force Majeure:** Contractor shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to County within thirty-six (36) hours of the start of the delay and Contractor avails himself of any available remedies.
- U. Confidentiality:** Contractor agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.
- V. Compliance with Laws:** Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph "16" above, Contractor agrees that it shall defend, indemnify and hold County and County Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.
- W. Freight (F.O.B. Destination):** Contractor assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.
- X. Pricing:** The Contract bid price shall include full compensation for providing all required goods in accordance with required specifications, or services as specified herein or when applicable, in the scope of services attached to this Contract, and no additional compensation will be allowed therefore, unless otherwise provided for in this Contract.
- Y. Intentionally left blank:**
- Z. Terms and Conditions:** Contractor acknowledges that it has read and agrees to all terms and conditions included in this Contract.

- AA. Headings:** The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.
- BB. Severability:** If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
- CC. Calendar Days:** Any reference to the word “day” or “days” herein shall mean calendar day or calendar days, respectively, unless otherwise expressly provided.
- DD. Attorney Fees:** In any action or proceeding to enforce or interpret any provision of this Contract, or where any provision hereof is validly asserted as a defense, each Party shall bear its own attorney’s fees, costs and expenses.
- EE. Interpretation:** This Contract has been negotiated at arm’s length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each Party has been represented by experienced and knowledgeable independent legal counsel of their own choosing, or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each Party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other Party hereto or by any person representing them, or both. Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the Party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to effect the purpose of the Parties and this Contract.
- FF. Authority:** The Parties to this Contract represent and warrant that this Contract has been duly authorized and executed, and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.
- GG. Employee Eligibility Verification:** The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.
- HH. Indemnification Provisions:** Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County’s Board of Supervisors acts as the governing Board (“County Indemnitees”) harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. If judgement is entered against Contractor or County by a court of competent jurisdiction because of

the concurrent active negligence of County or County Indemnitees, Contractor and County agree that liability will be apportioned as determined by the court. Neither Party shall request a jury apportionment.

- II. Audits/Inspections:** The Contractor agrees to permit the County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The County will provide reasonable notice of such an audit or inspection.

The County reserves the right to audit and verify the Contractor's records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this Contract or by law.

Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right to the County to audit records and interview staff of any sub-contractor related to performance of this Contract.

Should the Contractor cease to exist as a legal entity, the Contractor's records pertaining to this Contract shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to the County's Project Manager.

ADDITIONAL TERMS AND CONDITIONS

1. **Scope of Work:** The Scope of Work for this Contract is attached hereto as Attachment A.
2. **Term of Contract:** Phase I of this Contract shall commence following execution of the Contract by all necessary parties or following approval by the County Board of Supervisors, whichever occurs later, and shall be in effect for one (1) year from **August 4, 2015 through August 3, 2016**. Terms and conditions for Phase II shall be set in the subsequently approved agreement.
3. **Compensation:** The Contractor agrees to perform Phase I of the contract, as specified in Attachment A below, at no cost to the County. Terms and conditions for Phase II, including compensation, shall be set forth in the subsequently approved agreement.
4. **County Project Manager:** County shall appoint a Project Manager who will act as liaison between the County and the Contractor during the term of this Agreement; said Project Manager shall coordinate the activities of the County staff assigned to work with the Contractor.

The County Project Manager shall have the right to require the removal and replacement of the Contractor's Project Manager and key personnel. The County's Project Manager shall notify the Contractor in writing of any such action. The Contractor shall accomplish the removal within five (5) calendar days after the written notice by the County's Project Managers.

The County's Project Manager shall review and approve the appointment of the replacement Contractor's Project Manager and key personnel. Said approval shall not be unreasonably withheld.

- 5. Reports/Meetings:** The County's Project Manager and the Contractor's Project Manager will meet on reasonable notice to discuss the Contractor's performance and progress under this Contract. If requested, the Contractor's Project Manager and other project personnel shall attend all meetings. The Contractor shall provide such information that is requested by the County for the purpose of monitoring progress under this Contract.
- 6. Ownership of Documents:** County has exclusive permanent ownership of all direct, connected and derivative materials produced for this Contract by the Contractor. All documents, reports and other incidental or derivative work or materials furnished hereunder shall become and remain the exclusive permanent property of the County and may be used by the County as it may require without additional cost to the County. None of the documents, reports and other incidental or derivative work or furnished materials shall be used by the Contractor without the express written consent of the County. All County Employees Workers' Compensation claim files remain the exclusive and permanent property of the County of Orange.
- 7. Authorization Warranty:** The Contractor represents and warrants that the person executing this Contract on behalf of and for the Contractor is an authorized agent who has actual authority to bind the Contractor to each and every term, condition and obligation of this Contract and that all requirements of the Contractor have been fulfilled to provide such actual authority.
- 8. Title To Data:** All materials, documents, data or information obtained from the County data files or any County medium furnished to the Contractor in the performance of this Contract will at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by the Contractor after completion or termination of this Contract. All materials, documents, data or information, including any copies, and all County Employees Workers' Compensation claim files, must be returned to the County at the end of this Contract.
- 9. Confidentiality of Contractor's Records:** Contractor agrees to maintain the confidentiality of its records pursuant to all statutory laws relating to privacy and confidentiality as now in existence or as hereafter amended or changed. All records and information concerning any and all matters referred to the Contractor by the County shall be considered and kept confidential by the Contractor and the Contractor's officers, employees, agents, sub-contractors, and sub-tiers. Information obtained by the Contractor in the performance of this Contract shall be treated as strictly confidential and shall not be used by the Contractor for any purpose other than the performance of this Contract.
- 10. Responsibility of the Contractor:** The Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all reports, documentation, and services furnished by the Contractor under this Contract. The Contractor shall perform such services as may be necessary to accomplish the work required to be performed under and in accordance with this Contract. The Contractor shall develop reports and any other relevant documents necessary to complete the services and requirements as set forth in Attachment A, Scope of Work.

The Contractor warrants that all persons employed by the Contractor have satisfactory past records indicating their ability to accept the kind of responsibility anticipated in this type of work.

- 11. Notices:** Any and all notices, requests, demands, and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing, except through the course of the

Parties' Project Managers' routine exchange of information and cooperation during the term of the work and services, and shall be deemed to have been duly given (a) upon actual in-person delivery, if delivery is by direct hand; or (b) upon delivery agreed to as the actual day of receipt or no greater than four calendar days after being mailed (the date of mailing shall count as the first day), whichever occurs first by United States certified or registered mail, return receipt requested, postage prepaid, addressed to the appropriate Party at the following address or such other address as the Parties hereto may designate by written notice from time to time in the manner aforesaid:

Contractor: Mercy House Living Centers, Inc
Attn: Larry Haynes, Executive Director
807 N. Garfield Street
Santa Ana, CA 92701

County: OC Community Resources (OCCR)
Purchasing and Contract Services
Attn: Lisa Marin, Procurement Contract Specialist
1770 N. Broadway
Santa Ana, CA 92706
Phone: 714.480.2840
E-mail: Lisa.Marin@occr.ocgov.com

Cc: County of Orange/ OC Community Resources
OC Community Services (OCCS)
Attn: Karen Roper, Director
1300 S. Grand, Bldg. B, 3rd Floor
Santa Ana, CA 92705
Phone: 714.480.2805
E-mail: Karen.Roper@occr.ocgov.com

Cc: County of Orange/ OC Community Resources
OC Community Services (OCCS)
Attn: Julia Bidwell, Deputy Director
1300 S. Grand, Bldg. B, 3rd Floor
Santa Ana, CA 92705
Phone: 714.480.2991
E-mail: Julia.Bidwell@occr.ocgov.com

12. News and Information Release: Contractor agrees that it will not issue any news release, announcements, sales brochures, or professional business references in connection with either the award of this Contract, or any subsequent amendment of or effort under this Contract, without first obtaining review and approval of said news release from the County through the County Project Manager.

13. Precedence: The Contract documents consist of this Articles of Contract and its Attachments and Exhibits. In the event of a conflict between or among the Contract documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the recitals and articles of this Contract, and then the Attachments and Exhibits.

14. **Conflict of Interest – County Personnel:** The County of Orange Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest. The Contractor shall not, during the period of this Contract, employ any County employee for any purpose.
15. **Conflict of Interest – Contractor’s Personnel:** The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Contractor; the Contractor’s employees, agents, and relatives; sub-tier contractors; and third parties associated with accomplishing work and services hereunder. The Contractor’s efforts shall include, but not be limited to establishing precautions to prevent its employees or agents from making, receiving, providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interests of the County.
16. **Gratuities:** The Contractor warrants that no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the County with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the County shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the County in procuring on the open market any goods or services which the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the County provided in the clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.
17. **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 or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of getting business.
- For breach or violation of this warranty, the County shall have the right to terminate this Contract in accordance with the termination clause and, at its sole discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee from the Contractor.
18. **Fiscal Appropriations:** This Contract is subject to and contingent upon applicable budgetary appropriations being approved by the County of Orange Board of Supervisors for each fiscal year during the term of this Contract. If such appropriations are not approved, the Contract will be terminated without penalty to the County.

19. **Disputes – Contract:**

- A. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Contractor’s Project Manager and the County’s Project Manager, such matter shall be brought to the attention of the County Purchasing Agent by way of the following process:
1. The Contractor shall submit to the agency/department assigned buyer a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to, or involving this Contract, unless the County, on its own initiative, has already rendered such a final decision.

2. The Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, the Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which the Contractor believes the County is liable.

B. Pending the final resolution of any dispute arising under, related to, or involving this Contract, the Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. The Contractor's failure to diligently proceed shall be considered a material breach of this Contract.

Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the County Purchasing Agent or his designee. If the County fails to render a decision within ninety (90) days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contentions. The County's final decision shall be conclusive and binding regarding the dispute unless the Contractor commences action in a court of competent jurisdiction to contest such decision within ninety (90) days following the date of the County's final decision or one year following the accrual of the cause of action, whichever is later.

20. Breach of Contract: The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event the County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:

1. Afford the Contractor written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Contract within which to cure the breach; and
2. Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and
3. Offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.
4. Nothing in this section shall limit in any way the County's right to terminate this Contract in accordance with Section 11 herein.

21. Termination – Default: If Contractor is in default of any of its obligations under this contract and has not commenced cure within ten days after receipt of a written notice of default from County and cured such default within the time specified in the notice, the County shall immediately be entitled to either commence resolution in accordance with this paragraph or to terminate this contract by giving written notice to take effect immediately. Default shall include failure to carry out any of the requirements of this contract, including, but not limited to not providing enough properly skilled workers or proper materials, persistently disregarding laws and or ordinances, not proceeding with the work as agreed to herein, or otherwise substantially violating any provision of this contract. Upon termination of the contract with contractor, the County may begin negotiations with a third-party contractor to provide goods and/or services as specified in this contract.

The right of either party to terminate this contract hereunder shall not be affected in any way by its waiver of or failure to take action with respect to any previous default.

22. Termination – Orderly: After receipt of a termination notice from the County of Orange, the Contractor shall submit to the County a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than sixty (60) days from the effective date of the termination, unless one or more extensions in writing are granted by the County upon written request of the Contractor. Upon termination County agrees to pay the Contractor for all services performed prior to termination which meet the requirements of the Contract, provided, however, that such

compensation plus previously paid compensation shall not exceed the total compensation set forth in the Contract. Upon termination or other expiration of this Contract, each Party shall promptly return to the other Party all papers, materials, and other properties of the other held by each for purposes of execution of the Contract. In addition, each Party will assist the other Party in orderly termination of this Contract and the transfer of all aspects, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each Party.

- 23. Validity:** The invalidity in whole or in part of any provision of this Contract shall not void or affect the validity of any other provision of the Contract.
- 24. Adjustment – Scope of Services:** No adjustments made to the scope of service will be authorized without prior written approval of the County assigned Deputy Purchasing Agent.
- 25. Contingency of Funds:** Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by the Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.
- 26. Expenditure Limit:** The Contractor shall notify the County of Orange Purchasing Agent in writing when the expenditures against the Contract reach 75 percent of the dollar limit on the Contract. The County will not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on the contract unless a change order to cover those costs has been issued.
- 27. Child Support Enforcement Requirements:** Failure of the Contractor to timely submit the data and/or certifications required may result in the Contract being awarded to another Contractor. In the event a Contract has been issued, failure of the Contractor to comply with all federal, state, and local reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.
- 28. Americans with Disabilities Act (ADA):** Section 504 of the Rehabilitation Act of 1973 as amended; Title VI and VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act, 42 USC 12101; California Code of Regulations, Title 2, Title 22: California Government Code, Sections 11135, et seq; and other federal and state laws and executive orders prohibit discrimination. All programs, activities, employment opportunities, and services must be made available to all persons, including persons with disabilities.
- 29. Civil Rights:** Contractor attests that services provided shall be in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975 as amended; Title II of the Americans with Disabilities Act of 1990, and other applicable State and federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, ethnic group identification, age, religion, marital status, sex or disability.
- 30. Contractor's Records:** The Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by the Contractor in accordance with generally accepted accounting principles. These records shall be stored in Orange County for a period of three years after final payment is received from the County. Storage of records in another county will require written approval from the County of Orange assigned DPA.

- 31. Conditions Affecting Work:** The Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract and to know the general conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to the County. The County assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by the County are expressly stated in the Contract.
- 32. Errors and Omissions:** All reports, files and other documents prepared and submitted by Contractor shall be complete and shall be carefully checked by the professional(s) identified by Contractor as project manager and key personnel attached hereto, prior to submission to the County. Contractor agrees that County review is discretionary and Contractor shall not assume that the County will discover errors and/or omissions. If the County discovers any errors or omissions prior to approving Contractor's reports, files and other written documents, the reports, files or documents will be returned to Contractor for correction. Should the County or others discover errors or omissions in the reports, files or other written documents submitted by Contractor after County approval thereof, County approval of Contractor's reports, files or documents shall not be used as a defense by Contractor in any action between the County and Contractor, and the reports, files or documents will be returned to Contractor for correction.
- 33. Investigations/Enforcements:** Throughout the term of the Contract, Contractor must provide detailed information regarding any investigations their firm is under or party to by the Fair Political Practices Commission, or by any other state or federal regulators within 48 hours of occurrence(s). Additionally, they must disclose any prior enforcement or prior actions by the Fair Political Practices Commission, or any other state or federal regulators.
- 34. Lobbying:** On best information and belief, Contractor certifies no federal appropriated funds have been paid or will be paid by, or on behalf of, the Contractor to any person for influencing or attempting to influence an officer or employee of Congress; or an employee of a member of Congress in connection with the awarding of any federal contract, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- 35. Waivers - Contract:** The failure of the County in any one or more instances to insist upon strict performance of any of the terms of this Contract or to exercise any option contained herein shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such terms or option on any future occasion.

CONTRACT SIGNATURE PAGE

The Parties hereto have executed this Contract on the dates shown opposite their respective signatures below.

***MERCY HOUSE LIVING CENTERS, INC.**

Print Name	Title
------------	-------

Signature	Date
-----------	------

Print Name	Title
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Signature	Date
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* (Pursuant to California Corporations Code Section 313, the signatures of two corporate officials are required to bind the corporation, one from each of the following two groups: If the contracting party is a corporation, (2) two signatures are required: one (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. The signature of one person alone is sufficient to bind a corporation, as long as he or she holds corporate offices in each of the two categories described above. For County purposes, proof of such dual office holding will be satisfied by having the individual sign the instrument twice, each time indicating his or her office that qualifies under the above described provision.

In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signator to bind the corporation.

County of Orange, a political subdivision of the State of California

Print Name	Title
------------	-------

Signature	Date
-----------	------

APPROVED AS TO FORM
Office of the County Counsel
County of Orange, California

Deputy County Counsel	Date
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7/23/2015

ATTACHMENT A**SCOPE OF WORK****1. INTRODUCTION:**

The purpose of this Contract is to provide a standard Operational Plan for year round emergency shelters/multi-service centers that may be utilized for the operation of these centers in Orange County once identified.

2. BACKGROUND:

The OC Community Services department of the County of Orange (“County”) is requesting technical assistance to complete an Operational Plan for the operation of year round emergency shelters (“Shelter” or “Shelters”) and multi-service centers (“Center” or “Centers”) anywhere within the County of Orange. This professional service supports the overall Ten-Year Plan to End Homelessness goals and strategies to establish year round emergency shelter and improve the efficacy of the emergency shelter and access system. The Operational Plan will assist in more effectively identifying possible sites for Shelters and Centers within the County. Once such a site or sites are identified by the County, the Contractor, at the Board of Supervisor’s discretion, will operate such a shelter or shelters pursuant to a separate Master Operator Lease with the County, as approved by the Board of Supervisors.

3. SCOPE OF SERVICES**I. Phase I- to be completed 15 days from contract execution**

- A.** Advise OC Community Resources/OC Community Services on the best practice models utilized for operation of year round emergency shelters and multi-service centers.
1. Advice based on the Operational Plan, as described below, and will include any and all advice on any additional matters that may arise and not contemplated within this Scope of Services at no additional cost.
 2. Prepare a standard operational plan for year round emergency shelters/multi-service centers, not specific to any site or property (“Operational Plan”). A multi-service center for the homeless that includes intake, assessment and individualized case management services for homeless clients. Services provided shall include, but not be limited to, overnight shelter, showers, food, medical attention and mental health services, computer access, job training and placement, life skills coaching, veterans services, legal assistance, etc.

Plan shall include, but not be limited to, the following components:

- a) Staffing/Management Plan
- b) Annual Operations Budget/Fund Development Strategies for Long-Term Operational Sustainability including, but not limited to, Federal, State, local government, foundation, and other private funding sources.
- c) Safety and Security developed in collaboration with law enforcement and County.
- d) Transportation Plan

- e) Client Services and Programs, including off-site services
 - f) Good Neighbor Plan- including Outreach and Engagement
 - g) Shelter Advisory Board composition, roles and responsibilities
 - h) Layout (for both the Shelter and Center to accommodate multiple populations including families with children and individuals)
 - i) Hours of Operation- Shelter and Multi-Service Center
 - j) Intake/Evaluation Process, including process for diversion, where necessary
 - k) Overflow Management and Coordinated Service Delivery Plan
 - l) Volunteer Recruitment and Placement Plan
 - m) Multi-Service Center Lead Agency Protocols and MOU Requirements for on-site and off-site Service Providers
 - n) Strategies to reduce shelter length of stay and expedite rapid transition to permanent housing utilizing and supporting the Coordinated Entry System case management model to monitor and evaluate participant progress.
 - o) Other- as recommended
- B.** As needed, attend meetings to assist staff, in presenting completed Operational Plan to stakeholders, committees, boards and councils. At the discretion of the County, contractor shall incorporate appropriate stakeholder feedback into the Operational Plan.
- C.** After the Operational Plan is completed, reviewed and approved by OC Community Resources/OC Community Services, the contractor will be deemed eligible to operate one or more County owned or leased shelters in Orange County subject to final identification of sites. Operation and Management of a future shelter(s) shall be set pursuant to Phase II, hereafter.
- II.** Phase II - Once the County, in its sole and absolute discretion, has identified a suitable site or sites for a Shelter and Center, the Contractor will, at the Board of Supervisor's sole discretion, operate one or more County owned or leased year round emergency shelters/multi-service centers pursuant to a Master Operator Lease and Funding Agreement, to be approved by the Board of Supervisors pursuant to California Government Code Section 26227. Terms and compensation, or funding, if any, for operation and management of a specific year round emergency shelters/multi-service center shall be set pursuant to the Master Operator Lease and Funding Agreement for the identified site(s).

ATTACHMENT B

COMPENSATION/PAYMENT INSTRUCTIONS

1. **COMPENSATION:** - This is a Contract between County and Contractor for services provided in Attachment "A" Scope of Work. Phase I shall be performed at no cost to the County. Compensation for Phase II shall be set forth in a subsequently approved agreement.

Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing, labor, tax, shipping, freight, insurance requirements, and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services and for performance by Contractor of all its duties and obligations hereunder. Contractor shall only be compensated as set forth herein below for work performed in accordance with the Scope of Work. County shall have no obligation to pay any sum in excess of total Contract amount specified herein unless authorized by amendment in accordance with County Contract Terms and Conditions.

2. **FIRM DISCOUNT AND PRICING STRUCTURE:** Contractor guarantees that prices quoted are equal to or less than prices quoted to any other local, State or Federal government entity for services of equal or lesser scope. Contractor agrees that no price increases shall be passed along to the County during the term of this Contract not otherwise specified and provided for within this Contract.
3. **CONTRACTOR'S EXPENSE:** The Contractor will be responsible for all costs related to photo copying, telephone communications, fax communications, online research services, and parking while on County sites during the performance of work and services under this Contract. The County will not provide free parking for any service.

Contractor shall bill for the actual number of hours worked. Contractor shall notify County in advance if any task requires an additional time commitment to complete. County approval is required before Contractor can work additional hours/time on the project.

4. **PAYMENT TERMS:** Invoices are to be submitted in arrears, after services have been completed, to the address specified below. Payment will be net 30 days after receipt of an invoice in a format acceptable to the County of Orange. Invoices shall be verified and approved by the County and subject to routine processing requirements. The responsibility for providing an acceptable invoice to the County for payment rests with the Contractor. Incomplete or incorrect invoices are not acceptable and will be returned to the Contractor for correction.

Billing shall cover services and/or goods not previously invoiced. The Contractor shall reimburse the County of Orange for any monies paid to the Contractor for goods or services not provided or when goods or services do not meet the Contract requirements.

Payments made by the County shall not preclude the right of the County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the goods or services.

5. **INVOICING INSTRUCTIONS:** The Contractor will provide an invoice on the Contractor's letterhead. Each invoice will have a unique number and will include the following information:

- a. Contractor's name and address
- b. Contractor's remittance address, if different from (a), above
- c. Name of County agency/department

- d. Delivery/service address
- e. Contract number
- f. Service Date
- g. Description of Services
- h. Total
- i. Taxpayer ID number

Invoices and support documentation are to be forwarded to:

County of Orange
OC COMMUNITY RESOURCES
ATTENTION: ACCOUNTS PAYABLE
1770 N Broadway
Santa Ana, CA 92706

The County's Project Manager, or designee, is responsible for approval of invoices and subsequent submittal of invoices to the Auditor-Controller for processing of payment. The responsibility for providing an acceptable invoice to the County for payment rests with the Contractor. Incomplete or incorrect invoices are not acceptable and will be returned to the Contractor for correction.

ATTACHMENT C**STAFFING PLAN****1. Primary Staff to perform Contract duties:**

Name	Classification/Title

2. Alternate staff (for use only if primary staff are not available):

Name	Classification/Title

Substitution or addition of Contractor's key personnel in any given category or classification shall be allowed only with prior written approval of the County Project Manager.

The Contractor may reserve the right to involve other personnel, as their services are required. The specific individuals will be assigned based on the need and timing of the service/class required. Assignment of additional key personnel shall be subject to County Project Manager approval. County reserves the right to have any of Contractor personnel removed from providing services to County under this Contract. County is not required to provide any reason for the request for removal of any Contractor personnel.

3. Sub-Contractor(s):

In accordance with Article "9", "Assignment or Sub-Contracting", listed below are Sub-Contractor(s) anticipated by Contractor to perform services specified in Attachment A, Scope of Work.

Company Name	Staff Name

EXHIBIT I**COUNTY OF ORANGE CHILD SUPPORT ENFORCEMENT
CERTIFICATION REQUIREMENT**

Contractor is required to comply with child support enforcement requirements of the County of Orange, within 30 days of award of contract, the successful contractor must furnish to the contract administrator, or the agency/department Deputy Purchasing Agent:

- A. In the case of an individual contractor, his/her name, date of birth, Social Security number, and residence address;
- B. In the case of a contractor doing business in a form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest of 10 percent or more in the contracting entity;
- C. A certification that the contractor has fully complied with all applicable federal and state reporting requirements regarding its employees; and
- D. A certification that the contractor has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and will continue to so comply.

Failure of the contractor to timely submit the data and/or certifications required or to comply with all federal, state, and local reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the contract. Failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the contract.

*"I certify that **TBD** is in full compliance with all applicable federal and state reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of Contract **TBD** with the County of Orange.*

I understand that failure to comply shall constitute a material breach of the contract and that failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the contract."

Signature

Name (Please Print)

Title

Date

Company Name

Contract Number

Amount

*Two signatures required if a corporation

A. In the case of an individual Contractor, his/her name, date of birth, Social Security number, and residence address:

Name: _____
D.O.B: _____
Social Security No: _____
Residence Address: _____

B. In the case of a Contractor doing business in a form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest of 10 percent or more in the Contracting entity:

Name: _____
D.O.B: _____
Social Security No: _____
Residence Address: _____

Name: _____
D.O.B: _____
Social Security No: _____
Residence Address: _____

(Additional sheets may be used if necessary)

EXHIBIT 2**EDD INDEPENDENT CONTRACTOR REPORTING REQUIREMENTS**

Effective January 1, 2001, the County of Orange is required to file federal Form 1099-Misc for services received from a "service provider" to whom the County pays \$600 or more or with whom the County enters into a contract for \$600 or more within a single calendar year. The purpose of this reporting requirement is to increase child support collection by helping to locate parents who are delinquent in their child support obligations.

The term "service provider" is defined in California Unemployment Insurance Code Section 1088.8, subparagraph B.2 as "an individual who is not an employee of the service recipient for California purposes and who received compensation or executes a contract for services performed for that service recipient within or without the state." The term is further defined by the California Employment Development Department to refer specifically to independent contractors. An independent contractor is defined as "an individual who is not an employee of the ... government entity for California purposes and who receives compensation or executes a contract for services performed for that ... government entity either in or outside of California."

The reporting requirement does not apply to corporations, general partnerships, limited liability partnerships, and limited liability companies.

Additional information on this reporting requirement can be found at the California Employment Development Department web site located at www.edd.ca.gov/txicr.htm.

To comply with the reporting requirements, County procedures for contracting with independent contractors mandate that the following information be completed and forwarded to the contracting agency/department immediately upon request:

First name, middle initial and last name
 Social Security Number
 Address
 Start and expiration dates of contract
 Amount of contract

First Name _____	Middle Initial _____	Last Name _____
SSN _____		
Contract Number _____		Dollar value of contract _____

Start Date _____ Expiration Date _____