

**CITY OF COSTA MESA  
PROFESSIONAL SERVICES AGREEMENT  
WITH  
BRACKEN'S KITCHEN INC.**

Attachment 1

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this 19th day of April, 2022 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and BRACKEN'S KITCHEN INC., a California nonprofit corporation ("Contractor").

**W I T N E S S E T H :**

A. City proposes to utilize the services of Contractor as an independent contractor to provide food and commercial kitchen management services at the City's Homeless Shelter, located at 3175 Airway Avenue, Costa Mesa, as more fully described herein; and

B. Contractor's mission is to serve and support the underserved in its communities suffering from both the ongoing effects of food insecurity and the larger issue of living in poverty in America; and

C. Contractor represents that it holds all necessary licenses to practice and perform the services herein contemplated; and

D. City and Contractor desire to contract for the specific services described in Exhibits "A" and "B" and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and

E. No official or employee of City has a financial interest, within the provisions of sections 1090-1092 of the California Government Code, 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. SERVICES PROVIDED BY CONTRACTOR**

1.1. Scope of Services. Contractor shall provide the food and commercial kitchen management services described in the Scope of Work, attached hereto as Exhibit "A," and Contractor's Proposal, attached hereto as Exhibit "B," both incorporated herein.

1.2. Professional Practices. All professional services to be provided by Contractor pursuant to this Agreement shall be provided by personnel experienced in their respective fields 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. Contractor 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 Contractor's performance of this Agreement.

1.3. Performance to Satisfaction of City. Contractor agrees to perform all the work to the complete satisfaction of the City. Evaluations of the work will be done by the City Manager or his or her designee. If the quality of work is not satisfactory, City in its discretion has the right to:

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

1.4. Compliance with All Laws and Regulations. Contractor 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; all applicable laws and regulations relating to food safety; all Health Permit requirements; and all other Federal, State and local laws, ordinances and regulations applicable to the services required under this Agreement. Contractor 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 or regulations, which may be incurred by reason of Contractor's performance under this Agreement.

1.5. Non-Discrimination. In performing this Agreement, Contractor shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military or veteran status, except as permitted pursuant to section 12940 of the Government Code.

1.6. Non-Exclusive Agreement. Contractor 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.

1.7. 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. Contractor may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Contractor's sole cost and expense.

## **2.0. COMPENSATION AND BILLING**

2.1. Compensation. Contractor shall be paid in accordance with the fee schedule set forth below, as detailed in Exhibit B. Contractor's annual compensation shall not exceed Three Hundred Twenty-Seven Thousand Six Hundred Dollars (\$327,600.00).

Description	Rate for Breakfast, Lunch and Dinner	Delivery Fee
Interim Meal Service (prepared off site and delivered by Contractor)	\$7.00 per person per day	\$75.00 per week
Full Meal Service (prepared on site by trained and certified staff)	\$12.50 per person per day	N/A

2.2. Additional Services. Contractor shall not receive compensation for any services provided outside the scope of services specified in the Contractor's Proposal unless the City Manager or designee, prior to Contractor 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 barred and are unenforceable.

2.3. Method of Billing. Contractor may submit invoices to the City for approval every two (2) weeks. Said invoice shall be based on the total of all Contractor's services which have been completed to City's sole satisfaction. City shall pay Contractor's invoice within thirty (30) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed and the date of performance. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Contractor's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times from the Effective Date until three (3) years after termination of this Agreement.

### **3.0. TIME OF PERFORMANCE**

3.1. Commencement of Work. Unless otherwise agreed to in writing by the parties, the professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement. City and Contractor agree that Contractor shall fully staff the shelter kitchen with certified and trained personnel and commence providing full meal service from the shelter kitchen by no later than June 18, 2022.

3.2. 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, pandemics, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party (each, a "Force Majeure Event"). If a party experiences a Force Majeure Event, the party shall, within five (5) days of the occurrence of the Force Majeure Event, give written notice to the other party stating the nature of the Force Majeure Event, its anticipated duration and any action being taken to avoid or minimize its effect. Any suspension of performance shall be of no greater scope and of no longer duration than is reasonably required and the party experiencing the Force Majeure Event shall use best efforts without being obligated to incur any material expenditure to remedy its inability to perform; provided, however, if the suspension of performance continues for sixty (60) days after the date of the occurrence and such failure to perform would constitute a material breach of this Agreement in the absence of such Force Majeure Event, the parties shall meet and discuss in good faith any amendments to this Agreement to permit the other party to exercise its rights under this Agreement. If the parties are not able to agree on such amendments within thirty (30) days and if suspension of performance continues, such other party may terminate this Agreement immediately by written notice to the party experiencing the Force Majeure Event, in which case neither party shall have any liability to the other except for those rights and liabilities that accrued prior to the date of termination.

#### **4.0. TERM AND TERMINATION**

4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of one (1) year, ending on April 18, 2023, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties. This Agreement may be extended by three (3) additional one (1) year periods upon mutual written agreement of the parties.

4.2. 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 Contractor. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Contractor shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

4.3. Compensation. In the event of termination, City shall pay Contractor for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination.

#### **5.0. INSURANCE**

5.1. Minimum Scope and Limits of Insurance. Contractor 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 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. Contractor 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 Contractor 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. Architects' and engineers' coverage shall be endorsed to include contractual liability. If the policy is written as a

“claims made” policy, the retro date shall be prior to the start of the contract work. Contractor shall obtain and maintain, said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

5.2. 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 Contractor pursuant to its contract with the City; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; automobiles owned, leased, hired, or borrowed by the Contractor.”
- (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 Contractor’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 excess and not contributing with 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 Contractor’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.

5.3. 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. 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.

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

5.5. 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 Contractor may be held responsible for payments of damages to persons or property.

## **6.0. GENERAL PROVISIONS**

6.1. 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.

6.2. Representatives. The City Manager 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.

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

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

Contractor shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Contractor or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery 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, and (b) 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 CONTRACTOR:

Bracken's Kitchen  
13941 Nautilus Dr.  
Garden Grove, CA 92843  
Tel: (714) 554-1923  
Attn: Bill Bracken

IF TO CITY:

City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626  
Tel: (714) 754-5099  
Attn: Susan Price

Courtesy copy to:

City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626  
Attn: Finance Dept. | Purchasing

6.5. Drug-Free Workplace Policy. Contractor 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. Contractor'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.

6.6. 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.

6.7. 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.

6.8. Assignment. Contractor shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Contractor'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 Contractor of Contractor's obligation to perform all other obligations to be performed by Contractor hereunder for the term of this Agreement.

6.9. Indemnification and Hold Harmless. Contractor agrees to defend, indemnify, hold free and harmless the City, its elected officials, officers, agents and employees, at Contractor'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 negligent acts or omissions or willful misconduct of Contractor, its employees, and/or authorized subcontractors in the performance of this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Contractor, 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 Contractor, 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 Contractor, its employees, and/or authorized subcontractors under this Agreement, whether or not the Contractor, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Contractor 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. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Contractor's Proposal, which shall be of no force and effect.

6.10. Independent Contractor. Contractor is and shall be acting at all times as an independent contractor and not as an employee of City. Contractor 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 Contractor or any of Contractor's employees, except as set forth in this Agreement. Contractor shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City. Contractor 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, and other payroll deductions for Contractor and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Contractor 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. Contractor further agrees to indemnify and hold City harmless from any failure of Contractor to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.11. PERS Eligibility Indemnification. In the event that Contractor or any employee, agent, or subcontractor of Contractor 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, Contractor shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor 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, Contractor 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.

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

6.13. Public Records Act Disclosure. Contractor has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by Contractor, or any of its subcontractors, pursuant to this Agreement 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 Contractor 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.

6.14. Conflict of Interest. Contractor and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Contractor'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, Contractor and its officers, employees, associates and subconsultants shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Contractor is not currently performing work that would require Contractor or one of its officers, employees, associates or subconsultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.



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

6.16. 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.

6.17. 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.

6.18. Binding Effect. This Agreement binds and benefits the parties and their respective permitted successors and assigns.

6.19. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Contractor 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.

6.20. Headings. Paragraphs and subparagraph 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.

6.21. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement and have had an adequate opportunity to review each and every provision of the Agreement and submit the same to counsel or other consultants for review and comment. 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.

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

6.23. 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.

6.24. 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.

6.25. 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.

6.26. 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 date first above written.

**CONTRACTOR**

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
[Name and Title]

**CITY OF COSTA MESA**

\_\_\_\_\_  
Lori Ann Farrell Harrison  
City Manager

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Brenda Green  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Kimberly Hall Barlow  
City Attorney

Date: \_\_\_\_\_

APPROVED AS TO INSURANCE:

\_\_\_\_\_  
Ruth Wang  
Risk Management

Date: \_\_\_\_\_

DEPARTMENTAL APPROVAL:

\_\_\_\_\_  
Susan Price  
Assistant City Manager

Date: \_\_\_\_\_

APPROVED AS TO PURCHASING:

\_\_\_\_\_  
Carol Molina  
Finance Director

Date: \_\_\_\_\_

**EXHIBIT A**  
**SCOPE OF WORK**

## SCOPE OF WORK

### **3175 Airway Avenue – Costa Mesa Bridge Shelter Commercial Kitchen Management**

In April of 2021, the City of Costa Mesa opened its permanent bridge shelter with 72 beds at 3175 Airway Avenue. The shelter operator is Mercy House Living Centers. Mercy House Living Center has operated the shelter since April 2019, when it was temporarily located at the Lighthouse Church, with 50 beds. The Commercial Kitchen at Airway was designed with a passion for community engagement at the shelter. We view this as the opportunity to integrate volunteerism and mentorship, through meal preparation and service, to improve the hope and resilience of the residents we serve.

The project is a partnership of many agencies, most of whom are active members of the Network for Homeless Solutions in Costa Mesa. The City of Newport Beach is a partner in the project, with 20 beds for referrals from their outreach team. We know it takes a village to solve homelessness, and we are seeking the right partner to participate in these efforts to lift up our community, assist the most vulnerable among us and do whatever it takes to reach our fullest potential, together.

**The City understands that procuring staffing for this scope of work may need to be incremental; Therefore, the proposer should provide a start date for the meal service, including preparation, delivery and a timeline for full operational staffing for the kitchen on site during the contract term.**

#### **Primary Role for the Principal Operator:**

Operate the Commercial Kitchen in compliance with Public Health Permit requirements, related to equipment, storage and rotation of foods, serving residents, kitchen cleanliness etc.

Ensure all kitchen personnel are properly trained, certified and have volunteer waivers on file for all workers. The principal staff working within the kitchen must possess Public Health Safe Food Handling certification, and operate the kitchen in compliance with Public Health guidelines.

Develop and implement a menu plan for Breakfast, Lunch and Dinner, 365 days per year for 72 bed emergency bridge shelter for homeless individuals, with meal options to accommodate dietary restrictions/preferences.

General in house meal times are as follows:

Breakfast	6 am – 8 am	Continental
Lunch	11a – 1pm	hot and/or cold (to go options)
Dinner	5pm to 7pm	hot and/or cold

Procure all food supply ingredients and kitchen supplies to deliver this food service for the shelter residents.

#### **Create an Integrated Community Kitchen:**

Participate in the development and implementation of marketing materials to engage the broader community for volunteer, donor and sponsorship opportunities to ensure the Costa Mesa (and Newport Beach) community can contribute to homelessness solutions.

Support opportunities to accept and utilize surplus foods from catered events, and restaurants (Abound Food Care, formerly Waste Not OC).

Participate in the development and oversight of a training and orientation program for kitchen workers, including certifications required for Safe Food Handling, coordinate and calendar of volunteers' recruitment, training, retention and supervision, recognitions etc.

**Innovation:**

Open to innovative business model development related to workforce/internship programs, engagement with OCC culinary arts programs, OC food bank, Abound Food Care, formerly Waste Not OC, development of single serve meal delivery for other community needs namely street outreach, disabled and/or senior citizens.

The homeless shelter residents certainly do appreciate opportunities to have BBQ meals, delivery by lunch truck, local restaurant sponsoring meals, sack lunches for street outreach and those that are at work during meal times. These are just some examples of the dynamic opportunity to engage our residents in the program design and delivery model.

**EXHIBIT B**  
**CONTRACTOR'S PROPOSAL**



**February 18, 2022**

**Mrs. Susan Price  
Assistance City Manager  
77 Fair Drive,  
Costa Mesa, CA, 92626**

**Dear Susan,**

**We hope this letter and proposal finds you well.**

**We are truly grateful for the opportunity to learn of the great works the City of Costa Mesa and your team have done with the community's most vulnerable population.**

**We are honored for the RFP invitation and excited to present this proposal for food services at the Airway Shelter.**

**Bracken's Kitchen will commit to delivering complete, high quality, ready-to-serve, tasty and nutritious meals for breakfast, lunch, and dinner to the new shelter beginning April 15<sup>th</sup>, 2022. A minimum of one hot meal will be provided daily with to-go options at lunch. The Kitchen will also provide fully trained and certified staff or volunteers at the shelter.**

**With 16 fully trained culinary staff and an army of over 450 recurring volunteers led by four reputable and experienced chefs, we are confident in our ability to develop and implement a menu plan for Breakfast, Lunch, and Dinner for 72 homeless individuals, 365 days a year. Our senior chefs and leadership come to us from premier restaurants including The Peninsula of Beverly Hills, Island Hotel of Newport Beach, Charlie Palmer restaurant groups, and Wolfgang Puck catering services.**

**With a skilled chef instructor on staff, we recently re-launched our Culinary Training Program, which will graduate students into hospitality careers. Students will have the opportunity to serve at the Airway Shelter with a paid internship while honing their skills for career success in the food industry.**

**By engaging the community to come alongside us through our Food Truck and Community Feeding program, we inspire and provide a safe and meaningful experience for volunteers to serve the community. We are fully committed to cultivate a variety of opportunities to serve the community in Costa Mesa through street outreach, single serve packaged meal offering for the senior and disabled communities and hot meals programs for children after school programs.**





We look forward to hearing your thoughts and feedback to find ways to support each other's work.

I'm sure you have lots of wonderful food service vendors to choose from. We look forward to hearing from you and working alongside you to provide tasty and nutritious food options to the clients in needs.

My best,

Bill Bracken  
Founder & Culinary Director

### **Airway Shelter Food Service Proposal**

Bracken's Kitchen herein referred to as the Kitchen is honored to present this proposal for food services for the Airway Shelter with service begins April 15<sup>th</sup> 2021. Incorporated in 2013, Bracken's Kitchen is a 501c3 non-profit organization operates at a 9,000 sq. ft. kitchen facility at 13941 Nautilus Drive, Garden Grove, CA 92843, is dedicated to combatting food insecurity here in Southern California. Our mission: Through food rescue, culinary training, and community feeding we are committed to rescuing, re-purposing, and restoring both food and lives, guides all that we do. What that means in practical terms is that we get to spend our days in the kitchen doing what we do best, cooking tasty and nutritious meals for those who need it most.

It is our vision that through culinary expertise and creativity, and a foundation of compassion, we will build upon our Trio of Services that includes our Rescued Food Program, Food Truck and Community Outreach Feeding Program, and Culinary Workforce Development Training.

**Location: 3175 Airway Ave, Costa Mesa, CA**

Bracken's Kitchen will commit to delivering complete, high quality, ready-to-serve, tasty and nutritious meals for breakfast, lunch, and dinner to the new shelter beginning April 15<sup>th</sup>, 2022. A minimum of one hot meal will be provided daily with to-go options at lunch.

The Kitchen will also provide fully trained and certified staff or volunteers at the shelter 7 days weekly with the mindset of community engagement with local business and community partners. However, due to labor shortages and training time required, the in-shelter staffing



process will be incremental while the off-site Kitchen continues to prepare and deliver ready to be heated meals. Placement of fully trained staff for in-shelter kitchen for the scope of work begins no later than 60 days from start of contract.

Until in-shelter kitchen is fully staffed, delivery of meals will be provided with the food held in disposable aluminum pans and placed inside insulated Cambro containers to maintain temperature.

Shelter Management will be responsible for all food service equipment needed to ensure both proper food safety and proper portion control of food served. Bracken's Kitchen will provide all serving and portion control guidelines to ensure staff is aware of proper portions for all meals.

To better manage food costs this period of supply constraints the Kitchen will work diligently through its Rescued Food Program to provide fresh and quality food product for meal production with partners such as Abound Food Care, OC Food Bank, Second Harvest Food Bank, Chef to End Hunger, Vesta Food Services, Solution of Urban Agriculture and other food suppliers and processors. The Kitchen has 8 years of experience in rescuing and repurposing almost 2 million pounds of unused edible food into 5 million tasty nutritious meals for the community living in food insecurity. Over 75 community and agency partners such as Trellis, OCC and Saint Joachim Catholic Church in Costa Mesa and 12 homeless shelters in Orange County and Los Angeles County collaborate with our Community Feeding Program to bridge the food gap for the less fortunate.

With 16 fully trained culinary staff and an army of over 450 recurring volunteers led by four reputable and experienced chefs, we are confident in our ability to develop and implement a menu plan for Breakfast, Lunch, and Dinner for 72 homeless individuals, 365 days a year. Our senior chefs come to us from premier restaurants including The Peninsula of Beverly Hills, Island Hotel of Newport Beach, Charlie Palmer restaurant groups, and Wolfgang Puck catering services.

We recognize that work force training is critical as restaurants and hospitality venues slowly rebuild staff and regain their footing as Covid restrictions recede. With a skilled chef instructor on staff, we recently re-launched our Culinary Training Program, which will graduate students into hospitality careers.

The Culinary Training Program provides our underserved students the introductory skills needed for employment in a professional kitchen. The training program entails learning the skills needed to prepare, cook, and serve food with menus that fluctuate around our rescued food inventory. By combining all of our programs we are building the framework to create a long term self-sustaining program that provides a hand up not just a hand out. Students will have the opportunity to serve at the shelter with a paid internship while honing their skills for career success in the food industry.



As with many non-profits, our volunteer program is the core of our operation. We provide opportunities for the community to contribute to socially equitable causes including ending hunger using their time, talent, and treasure. Our Food Truck Feeding Program provides a unique approach to serve the community at the point of need. It allows meals to be served directly to families, seniors, and others with limited mobility and geographic restrictions. It also provides opportunities for volunteers and staff to meet and build community with those we serve.

It is in our best interest to engage volunteers alongside with the city coordinators of Costa Mesa to serve the shelter clients during meal services while in-shelter kitchen staff ensures the preparation and production of meals. Our volunteer engagement program with its user-friendly software will provide a streamlined sign-up process to manage scheduling and utilization.

### **Key Personnel:**

Founder and Culinary Director Chef Bill Bracken is a nationally renowned chef with over 40 years of experience in the 5 Star 5 Diamond luxury hotel industry. He oversees all kitchen operations with two other Culinary Institute of America (CIA) alums; Director of Food Services Chef Michael Owens, and Program Chef Kris Kirk.

Chef Michael Owens has over 25 years culinary experience and followed Chef Bill from the Peninsula Hotel of Beverly Hills to the Island Hotel of Newport Beach. Chef Michael manages, mentors, and leads the day-to-day food procurement operations, maintains expectations in food and labor costs, and is a certified manager on food handling safety. With the experience in his most recent ventures in managing and providing packaged food products to establishment such as Disneyland who requires strict quality control and inspection, Chef Michael brings professional expertise to the team and coordinates and facilitates all incoming food donations as well as the outgoing distribution of meals and product to our many community agency partners.

Chef Kris Kirk manages our daily menu and food production. He began his life-long journey in the hospitality industry as a dishwasher then advanced to kitchen manager while earning his BA in Communications from USC. He later graduated from the CIA and honed his skills at Wolfgang Puck's Spago Beverly Hills, Charlie Palmer's Aureole Las Vegas and was instrumental in building the team for Michael Mina's Aqua at the St. Regis Monarch Beach Resort. He excelled as Executive Chef at premier restaurants including Sage on the Coast, Ecco at the Camp, and DIVBAR in Newport Beach, where he worked under Chef Bill's leadership. Chef Kris has a passion for sustainable cuisine and takes great pride in providing nutritious healthy meals to clients especially at Sapphire Catering Services who provide meal services for charter and private schools and corporate offices.



Our culinary leadership applies the same high food safety standards and exceptional food quality from their collective experience to now serve thousands living with food insecurity. The only difference is for the first time in Orange County surplus safe and edible food is rescued and used in our menu planning. Our professional chefs and their culinary staff deploy their innovative culinary skills to cook delicious and nutritious meals at very low cost.

Running a nonprofit is no different than other businesses; operational infrastructure is crucial to maintain production efficiency and sustainability. Given Bracken's Kitchen's rapid expansion, Caterina Richards joined the team in 2018 as Director of Operations to develop and implement the organization's strategic plan and daily operations. Honored as one of OC METRO's "Top 40 under 40" entrepreneurs and nominated for the OC Business Journal's Businesswoman of the Year Award multiple times, and recently awarded Congressman Lou Correa's "Women of the Year Award". Caterina has over 20 years of entrepreneurship experience and managed successful woman and minority owned business ventures in the LED lighting optics industry. Ms. Richards leads the operation and program teams ensuring all program needs are met and a sustainable business model is properly cultivated and maintained.

Chef Charlie Negrete is a graduate of CSCA and began as Sous Chef and is now our Chef Instructor. He has climbed the ranks from dishwasher to executive chef and chef instructor. He worked under Michelin Starred Chefs and premier establishments such as the Peninsula Hotel of Beverly Hills, Terranea Resort, and Portofino Hotel & Yacht Club. With his new calling to empower society's underserved, Chef Charlie spent two years at the LA Kitchen before it was closed in 2018. Charlie was instrumental in developing the culinary training program at LA Kitchen and carries those experiences into our own Culinary Training Program.

### **Food Services Options:**

We meet our mission by helping you provide a healthy and wholesome foundation of quality food to the shelter clients enabling them to be ready to improve their current life situation.

#### **BREAKFAST:**

Continental options include fresh breakfast pastries, baked goods, fruit, cereals, or oatmeal. Two hot breakfast options weekly may include eggs, breakfast meat options, breakfast casserole, pancake or French toast.

#### **LUNCH and DINNER:**

Meal options include ready to reheat hot meal, seasonal entrée salad, cold sandwiches, and pasta salad. Items might be available as to-go option.



- Pork Carnitas with Spanish Rice and Beans, Crispy Coleslaw
- Ham Salad Sandwiches with Orzo Salad, Fresh Fruit
- Chicken Parmesan Sandwich on a Potato Bun with a Classic Caesar Salad
- BBQ Chicken Salad with Mixed Greens, Black Beans and Corn, BBQ Ranch Dressing

A minimum of one ready to reheat or hot meal will be provided daily. The meal will consist of one hot entrée and a combination of a hot starch or vegetable and a cold salad or fruit. The hot entrée and starch may be combined as one meal such as a pasta or braised beef stew.

Examples of menu items may include:

- Creole Chicken Pasta with Tomatoes and Herbs, Served with Garden Salad
- Spanish Beef Picadillo and a Leafy Green Salad
- BBQ Chicken with Roasted Potatoes, Classic Coleslaw
- Turkey A LA King over Egg Noodles, Fruit Compote

#### **PRICING:**

Please find below our proposed subsidy per meal period. Client will agree to a minimum number of meals to be made and delivered and an agreed advance notice of any census changes in guest count. Subsidized cost based on a minimum of 50 meals per meal period. The Kitchen reserved the right to minimize staffing on site, should census reach below 50 meals per meal period.

Estimated cost per tasty and nutritious meal is as follows:

Breakfast: \$3 per person

Lunch: \$5 per person

Dinner: \$6 per person

Breakfast/Lunch/Dinner Combo Discount: \$12.50/day per person

Interim Service without staffing on site: (reheating required by City or Shelter Staff)

Daily: 72 ppl x \$7 per = \$504.00 per day

Weekly: 7 days = \$3,528.00 per week

Annual: 52 weeks = \$183,456.00 per annual

*Delivery fees: weekly @ \$75.00 = \$3,900.00 annual*

Full Service with trained and certified staffing:

Daily: 72 ppl x \$12.50 per = \$900.00 per day

Weekly: 7 days = \$6,300.00 per week

Annual: 52 weeks = \$327,600.00 per annual





*Begin no later than 60 days from start of service*

Knowing that the food industry has been hit the hardest during the pandemic all the way up the “food chains”, we see a decline in in-kind food donations. While we leverage our relationships with our partners from our Rescue Food Program and In-Kind donation, we carry the financial burden to provision for supplemental and fresh products, which has a big impact with our meal production. In order to moderate and minimize food cost, we seek and forge new partnerships to broaden our rescued food supply chain, such as local farmers, distributors, wholesalers, food processors, and mass food production manufacturers. However, we will continue to meet these challenges as the economic impact continues in the foreseeable future. With cost in mind, we adjust our menu weekly and sometimes pivot throughout the week to best utilize what we have on hand from rescue food program along with economical purchases.

#### **PAYMENTS:**

Bi-Weekly invoice will be submitted for payment.

Upon credit approval customer will be given Net 30 terms.

Invoices not paid within terms are subject to a 1.5% monthly finance charge.

#### **CONTACT INFORMATION:**

Program contact information is as followed:

Caterina Richards, Director of Operations: (949) 861-1706 or [cat@brackenskitchen.com](mailto:cat@brackenskitchen.com)

Michael Owens, Director of Food Services (626) 710-8196 or [mike@brackenskitchen.com](mailto:mike@brackenskitchen.com)

## Cost Proposal

Estimated cost per meal is as follows:

<b><u>MEALS</u></b>	<b><u>COST PER DAY FOR 1 PERSON</u></b>
Breakfast	\$ 3.00 / day per person
Lunch	\$ 5.00 / day per person
Dinner	\$ 6.00 / day per person
Breakfast /Lunch /Dinner Combo Discount	\$12.50 / day per person
Other_____	\$_____ / day per person

<b><u>FULL CAPACITY</u></b>			
Daily:	72 people	X \$ 12.50	= \$ 900.00 per day
Weekly:	7 days	X \$ 900.00	= \$6,300.00 per week

**EXHIBIT C**

**CITY COUNCIL POLICY 100-5**



## CITY OF COSTA MESA, CALIFORNIA

### COUNCIL POLICY

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	1 of 3

#### BACKGROUND

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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

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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:

<b>SUBJECT</b>	<b>POLICY NUMBER</b>	<b>EFFECTIVE DATE</b>	<b>PAGE</b>
DRUG-FREE WORKPLACE	100-5	8-8-89	2 of 3

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;

<b>SUBJECT</b>	<b>POLICY NUMBER</b>	<b>EFFECTIVE DATE</b>	<b>PAGE</b>
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- 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.