

WHEREAS, this Agreement is entered into in the spirit of cooperation and collaboration by the Parties to describe how their services and resources will be utilized to serve the citizen of Hidalgo County, including individuals who may benefit from the services provided by both Parties.

NOW, THEREFORE, County and Licensee, in consideration of the mutual covenants expressed herein, and other good and valuable consideration, the receipt and sufficiency of which being hereby acknowledged, agree as follows:

1. Grant of License. County hereby grants Licensee, as a non-profit organization, a non-exclusive, revocable license to use and only use the License Area, for the sole purpose of providing food distribution services for the Constituents of Hidalgo County. (the "License"). The License Area as it may be modified or relocated as provided herein shall be non-exclusive, and the County may make, use or permit other parties to make use of the License Area for any other purpose in the County's sole discretion. This Agreement shall not be construed to include any incidental or appurtenant rights that are not explicitly granted herein. The Parties agree that neither will receive compensation from the other for performing the terms of this Agreement.

2. Right to Relocate, Modify or Terminate. County reserves the right to modify or relocate the license Area or terminate the License without cause at any time and from time to time upon at least thirty (30) days prior written notice to Licensee (the "Notice"). Upon modification or relocation, the License Area shall automatically be the area identified in the Notice and the Non Profit business under this Agreement shall apply only to the Licensee Area immediately and automatically, and Licensee acknowledges that Licensee shall have no further rights under this Agreement to the License Area. The right to relocate or modify the License Area or terminate the License provided herein shall be exercisable by the County in its sole and unfettered discretion, notwithstanding that it may deprive Licensee of the use of the License Area. Additionally, the County shall have the right to close the License Area for any period of time, in its sole and absolute discretion. Licensee acknowledges and agrees, on behalf of itself and its heirs, administration, executors, successors, and assigns, that Licensee shall have no claim against the County or its successors for any termination, closure of, modification to or relocation of the License Area and Licensee hereby waives and releases any such claim.

3. Term. The initial term of the lease shall be for **two (2) years**, from the date the license is issued as of the effective date above. Hidalgo County Commissioner's Court at its sole discretion may extend the license for an additional **two (2) year** extension under same terms and conditions. The County has the option to extend for a sixty (60) day grace period at the end of the agreement for unforeseen delays under the same terms and conditions, if applicable. Either party may terminate this Agreement with or without cause upon thirty (30) days written notice to the other.

4. Limitations/Restrictions on License Area.

a) Licensee shall ensure that any use of the License Area granted by this Agreement does not create any threat to the safety of any third party or of the County, and any agents, elected officials, invitees, guests, contractors, subcontractors, licensees, employees and vendors of the County or its successors and assigns.

b) Licensee shall comply with, and shall not use the License Area in any manner which is in violation of, any federal, state or local law, statute, regulation or ordinance or permit issued by any applicable governmental authority in connection with Licensee's use of the License Area.

c) Licensee shall not make any alterations, additions or improvements to the License Area, without the written consent of the County.

d) Licensee shall not cause or allow to be caused any damage to any improvement(s) located within the License Area, including any improvement(s) installed after the date of this Agreement. In the event of damage to or destruction to the License Area or any of said improvements by Licensee or any of Licensee's employees, representatives, guests or invitees, all costs of repair or replacement incurred by the County in connection with the repair thereof shall be borne by Licensee and shall be paid by Licensee to the County within ten (10) days following receipt of an invoice therefore.

e) Licensee acknowledges that access to the License Area may be limited or restricted by the County. Licensee agrees to comply with all rules and regulations imposed by the County with respect to access to the License Area.

1. Condition of License Area. County makes no representations or warranties regarding the License Area or any improvements thereon. The License Area shall be used in its "as is" condition without any warranties or representation of any kind by the County.

2. **Indemnification. Licensee shall protect, defend and hold the County and its elected officials, servants, agents, contractors, subcontractors, licensees, invitees and employees completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death of any person or damage to any property, including all costs for investigation an defense thereof (including, but not limited to attorney's fees, court costs and expert fees), of any nature whatsoever arising out of the use by Licensee of the License Area. Licensee shall also use counsel reasonably acceptable to the County in carrying out its obligations hereunder. The provisions of this Section shall survive the expiration or termination of this Agreement and shall not be limited by reason of any insurance coverage.**

3. Insurance. Consistent with its status as an independent contractor and at its sole expense, Licensee agrees that throughout the duration of the work under this contract and any extension hereof, it shall provide and maintain any and all insurances and abide by any requirements which are specified in the Procurement Packet/Specifications and/or which may be necessary in providing Services or are otherwise required by law. Insurance policies shall cover, but are not limited to, Licensee's activities and all persons, vehicles, equipment and property connected with providing Services, to include theft or loss. The amount of insurance required shall be in accordance with amounts specified by the County or as prescribed by law, but in no event shall any amount be less than the minimum amounts prescribed by law, including, but not limited to the Texas Tort Claims Act. These requirements do not establish limits of Licensee's liability. Any and all applicable insurance requirements and amounts are incorporated herein by reference for all purposes. Licensee is responsible for ensuring all required insurance policies are valid for the duration of the contract. All insurance policies are to be issued by an insurance company authorized to do business in the State of Texas and acceptable to County. Licensee shall cause all subcontractors utilized by Licensee to also comply with these specifications. Licensee shall furnish to County certificate(s) of coverage, and all renewals throughout the duration of the Project, issued by the insurer that such insurance is in full force and effect. (See Exhibit "C" attached hereto and incorporated herein for all purposes). For each applicable policy, Licensee shall name the County as an additional insured. Licensee shall notify County a minimum of thirty (30) days in advance of cancellation of all or part of a policy. Licensee shall make any other insurance documentation available to County upon request.

4. Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Licensee Area to the general public or for the general public or for any public purpose whatsoever, it being the intention of the parties that this Agreement shall be strictly limited to and for the purposes herein expressed.

5. Default. If Licensee fails to comply with any of Licensee's obligations under this Agreement and such failure continues for ten (10) days from receipt of written notice then in the event of any failure, and in addition to any other remedies permitted at law or in equity, including without limitation, specific performance and injunctive relief, County may: (a) terminate this Agreement and any license rights arising hereunder, provided, that no such termination shall release Licensee from any of his obligations arising hereunder; and (b) undertake such measures as may be required to cure the default and in the event the County undertakes to cure the default, Licensee shall pay all costs and expenses incurred in connection therewith within ten (10) days after receipt of an invoice therefore, together with interest thereon from and after the date said bill was due and payable at a rate allowed by law.

6. Maintenance. Licensee agrees to maintain, at Licensee's own expense, the License Area in a good and clean condition and state of repair.

7. Conflict with Applicable Law. Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and whenever there is any conflict between any provision of this Agreement and any present or future law, ordinance or administrative, executive or judicial regulation, order or decree, or amendment thereof, contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the affected provision or provisions of this Agreement shall be modified only to the extent necessary to bring them within the legal requirements and only during the time such conflict exists.

8. No Waiver. No waiver by any party hereof of any breach of any provision of this Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.

9. Entire Agreement. This Agreement contains the entire contract among the parties hereto, and each party acknowledges that no other party has made (either directly or through any agent or representative) any representations or agreements in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended only by agreement in writing executed by the County and Licensee not otherwise.

10. Texas Law to Apply. This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Hidalgo County, Texas. The parties hereby consent to personal jurisdiction in Hidalgo County, Texas.

11. Notice. Except as may be otherwise specifically provided in this Agreement, all notices, demands, request or communications required or permitted hereunder shall be in writing and shall either be (i) personally delivered against a written receipt, or (ii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties specified by written notice delivered in accordance herewith:

If to the District:

Hidalgo County
Attention County Judge
100 E. Cano Street 2nd Floor
Edinburg, Texas 78539

If to Licensee:

Each notice, demand, request or communication which shall be delivered or mailed in the manner described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the addressee or, if mailed, at such time as it is deposited in the United States mail.

12. Additional Documents. The parties hereto covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.

13. Successors. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Agreement.

14. Assignment. This Agreement shall not be assignable by Licensee.

15. Headings. The headings and captions contained in this Agreement are solely for convenient reference and shall not be deemed to affect the meaning or interpretation of any provision or paragraph hereof.

16. Gender and Number. All pronouns used in this agreement shall include the other gender, whether used in the masculine, feminine or neuter gender, and the singular shall include the plural whenever and as often as may be appropriate.

17. Authority to Execute. The execution and performance of this Agreement by each of the parties hereto have been duly authorized by all necessary laws, resolutions, ordinances or governing body action , and this Agreement constitutes the valid and enforceable obligations of the parties hereto in accordance with its terms.

18. Commitment of Current Revenues Only. In the event that, during any term hereof, the Commissioners Court does not appropriate sufficient funds to meet the obligations of County under this Agreement, County may terminate this Agreement upon ninety (90) days written notice to Company. County agrees, however, to use reasonable efforts to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of County. *Agreements for the acquisition, including lease of real or personal property under Tex. Loc. Govt. Code §271.903:* In the event that during any term hereof, the governing body of any party does not appropriate sufficient funds to meet the obligations of such party under this Agreement, then any party may terminate this Agreement upon ninety (90) days written notice to the other party. Each of the parties hereto agrees, however, to use its best efforts to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right

to terminate this Agreement at the expiration of each budget period of each governmental party hereto pursuant to the provisions of Tex. Loc. Govt. Code Ann. §271.903.

19. Immunities. Nothing in this Agreement is intended to and County does not hereby waive, release or relinquish any right to assert any of the defenses County enjoys by virtue of the state or federal constitution, laws, rules or regulations, and any sovereign, official or qualified immunity available to County as to any claim or action of any person, entity, or individual against County.

20. Nondiscrimination. Company, including subcontractors, assignees and successors in interest, ensures that no person shall on the grounds of race, religion, color, national origin, sex, age, or disability, or any other protected class under law, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation in any federally or non-federally funded program or activity when providing any services described herein under this contract/agreement. Applicable nondiscrimination statements and provisions of Title VI of the Civil Rights Act of 1964, as amended, were provided as part of the initial procurement packet and are incorporated herein and made part of this agreement for all purposes.

21. Required Contract Provision for Contracts Subject to Federal Award (if applicable): Pursuant to 2 CFR 200.326, a non-federal entity's contracts must contain the applicable provisions described in Appendix II to 2 CFR 200-Contract Provisions for non-Federal Entity Contracts under Federal Awards. Additionally, County contracts under Federal award which are subject to assistance from the Federal Emergency Management Agency (FEMA) are also required to contain additional contract clauses. The applicable required contract clauses were provided as part of the initial procurement packet and are incorporated herein and made part of this agreement for all purposes.

[SIGNATURE PAGE TO FOLLOW]

EXECUTED effective as of the day and year first above written.

HIDALGO COUNTY:

By: _____
Hon. Richard F. Cortez, County Judge

LICENSEE: ORGANIZATION'S NAME

By: _____
Printed Name: _____
Title: _____

ATTEST:

Hon. Arturo Guajardo, Jr., County Clerk

APPROVED AS TO FORM:
Office of the Criminal District Attorney,
Ricardo Rodriguez, Jr.

By: _____
Robert Viña, III, Assistant District Attorney

EXHIBIT “A”

Request for Bid (RFB) Procurement Packet

DRAFT

EXHIBIT “B”
LICENSEE’S RESPONSE

DRAFT

EXHIBIT “C”
INSURANCE REQUIREMENTS