

STATE OF TEXAS §

COUNTY OF FORT BEND §

**AGREEMENT FOR NUTRITION PROGRAM SUPPORT SERVICES (PHASE III)
TEXAS BLACK EXPO, INC**

THIS AGREEMENT is made and entered into by and between Fort Bend County, (hereinafter the "County"), a body corporate and politic under the laws of the State of Texas, and Texas Black Expo, Inc. (hereinafter "TBE"), a non-profit Texas corporation.

WITNESSETH

WHEREAS, extraordinary measures are being taken by the County to address the needs of its residents during the novel coronavirus, now designated as COVID-19, including a declaration of a local state of disaster for public health emergency pursuant to Section 418.108(a) of the Texas Government Code; and

WHEREAS, under Texas Government Code Section 418.1015, the County Judge as the County's Emergency Management Director, serves as the Governor's designated agent in the administration and supervision of duties under Chapter 418; and

WHEREAS, the County Judge, under the authority granted to the Governor pursuant to Section 418.016 of the Texas Government Code, and Annex M, Section IV. A. 5 (a) of the County's Basic Emergency Operations Plan, may use all available local government resources to respond to the disaster and temporarily suspend statutes and rules, including those relating to purchasing and contracting, if compliance would hinder or delay actions necessary to cope with a disaster; and

WHEREAS, the County Judge temporarily suspended requirements of the County Purchasing Act, Subchapter C, Chapter 262 of the Local Government Code regarding competitive bidding for procurement of goods and services needed in response to the COVID-19 public health emergency; and

WHEREAS, the County desires that TBE provide certain professional services to support the County's proposed plan to serve the nutritional needs of families impacted by COVID-19 (hereinafter "Services"); and

WHEREAS, the Commissioners Court of the County hereby finds the County's proposed plan to serve the nutritional needs of families impacted by COVID-19 serves a public purpose; and

WHEREAS, TBE represents that it is qualified and desires to perform such services.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows:

AGREEMENT

Section 1. Scope of Services

TBE shall render Services to the County as defined in TBE's proposal attached hereto as Exhibit A and incorporated herein for all purposes.

Section 2. Personnel

2.1 TBE represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for the timely performance of the Scope of Services required under this Agreement and that TBE shall furnish and maintain, at its own expense, adequate and sufficient personnel, in the opinion of the County, to perform the Scope of Services when and as required and without delays.

2.2 All employees of TBE shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee, agent, representative, or subcontractor of TBE who, in the opinion of the County, is incompetent or by his conduct becomes detrimental to the County, upon request of the County Judge, shall immediately be removed from association with the County.

Section 3. Compensation and Payment

3.1 TBE's fees shall be calculated at the rates set forth in the attached Exhibit A. The Maximum Compensation for the performance of Services within the Scope of Services described in Exhibit A is a fee in an amount not to exceed five million dollars and no/100 (\$5,000,000.00). In no case shall the amount paid by the County under this Agreement exceed the Maximum Compensation without written amendment executed by the parties. Travel expenses submitted for reimbursement must be incurred in accordance with the County's current Travel Policy, and are subject to approval by the County Auditor prior to reimbursement.

3.2 All performance of the Scope of Services by TBE including any changes in the Scope of Services and revision of work satisfactorily performed will be performed only when approved in advance and authorized by the County.

3.3 The County will pay TBE based on the following procedures: Upon completion of the tasks identified in the Scope of Services, TBE shall submit to County staff designated by the County Auditor, one (1) electronic (pdf) and/or one (1) original invoice showing the amounts due for services performed in a form acceptable to the County. The County shall review such invoices and approve them within thirty (30) calendar days with such modifications as are consistent with this Agreement and forward same to the County Auditor for processing. The County shall pay each such approved

invoice within thirty (30) calendar days. The County reserves the right to withhold payment pending verification of satisfactory work performed.

Section 4. Limit of Appropriation

4.1 TBE clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that the County shall have available the total maximum sum of five million dollars and no/100 (\$5,000,000.00), specifically allocated to fully discharge any and all liabilities the County may incur.

4.2 TBE does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that TBE may become entitled to and the total maximum sum that the County may become liable to pay to TBE shall not under any conditions, circumstances, or interpretations thereof exceed five million dollars and no/100 (\$5,000,000.00).

Section 5. Time of Performance

The time for performance of the Scope of Services by TBE shall begin upon final execution of this Agreement and end no later than December 31, 2021. TBE shall complete the tasks described in the Scope of Services within this time or within such additional time as may be extended by the County.

Section 6. Modifications and Waivers

6.1 The parties may not amend or waive this Agreement, except by a written agreement executed by both parties.

6.2 No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition.

6.3 The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute.

Section 7. Termination

7.1 Termination for Convenience - The County may terminate this Agreement at any time upon thirty (30) days written notice.

7.2 Termination for Default

7.2.1 The County may terminate the whole or any part of this Agreement for cause in the following circumstances:

7.2.1.1 If TBE fails to perform services within the time specified in the Scope of Services or any extension thereof granted by the County in writing;

7.2.1.2 If TBE materially breaches any of the covenants or terms and conditions set forth in this Agreement or fails to perform any of the other provisions of this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in any of these circumstances does not cure such breach or failure to the County's reasonable satisfaction within a period of ten (10) calendar days after receipt of notice from the County specifying such breach or failure.

7.2.2 If, after termination, it is determined for any reason whatsoever that TBE was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County in accordance with Section 7.1 above.

7.3 Upon termination of this Agreement, the County shall compensate TBE in accordance with Section 3, above, for those services which were provided under this Agreement prior to its termination and which have not been previously invoiced to the County. TBE's final invoice for said services will be presented to and paid by the County in the same manner set forth in Section 3 above.

7.4 If the County terminates this Agreement as provided in this Section, no fees of any type, other than fees due and payable at the Termination Date, shall thereafter be paid to TBE.

Section 8. Ownership and Reuse of Documents

All documents, data, reports, research, graphic presentation materials, etc., developed by TBE as a part of its work under this Agreement, shall become the property of the County upon completion of this Agreement, or in the event of termination or cancellation thereof, at the time of payment under Section 3 for work performed. TBE shall promptly furnish all such data and material to the County on request.

Section 9. Inspection of Books and Records

TBE will permit the County, or any duly authorized agent of the County, to inspect and examine the books and records of TBE for the purpose of verifying the amount of work performed under the Scope of Services. The County's right to inspect survives the termination of this Agreement for a period of four years.

Section 10. Insurance

10.1 Prior to commencement of the Services, TBE shall furnish the County with properly executed certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on 30 days' prior written notice to the County. TBE shall provide certified copies of insurance endorsements and/or policies if requested by the County. TBE shall maintain such insurance coverage from the time Services commence until Services are completed and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to

completion of Services. TBE shall obtain such insurance written on an Occurrence form from such companies having Bests rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:

10.1.1 Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.

10.1.2 Business Automobile Liability insurance with a combined Bodily Injury/Property Damage limit of not less than \$1,000,000 each accident. The policy shall cover liability arising from the operation of licensed vehicles by policyholder.

10.1.3 Professional Liability insurance may be on a Claims Made form with limits not less than \$1,000,000.

10.2 The County and the members of Commissioners Court shall be named as additional insured to all required coverage. All Liability policies written on behalf of TBE shall contain a waiver of subrogation in favor of the County and members of Commissioners Court.

10.3 If required coverage is written on a claims-made basis, TBE warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning from the time that work under the Agreement is completed.

Section 11. Indemnity

TBE SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS COUNTY AGAINST ALL LOSSES, LIABILITIES, CLAIMS, CAUSES OF ACTION, AND OTHER EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING FROM ACTIVITIES OF TBE, ITS AGENTS, SERVANTS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF TBE OR ANY OF TBE'S AGENTS, SERVANTS OR EMPLOYEES.

Section 12. Confidential and Proprietary Information

12.1 TBE acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to the County. Any and all information of any form obtained by TBE or its employees or agents from the County in the performance of this Agreement shall be deemed to be confidential information of the County ("Confidential Information"). Any reports or other documents or items (including

software) that result from the use of the Confidential Information by TBE shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by TBE) publicly known or is contained in a publicly available document; (b) is rightfully in TBE's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or (c) is independently developed by employees or agents of TBE who can be shown to have had no access to the Confidential Information.

12.2 TBE agrees to hold Confidential Information in strict confidence, using at least the same degree of care that TBE uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to the County hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. TBE shall use its best efforts to assist the County in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, TBE shall advise the County immediately in the event TBE learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and TBE will at its expense cooperate with the County in seeking injunctive or other equitable relief in the name of the County or TBE against any such person. TBE agrees that, except as directed by the County, TBE will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement or at the County's request, TBE will promptly turn over to the County all documents, papers, and other matter in TBE's possession which embody Confidential Information.

12.3 TBE acknowledges that a breach of this Section, including disclosure of any Confidential Information, or disclosure of other information that, at law or in equity, ought to remain confidential, will give rise to irreparable injury to the County that is inadequately compensable in damages. Accordingly, the County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. TBE acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interest of the County and are reasonable in scope and content.

12.4 TBE in providing all services hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.

12.5 TBE expressly acknowledges that the County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, the County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to the County by TBE shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.

Section 13. Independent Contractor

13.1 In the performance of work or services hereunder, TBE shall be deemed an independent TBE, and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of TBE or, where permitted, of its subcontractors.

13.2 TBE and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of the County and shall not be entitled to any of the privileges or benefits of the County employment.

Section 14. Notices

14.1 Each party giving any notice or making any request, demand, or other communication (each, a "Notice") pursuant to this Agreement shall do so in writing and shall use one of the following methods of delivery, each of which, for purposes of this Agreement, is a writing: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid).

14.2 Each party giving a Notice shall address the Notice to the receiving party at the address listed below or to another address designated by a party in a Notice pursuant to this Section:

County: Fort Bend County
Attn: County Judge
401 Jackson Street, 1st Floor
Richmond, Texas 77469

With a copy to: Fort Bend County
Attn: County Auditor
301 Jackson Street
Richmond, Texas 77469

TBE: Texas Black Expo, Inc.
Attn: Jerome D. Love, President
12401 South Post Oak
Houston, Texas 77045

14.3 A Notice is effective only if the party giving or making the Notice has complied with subsections 14.1 and 14.2 and if the addressee has received the Notice. A Notice is deemed received as follows:

14.3.1 If the Notice is delivered in person, or sent by registered or certified mail or a nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.

14.3.2 If the addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a change in address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.

Section 15. Compliance with Laws

TBE shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required by the County, TBE shall furnish the County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

Section 16. Performance Representation

TBE represents to the County that TBE has the skill and knowledge ordinarily possessed by well-informed members of its trade or profession practicing in the greater Houston metropolitan area and TBE will apply that skill and knowledge with care and diligence to ensure that the Services provided hereunder will be performed and delivered in accordance with the local professional standard of care.

Section 17. Assignment

17.1 Neither party may assign any of its rights under this Agreement, except with the prior written consent of the other party. That party shall not unreasonably withhold its consent. All assignments of rights are prohibited under this subsection, whether they are voluntarily or involuntarily, by merger, consolidation, dissolution, operation of law, or any other manner.

17.2 Neither party may delegate any performance under this Agreement.

17.3 Any purported assignment of rights or delegation of performance in violation of this Section is void.

Section 18. Applicable Law

The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity.

Section 19. Successors and Assigns

The County and TBE bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of the other party, in respect to all covenants of this Agreement.

Section 20. Third Party Beneficiaries

This Agreement does not confer any enforceable rights or remedies upon any person other than the parties.

Section 21. Severability

If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

Section 22. Publicity

Contact with citizens of Fort Bend County, media outlets, or governmental agencies shall be the sole responsibility of the County. Under no circumstances whatsoever, shall TBE release any material or information developed or received in the performance of the Services hereunder without the express written permission of the County, except where required to do so by law.

Section 23. Captions

The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.

Section 24. Conflict

In the event there is a conflict between this Agreement and the attached exhibit, this Agreement controls.

Section 25. Certain State Law Requirements for Contracts

25.1 Agreement to Not Boycott Israel Chapter 2271 Texas Government Code: By signature below, TBE verifies that if TBE employs ten (10) or more full-time employees

and this Agreement has a value of \$100,000 or more, TBE does not boycott Israel and will not boycott Israel during the term of this Agreement.

25.2 Texas Government Code Section 2251.152 Acknowledgment: By signature below, TBE represents pursuant to Section 2252.152 of the Texas Government Code, that TBE is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153.

Section 26. Certain Federal Law Requirements for Contracts

TBE understands and acknowledges that this Agreement may be totally or partially funded with federal and or state funds. As a condition of receiving these funds, TBE represents that it is and will remain in compliance with all federal and or state terms as stated below. These terms flow down to all third party vendors and their subcontracts at every tier that exceed the simplified acquisition threshold, unless a particular award term or condition specifically indicates otherwise. TBE shall require that these clauses shall be included in each covered transaction at any tier. TBE will require all of its staff to comply with Federal documentation requirements administered by the County.

26.1 Americans with Disabilities Act (ADA) - TBE shall comply with all federal, state, County, and local laws concerning this type of products/service/equipment/project and the fulfillment of all ADA requirements.

26.2 Drug-Free Workplace - TBE shall provide any and all notices as may be required under the Drug-Free Workplace Act of 1988, 28 CFR Part 67, Subpart F, to their employees and all sub-contractors to insure that the County maintains a drug-free workplace.

26.3 Small, Minority Firms, Women's Business Enterprises and Labor Surplus Area Firms - TBE will take all necessary affirmative steps to assure that qualified small, minority firms, women's business enterprises, and labor surplus area firms are used when possible by:

26.3.1 Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

26.3.2 Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

26.3.3 Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

26.3.4 Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;

26.3.5 Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

26.3.6 Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in subsections (26.3.1) through (26.3.5) above.

26.4 Energy Policy and Conservation Act - TBE agrees to comply with the Energy Policy and Conservation Act (42 U.S.C. Section 6201).

26.5 Debarment and Suspension -

26.5.1 TBE certifies that it is in compliance with the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180 which states that a contract award in any tier must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. § 180 that implement Executive Orders Nos. 12549 (3 C F R part 1986 Comp., p. 189) and 12689 (3 C.F.R. part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order No. 12549. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount).

26.5.2 This certification is a material representation of fact relied upon by the County. If it is later determined that TBE did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (name of state agency serving as recipient and name of subrecipient), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

26.5.3 TBE agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

26.6 Byrd Anti-Lobbying Amendment - Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization

for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

26.7 Political Activities – TBE is prohibited from using federal funds directly or indirectly for political purposes, including polling, lobbying or advocating for legislative programs or changes; campaigning for, endorsing, contributing to, or otherwise supporting political candidates or parties; and voter registration or get-out-the-vote campaigns. Generally, organizations or entities which receive federal funds by way of grants, contracts, or cooperative agreements do not lose their rights as organizations to use their own, private, non-federal resources for “political” activities because of or as a consequence of receiving such federal funds. These recipient organizations must thus use private or other non-federal money, receipts, contributions, or dues for their political activities, and may not charge off to or be reimbursed from federal contracts or grants for the costs of such activities.

26.8 Procurement of Recovered Materials – TBE must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962). (1) In the performance of this Agreement, TBE shall make maximum use of products containing recovered materials that are EPA designated items unless the product cannot be acquired: (i) Competitively within a timeframe providing for compliance with the contract performance schedule; (ii) Meeting contract performance requirements; or (iii) At a reasonable price. (2) Information about this requirement, along with the list of EPA designated items, is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>.

26.9 Access to Records

26.9.1 TBE agrees to provide the County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of TBE which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.

26.9.2 TBE agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

26.9.3 TBE agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

26.10 DHS Seal, Logo, and Flags - TBE shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA preapproval.

26.11 Compliance with Federal Law, Regulations, and Executive Orders - TBE will comply will all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

26.12 No Obligation by Federal Government - The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the County, TBE, or any other party pertaining to any matter resulting from the contract.

26.13 Program Fraud and False or Fraudulent Statements or Related Acts - TBE acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to TBE's actions pertaining to this Agreement.

26.14 Civil Rights and Non-Discrimination - During the performance of this contract, TBE agrees as follows:

26.14.1 Nondiscrimination on the Basis of Race, Color, and National Origin - TBE will comply with state and federal anti-discrimination laws including Title VI of The Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), FEMA's implementing regulations at 44 C.F.R. Part 7 (Nondiscrimination in Federally Assisted Programs), and the Department's implementing regulations at 6 C.F.R. Part 21 (Nondiscrimination on the Basis of Race, Color, or National Origin in Programs or Activities Receiving Federal Financial Assistance) which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

26.14.2 Nondiscrimination on the Basis of Sex - TBE will comply with Title IX of the Education Amendments of 1972 (codified as amended at 20 U.S.C. § 1681 et seq.), FEMA's implementing regulations at 44 C.F.R. Part 19 (Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance), and the Department's implementing regulations at 6 C.F.R. Part 15 (Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance) prohibit discrimination on the basis of sex in any education program or activity receiving Federal financial assistance.

26.14.3 Nondiscrimination on the Basis of Disability - TBE will comply with The Americans with Disability Act of 1990 (codified as amended at 42 U.S.C. §§ 12101-12213) prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private public and private entities. The contractors must comply with the responsibilities under Titles I, II, III, IV, and V of the Americans with Disability Act of 1990 in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

26.14.4 Nondiscrimination on the Basis of Handicap - TBE will comply with Section 504 of the Rehabilitation Act of 1973 (codified as amended at 29 U.S.C. § 794) and FEMA's implementing regulations at 44 C.F.R. Part 16 (Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Federal Emergency Management Agency) provide that no otherwise qualified handicapped individual in the United States will, solely by reason of handicap, be excluded from participation in, be denied the benefits of, or be subjected to, discrimination under any program or activity receiving Federal financial assistance.

26.14.5 Nondiscrimination on the Basis of Age - TBE will comply with the Age Discrimination Act of 1975 (codified as amended at 42 U.S.C. § 6101 et seq.), and Department of Health and Human Services implementing regulations at 45 C.F.R. Part 90 (Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance) prohibit discrimination against individuals on the basis of age in any program or activity receiving Federal financial assistance.

26.14.6 Nondiscrimination on the Basis of Limited English Proficiency - TBE will comply with Title VI of the Civil Rights Act of 1964 prohibition against discrimination on the basis of national origin which requires that recipients and subrecipients of FEMA assistance take reasonable steps to provide meaningful access to persons with limited English proficiency. TBE shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, English proficiency, or disability. TBE shall not, on the grounds of race, color, creed, national origin, sex, age, English proficiency, or disability, exclude a person from participation in, deny him/her benefits, or subject him/her to discrimination. TBE shall adhere to any Federal implementing regulations and other requirements that the Department and the FEMA have with respect to nondiscrimination.

26.15 Contracting with Small, Minority Firms, Women's Business Enterprises and Labor Surplus Area Firms - TBE will take all necessary, affirmative steps to assure that

qualified small and minority businesses, women's business enterprises, and labor area surplus firms are used when possible by:

26.15.1 Placing small and minority businesses and women's business enterprises on solicitation lists;

26.15.2 Assuring that it solicits small and minority businesses and women's business enterprises whenever they are potential sources;

26.15.3 Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;

26.15.4 Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women's business enterprises;

26.15.5 Utilizing the assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

26.15.6 TBE must require subcontractors to take the five affirmative steps described in 26.15.1 - 26.16.5 above.

26.16 Environmental and Historic Preservation Protections

26.16.1 Case by case basis. FEMA will identify various environmental and historic preservation mitigation measures with which a Non-Federal Entity (NFE) must comply when performing the scope of work under a FEMA award. FEMA expects the NFE to include adequate third party provisions to facilitate compliance with such measures that the NFE has agreed to implement as a term and condition of the FEMA award.

26.16.2 TBE shall abide by all environmental and historic preservation mitigation measures identified by FEMA when performing the scope of work including: a. National Environmental Policy Act of 1969, Pub. L. No. 91-190 (1969) (codified as amended at 42 U.S.C. §§ 4321-4347); the National Historic Preservation Act, Endangered Species Act Endangered Species Act of 1973, Pub. L. No. 93-205 (1973) (codified as amended at 16 U.S.C. §§ 1531-1544);, Clean Water Act, other laws, and various executive orders.

26.17 Disaster Reservists - TBE may not in the performance of this Agreement utilize employees who are also Disaster Reservists. Disaster Reservists are personnel authorized by the special hiring authority in the Stafford Act that are not full-time

employees, but rather work on an on-call, intermittent basis to perform disaster response and recovery activities.

26.18 False Statements Act – TBE agrees to comply with the False Statement Act sets forth liability for, among other things, any person who knowingly submits a false claim to the Federal government or causes another to submit a false claim to the government or knowingly makes a false record or statement to get a false claim paid by the government. 31 U.S.C. §§ 3729-3733.

26.19 Fraud Waste and Abuse – TBE understands that in the event the County becomes aware of any allegation or a finding of fraud, waste, or misuse of funds received from FEMA or the Office of the Governor, the County is required to immediately notify OOG of said allegation or finding and to continue to inform OOG of the status of any such on-going investigations. The County must also promptly refer to OOG any credible evidence that a principal, employee, agent, TBE, subcontractor, or other person has -- (1) submitted a claim for award funds that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving award funds. The County must also immediately notify OOG in writing of any misappropriation of funds, fraud, theft, embezzlement, forgery, or any other serious irregularities indicating noncompliance with grant requirements. The County must notify the local prosecutor's office of any possible criminal violations.

26.20 Prompt Payment – TBE is required to pay its subcontractors performing work related to the Underlying Agreement for satisfactory performance of that work no later than 30 days after TBE's receipt of payment for that work from the County. In addition, TBE is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work is satisfactorily completed.

26.21 Retention of Records – TBE agrees to maintain fiscal records and supporting documentation for all expenditures related to this Agreement pursuant to 2 CFR 200.333, UGMS, and state law. TBE must retain, and will require its subcontractors of all tiers to retain, these records and any supporting documentation for a minimum period of not less than seven (7) years after the date of termination or expiration of the Agreement or any litigation, dispute, or audit arising from the performance of the Agreement. Records related to real property and equipment acquired with grant funds shall be retained for seven (7) years after final disposition.

26.22 Veteran Preference – TBE shall give a hiring preference, to the extent practicable, to veterans (as defined in 5 USC Section 2108) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would

require an employer to give preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or former employee.

Section 27. Human Trafficking

BY ACCEPTANCE OF AGREEMENT, TBE ACKNOWLEDGES THAT THE COUNTY IS OPPOSED TO HUMAN TRAFFICKING AND THAT NO COUNTY FUNDS WILL BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the parties hereto have signed or have caused their respective names to be signed to multiple counterparts to be effective on the date signed by the last party hereto.

FORT BEND COUNTY

TEXAS BLACK EXPO, INC

KP George, County Judge

Jerome D. Love, President

5-18-21

Date

Date

ATTEST:

Laura Richard, County Clerk

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$_____ to accomplish and pay the obligation of Fort Bend County under this contract.

Robert Ed Sturdivant, County Auditor

EXHIBIT A

“We All Eat - Fort Bend County”

**Bringing communities and restaurants together
to ensure that we all eat in Fort Bend County**

Mission

To provide meals for families in need while providing an economic stimulus for Fort Bend County restaurants and food suppliers/producers, ensuring that no one in Fort Bend County goes hungry during the COVID-19 pandemic.

Objectives

- To ensure that those who are unemployed, underemployed, or who have been negatively impacted by COVID to the point of experiencing food insecurity have access to nutritious daily meals.
- To bring communities, restaurants, and food producers/suppliers together with the goal of ensuring that we all eat in Fort Bend County throughout the COVID-19 pandemic.
- To provide a food resource for those for whom a safety net does not exist, as many people make too much money to qualify for other state and federal supplemental benefits.
- To help to catalyze the local government’s allocation of funding for the CARES Act.

The Opportunity

Texas is currently facing one of the largest spikes in food insecurity in the state’s history, leading to a growth in demand for food assistance. According to a recent article in the Houston Chronicle, COVID-19 has turbo-charged poverty and hunger in the Houston area. “A lot of Texans were in a bad place even before COVID,” said Rachel Cooper, a senior policy analyst with the Center for Public Policy Priorities’ Health and Wellness Team. “COVID has turbocharged what was always wrong in Texas.” Cooper noted that before the pandemic, 1 in 5 children in the state belonged to families living with food insecurity, meaning that they typically did not know for sure if they would be able to put enough food on the table.

The COVID-19 pandemic has only exacerbated the issue. This is a problem requiring immediate solutions, one that will make meals available and increase food access for hungry Fort Bend residents.

Additionally, local restaurants and food suppliers/producers are being negatively affected by the COVID crisis, and the ripple effect of their struggles is having a significant impact on local farmers and food producers/suppliers. According to the Texas Restaurant Association, an estimated 30% of restaurants will be forced to close as a result of the COVID pandemic, never to open again. Without immediate strategic intervention, the loss of these key contributors to our communities and local economies will be imminent.

The Solution

We All Eat - Fort Bend County is a county-wide initiative to provide hunger relief for families affected by the COVID pandemic by offering meals to those in need while helping to increase the sustainability of local restaurants and food producers/suppliers.

The program will provide relief for all entities that participate in the program:

- **Economic relief for Fort Bend restaurants** – It will allow restaurants to bring back furloughed workers and generate the revenue necessary to sustain their operations during the COVID pandemic.
- **Hunger relief for Fort Bend residents affected by food insecurity** – It will allow Fort Bend County residents access to nutritious restaurant meals (including selections of vegan, vegetarian, gluten-free, and/or ethnic meals).
- **Economic relief for Fort Bend local food producers/suppliers** – It will allow local farmers and food producers/suppliers the opportunity to sell their goods, aiding their sustainability and ability to keep their workers employed.

The timing of this solution is particularly pertinent in light of unemployed workers losing the \$600 weekly enhancement to unemployment benefits on July 31, 2020, which could result in an additional spike in food insecurity among Fort Bend's County's unemployed population.

How the Program Works

Selected Fort Bend County restaurants will be identified for participation in the program. These restaurants will be strategically located throughout Fort Bend County to provide meals for those in need.

Texas Black Expo will reimburse the restaurants for the cost of the meals they serve to *We All Eat - Fort Bend County* program participants. Texas Black Expo will receive reimbursements of these funds from Fort Bend County.

A total of 20 to 30 restaurants in different areas of Fort Bend County will be selected to provide meals for the program. Each restaurant must be located within Fort Bend County and be in good standing with the County.

Each restaurant will list a daily menu online with 2 – 3 selections from which *We All Eat - Fort Bend County* program participants may choose.

Fort Bend County will assist in the selection of applicants by providing lists of individuals receiving COVID-19 rental and utility assistance from the County. Applicants will be identified from individuals receiving COVID-19 rental and utility assistance from the County.

Approved *We All Eat - Fort Bend County* applicants will receive a personal participation number (PPN), which they will utilize to order meals online. Generally, one meal per family member per day may be ordered using the individual's PPN.

The ordering process is as follows:

- Program participants will go online to the *We All Eat - Fort Bend County* website to select their participating restaurant of choice and their meal of choice from the 2 – 3 options offered by the restaurant.
- Participants may request one meal per person per day for each member of the household.
- Orders must be placed 48 hours in advance of the pick-up day in order to provide adequate time for restaurants to prepare the meals. Additionally, limited options will be available same day on a limited basis. Meal options are subject to restaurants' availability and may be made available on a first-ordered, first-served basis.
- After participants select their meals online, a secure QR code to redeem the meals will be sent to their email or to their mobile phone via text message.

- On the day of meal pick up, participants will present the QR code on their mobile device, which will be scanned by an attendant at the restaurant's designated order pick-up area. Pre-ordered meals may be picked up daily between 3:00 PM and 8:00 PM. **System will validate that QR code can only be used once per participant.**
- Meals will be individually packaged and either cold, ready-to-eat, heat-and-serve, or meal kits, depending on the restaurant and meal ordered.

How Will Participants Be Selected

Restaurants

A total of 20 to 30 restaurants will be initially targeted for participation in the program. Additional restaurants will be added as the program expands. TBE will build awareness for the program through the following vehicles:

- Press releases
- Announcements made through local television news broadcasts
- Communications sent to restaurant associations and local chambers of commerce
- Social media

Criteria for restaurants' participation include:

- Must have the capacity to provide up to 200 meals per day at a cost of \$16.50/meal
- Must individually package meals and provide them as either cold, ready-to-eat, or heat-and-serve options (meal kits may also be offered)
- Must be able to offer 2 – 3 nutritious meal options daily
- Must have the human resources (at least 3 - 4 dedicated individuals) and technological resources (high-speed internet, etc.) to coordinate distribution and pick-up of meals while following social distancing guidelines
- Must follow weekly reporting guidelines in compliance with program participation
- Must have the capacity to operate on a minimum of net 20 payment terms to receive reimbursements for meals served, with ideal terms of net 30

Restaurants will be invited to apply on the *We All Eat - Fort Bend County* website. Selections will be made based on application criteria and location, and selected restaurants will be notified of their acceptance into the program at least 5 days prior to the participant application portal opening and allowing participants to begin ordering meals.

Recipients

Fort Bend County will assist in identifying program recipients, giving priority to those receiving COVID-19 rental and utility assistance.

Any Fort Bend resident dealing with food insecurity may apply for participation in the program. Outreach and marketing efforts will be targeted towards organizations that have already been working to provide services to individuals negatively impacted by COVID-19, suffering pandemic-related losses in some of the hardest-hit industries in the county.

Target organizations include:

- Organizations providing support to newly unemployed individuals
- Organizations that support restaurant workers
- Organizations that support small business owners

Individuals who have been negatively impacted by COVID-19 and who desire to participate in the program will complete a brief application online. Applicants will be asked to explain how they have been negatively impacted by the COVID crisis and to upload supporting documentation. This includes:

- For unemployed individuals – A letter from the Texas Workforce Commission verifying unemployment.
- For small business owners – A copy of business registration letter from Texas Secretary of State and a description of the services they provide and how they have been negatively impacted by COVID.
- Individuals receiving other forms of COVID assistance – A letter from a program-approved community organization partner verifying that they have been working with the individual and verifying the individual's need for food assistance. This could also include verification of assistance from COVID-19 rental and utility assistance.
- All other applicants – While it is important to verify eligibility, it is also important to minimize barriers to accessing help. Therefore, individuals will also be able to provide other items as a last resort (i.e. severance letter, email communication indicating furloughs or reduced hours...etc).

Program Duration and Impact

The program will begin in May 2021 and operate until December 31, 2021 or until all funds are exhausted, a timeline similar to other programs of this nature. Our goal is to provide 433,940 total meals which is ~ 2,410 meals per day throughout the program duration.

The Investment

The proposed operations investment for the *We All Eat - Fort Bend County* program is \$5,000,000. This includes 303,030 (approximate) meals at \$16.50 per meal. This amount represents a \$1.50 increase from the first two phases to account for rising costs of meat and other supplies, as well as funding for employment due to national worker shortage.

The proposed administrative investment for the *We All Eat - Fort Bend County* program is \$525,000, which represents approximately 10.5% of the operations budget. This amount is a 3.5% increase from the first two phases which would allow us to add additional restaurants in order to have a greater impact, requiring an expanded role of current staff as well as additional staffing for management and compliance of the program. TBE's administration of the program would include the following components:

Component 1 - Community Engagement & Outreach

- This program component includes: (a) developing a marketing strategy to make Fort Bend restaurant owners aware of the opportunity to participate in the program, (b) developing professional digital marketing materials to promote the program in the community, (c) partnering with local community organizations to spread awareness about the program, (d) developing comprehensive website content that provides informational policies and procedures and answers questions for individuals interested in learning more about the program, and (e) corresponding with restaurants and organizations who submit inquiries about participating in the program in a timely manner.

Component 2 – Restaurant and Individual Applicant Administration

- This program component includes: (a) Compliance checks for each restaurant, (b) setting up restaurants and their special menus on the website and connecting them to an ordering system, (c) accepting applications from restaurants and families electronically through the website, (d) validating eligibility of all applications (outside of recipients directly selected by Fort Bend County), (e) assigning personal participation numbers to families



accepted into the program, (f) corresponding with applicants regarding the status of their applications in a timely manner, (g) handling communications from restaurants and applicants in a timely manner, and (h) sending a statistical summary of administrative activity to Fort Bend County on a weekly basis. (i) periodic visits to applicants homes to confirm residency, (j) management of recertification process.

TBE Partnership

Texas Black Expo proposes a partnership with Fort Bend County to facilitate the *We All Eat - Fort Bend County* program. Our organization is an ideal partner to administer the program because we:

- Have a proven track record of administrating community programs
- Have an extensive database of community partners and network of key influencers in the community
- Have a reputation for professionalism and responsive communication in the community

We invite you to make this investment with Texas Black Expo as an administrative partner for the *We All Eat - Fort Bend County* program, as the returns will be optimal for Fort Bend County's food-insecure residents, restauranteurs, and local food suppliers.

In choosing to partner with our organization, you are assured a worry-free, professional relationship with a partner that operates with efficiency and excellence, helping to preserve Fort Bend County's stellar brand in the community.

About Us

Texas Black Expo is a nonprofit economic development organization that empowers underserved businesses and youth by providing entrepreneurial and educational opportunities.