K20-593

# COOPERATIVE ENDEAVOR AGREEMENT
# BETWEEN
# THE CITY OF NEW ORLEANS
# AND
# SOCIAL ENTREPRENEURS OF NEW ORLEANS, INC. D/B/A PROPELLER: A FORCE FOR SOCIAL INNOVATION

## HEALTHY CORNER STORE COLLABORATIVE

**THIS COOPERATIVE ENDEAVOR AGREEMENT** (the "**Agreement**") is entered into by and between the City of New Orleans, represented by LaToya Cantrell, Mayor (the "**City**"), and Social Entrepreneurs Of New Orleans, Inc. d/b/a Propeller: A Force For Social Innovation, represented by Andrea Chen, Executive Director (the "**Contractor**" or "**Propeller**"). The City and the Contractor may sometimes be collectively referred to as the "**Parties**." The Agreement is effective as of the date of December 1, 2020 by the City (the "**Effective Date**").

## RECITALS

**WHEREAS,** the City is a political subdivision of the State of Louisiana;

**WHEREAS**, the Propeller is a non-profit corporation, which principal address is located at 4035 Washington Avenue, New Orleans, Louisiana 70125;

**WHEREAS**, pursuant to Article 7, Section 14(C) of the Louisiana Constitution of 1974, and related statutes, and Section 9-314 of the Home Rule Charter of the City of New Orleans, the City may enter into cooperative endeavors with the State of Louisiana, its political subdivisions and corporations, the United States and its agencies, and any public or private corporation, association, or individual with regard to cooperative financing and other economic development activities, the procurement and development of immovable property, joint planning and implementation of public works, the joint use of facilities, joint research and program implementation activities, joint funding initiatives, and other similar activities in support of public education, community development, housing rehabilitation, economic growth, and other public purposes;

**WHEREAS,** one-third of the population in Orleans Parish lives in a classified food desert defined as a low-income area with limited access to affordable nutritious food;[1]

**WHEREAS**, the City and Propeller desire to accomplish a valuable public purpose of supporting health and wellness, community and economic development, and local corner stores through a Healthy Corner Store Collaborative, including but not limited to increasing fresh fruit and vegetable options for local corner stores;

**WHEREAS**, Propeller will perform outreach to local corner stores, provide business mentorship, marketing support, infrastructure and inventory upgrades for qualifying corner stores;

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1 The USDA defines a food desert as a low-income census track where residents live farther than 1/2 mile from the nearest supermarket and where at least 20 percent of the people have income at or below the federal poverty levels for family size.

and

**WHEREAS**, the City will provide funding to assist Propeller with accomplishing the goals of this Agreement and will provide information regarding matters that affect corner stores to Propeller.

**NOW THEREFORE**, the City and Propeller, each having the authority to do so, agree as follows:

## ARTICLE I - PROPELLER'S OBLIGATIONS

A. ***Services***. Propeller will:

**1.** Program Implementation: Propeller will continue to conduct the Healthy Corner Store Collaborative's "Good to Go" program with no less than 2 corner stores participating and receiving the following support:

- **a.** Business Mentorship: Propeller will connect corner store operators to business mentors for tailored business strategy and profitability sessions;
- **b.** Marketing Support: Propeller will provide marketing materials which will both raise awareness of and drive the demand for fresh fruit and vegetable inventory items;
- **c.** Produce Order, Delivery and Inventory Management Support: Propeller will contract with a local organization to order, store and distribute fresh affordable produce to the corner store and to assist with produce set-up/display; and
- **d.** Provide participating stores with infrastructure upgrades including shelving, coolers and fixtures.

**2.** Provide other services as set forth in the New Orleans Healthy Corner Store Collaborative Program Details, attached hereto as Exhibit A and made a part hereof.

## ARTICLE II - THE CITY'S OBLIGATIONS

A. ***Administration***. The City will:

**1.** Administer this Agreement through the Office of Economic Development (the "Department");

**2.** Provide access to Department personnel to discuss the required services during normal working hours, as requested by Propeller; and

**3.** Support the Healthy Corner Store Collaborative at the City's discretion through the Mayor's Office of Communications, including:

- **a.** Press releases;
- **b.** City social media accounts;
- **c.** Introductions to relevant municipal departments; and
- **d.** Email newsletters.

## ARTICLE III – COMPENSATION

A. ***Maximum Amount***. The maximum amount compensated by the City under this Agreement is $50,000.00.

**B.** ***Rate of Compensation.*** The City will pay the Contractor in accordance with the following rate: twice annual payments every six months not to exceed $25,000.00.

**C.** ***Cost Recovery.*** In accordance with Section 2-8.1 of the Municipal Code entitled "Cost recovery in contracts, cooperative endeavor agreements, and grants," to the maximum extent permitted by law, the Contractor shall reimburse the City or disgorge anything of value or economic benefit received from the City if the Contractor fails to meet its contractual obligations."

## ARTICLE IV - DURATION AND TERMINATION

**A.** ***Term.*** The term of this agreement shall be for 1 year from the Effective Date.

**B.** ***Extension.*** The City can opt to extend the term of this Agreement provided that the City Council approves it as a multi-term cooperative endeavor agreement and that additional funding, if required, is allocated by the City Council.

**C.** ***Termination for Convenience.*** The City may terminate this Agreement at any time during the term of the Agreement by giving Propeller written notice of the termination at least 30 calendar days before the intended date of termination.

**D.** ***Termination for Cause.*** Either party may terminate this Agreement immediately for cause by sending written notice to the Contractor. "Cause" includes without limitation any failure to perform any obligation or abide by any condition of this Agreement or the failure of any representation or warranty in this Agreement, including without limitation any failure to comply with the requirements of the City's Disadvantaged Business Enterprise program and any failure to comply with any provision of City Code § 2-1120 or requests of the Office of Inspector General. If a termination for cause is subsequently challenged by the Contractor in a court of law and the Contractor who is the challenging party prevails, the termination will be deemed to be a termination for convenience effective 30 days from the date of the original written notice of termination for cause was sent to the challenging party; no further notice will be required.

## ARTICLE V - INDEMNITY

**A.** To the fullest extent permitted by law, the Contractor will indemnify, defend, and hold harmless the City, its agents, employees, officials, insurers, self-insurance funds, and assigns (collectively, the "**Indemnified Parties**") from and against any and all claims, demands, suits, and judgments of sums of money accruing against the Indemnified Parties: for loss of life or injury or damage to persons or property arising from or relating to any act or omission or the operation of the Contractor, its agents or employees while engaged in or in connection with the discharge or performance of any Services under this Agreement; and for any and all claims and/or liens for labor, services, or materials furnished to the Contractor in connection with the performance of work under this Agreement.

**B.** ***Limitation***. The Contractor's indemnity does not extend to any loss arising from the gross negligence or willful misconduct of any of the Indemnified Parties, provided that neither the Contractor nor any of its agents or employees contributed to such gross negligence or willful misconduct.

**C.** ***Independent Duty***. The Contractor has an immediate and independent obligation to, at the City's option: (a) defend the City from or (b) reimburse the City for its costs incurred in the defense of any claim that actually or potentially falls within this indemnity, even if: (1) the allegations are or may be groundless, false, or fraudulent; or (2) the Contractor is ultimately absolved from liability.

**D.** ***Expenses***. Notwithstanding any provision to the contrary, the Contractor shall bear the expenses including, but not limited to, the City's reasonable attorney fees and expenses, incurred by the City in enforcing this indemnity.

## ARTICLE VI - INSURANCE

**A.** Except as otherwise noted, at all times during this Agreement or the performance of work required by this Agreement, the Contractor will maintain the following insurance in full force and effect for the duration of the work under this Agreement. Evidence of coverage shall be provided prior to the start of any activities/work, in conjunction with the Contractor's scope of work under the Agreement.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City:

**a. Minimum Requirements:**

**i.** Workers' Compensation & Employers Liability Insurance in compliance with the applicable Workers' Compensation Act(s). Statutory and Employers Liability Insurance with limits of not less than $500,000.

**ii.** Commercial General Liability Insurance including contractual liability insurance, products and completed operations, personal & advertising injury, bodily injury, property damage, abuse and molestation and any other type of liability for which this Agreement applies with limits of liability of not less than $1,000,000 each occurrence / $2,000,000 policy aggregate.

**iii.** Automobile Liability Insurance with limits of liability of not less than $500,000 per accident for bodily injury and property damage. Insurance shall include all owned, non-owned and hired vehicles.

**b.** Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

**i.** Important: The obligations for the Contractor to procure and maintain insurance shall not be constructed to waive or restrict other obligations. It is understood that neither failure to comply nor full compliance with the foregoing insurance requirements shall limit of relieve the Contractor from any liability incurred as a result of their activities/operations in conjunction with the Contractors obligations and/or Scope of Work.

**ii.** Additional Insured Status: The Contractor and all Subcontractors (where applicable) will provide, and maintain current, a Certificate of Insurance naming the City of New Orleans, its departments, political subdivisions, officers, officials, employees, and volunteers are to be covered as "Additional Insureds" on the CGL policy with respect to liability arising out of the performance of this agreement, General liability insurance coverage can be provided in the form of an endorsement to the Contractors insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

**iii.** The Contractor shall require and verify that all Subcontractors maintain insurance and coverage limits meeting all the requirements stated herein. The Certificate of Insurance, as evidence of all required coverage, should name the City of New Orleans Risk Manager as Certificate Holder and be delivered via U.S. Mail to 1300 Perdido Street, 9E06 – City Hall, New Orleans LA 70112.

**iv.** The Additional Insured box hall be marked "Y" or Commercial General Liability coverage. The Subrogation Waiver Box must be marked "Y" for Workers Compensation/Employers Liability and Property.

**v.** Primary Coverage: For any claims related to this agreement, the Contractor's insurance coverage shall be primary insurance as respects the City, its departments, political subdivisions, officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City shall be non-contributing to the Contractors coverage.

**vi.** Claims Made Policies: If applicable, the retroactive date must be shown and must be before the date of the agreement or the beginning of work. If the coverage is canceled or non-renewed, and not replaced with another claims-made policy, Contractor must purchase "extended reporting" coverage for minimum of 3 years after the termination of this agreement.

**vii.** Waiver of Subrogation: The Contractor and its insurers agree to waive any right of subrogation which any insurer may acquire against the City by virtue of the payment of any loss under insurance required by this agreement.

**viii.** Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, expire or altered except without prior notice to the City of no less than 30 days.

**ix.** Acceptability of Insurers: Insurance is to be placed with insurers licensed and authorized to do business in the State of Louisiana with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the City.

**B.** Notice: The Contractor will provide the City's Risk Manager (at City of New Orleans Attn: Risk Manager, 1300 Perdido Street, Suite 9E06, New Orleans, LA 70112- Ref.: CEA) the following documents, within 10 calendar days of the City's request:

**a.** Proof of coverage for each policy of insurance required by this Agreement; and

**b.** Copies of all policies of insurance, including all policies, forms, and endorsements.

**C.** Miscellaneous: Without notice from the City, the Contractor will:

**a.** Replenish any policy aggregate limit that is impaired before commencement of any work or continuation of any work under this Agreement;

b. Substitute insurance coverage acceptable to the City within 30 calendar days if any insurance company providing any insurance with respect to this Agreement is declared bankrupt, becomes insolvent, loses the right to do business in Louisiana, or ceases to meet the requirements of this Agreement.

c. Special Risks or Circumstances: The City of New Orleans shall reserve the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer coverage, or other circumstances.

d. Notify the City's Risk Manager in writing within 48 hours of its receipt of any notice of non-renewal, cancellation, or reduction in coverage or limits affecting any policy of insurance maintained under this Agreement.

## ARTICLE VII - PERFORMANCE MEASURES

**A.** ***Factors.*** The City will measure the performance of Propeller according to the following non-exhaustive factors: work performed in compliance with the terms of the Agreement; staff availability; staff training; staff professionalism; staff experience; customer service; communication and accessibility; prompt and effective correction of situations and conditions; timeliness and completeness of submission of requested documentation (such as records, receipts, invoices, insurance certificates, and computer-generated reports).

**B.** ***Failure to Perform.*** If Propeller fails to perform according to the Agreement, the City will notify Propeller. If there is a continued lack of performance after notification, the City may declare Propeller in default and may pursue any appropriate remedies available under the Agreement and/or any applicable law. In the event of a notification of default, the City will invoice the defaulting contractor for any increase in costs and other damages sustained by the City. Further, the City will seek full recovery from the defaulting contractor.

## ARTICLE VIII – LIVING WAGES

To the fullest extent permitted by law, Propeller agrees to abide by City Code sections 70-801, *et seq.*, which requires payment of a wage to covered employees equal to the amounts defined in the Code ("**Living Wage**"). If Propeller fails to comply with the requirements of the Living Wage during the term of the Agreement, said failure may result in termination of the Agreement or the pursuit of other remedies by the City.

## ARTICLE IX - NON-DISCRIMINATION

**A.** ***Equal Employment Opportunity.*** In all hiring or employment made possible by, or resulting from this Agreement, Propeller (1) will not be discriminate against any employee or applicant for employment because of race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry, and (2) where applicable, will take affirmative action to ensure that the Contractor's employees are treated during employment without regard to their race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry. This requirement shall apply to, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry.

**B.** ***Non-Discrimination.*** In the performance of this Agreement, Propeller will not discriminate on the basis, whether in fact or perception, of a person's race, color, creed, religion, national origin, ancestry, age, sex (gender), sexual orientation, gender identity, domestic partner status, marital status, physical or mental disability, or AIDS- or HIV-status against (1) any employee of the City working with Propeller in any of Propeller's operations within Orleans Parish or (2) any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by the Contractor. Propeller agrees to comply with and abide by all applicable federal, state and local laws relating to non-discrimination, including, without limitation, Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

**C.** ***Incorporation into Subcontracts.*** Propeller will incorporate the terms and conditions of this Article into all subcontracts, by reference or otherwise, and will require all subcontractors to comply with those provisions.

**D.** The City may terminate this Agreement for cause if Propeller fails to comply with any obligation in this Article, which failure is a material breach of this Agreement.

## ARTICLE X - INDEPENDENT CONTRACTOR

**A.** ***Independent Contractor Status.*** Propeller is an independent contractor and shall not be deemed an employee, servant, agent, partner, or joint venture of the City and will not hold itself or any of its employees, subcontractors or agents to be an employee, partner, or agent of the City.

**B.** ***Exclusion of Worker's Compensation Coverage.*** The City will not be liable to Propeller, as an independent contractor as defined in La. R.S. 23:1021(6), for any benefits or coverage as provided by the Workmen's Compensation Law of the State of Louisiana. Under the provisions of La. R.S. 23:1034, any person employed by Propeller will not be considered an employee of the City for the purpose of Worker's Compensation coverage.

**C.** ***Exclusion of Unemployment Compensation Coverage.*** Propeller, as an independent contractor, is being hired by the City under this Agreement for hire and defined in La. R.S. 23:1472(E) and neither Propeller nor anyone employed by it will be considered an employee of the City for the purpose of unemployment compensation coverage, which coverage same being hereby expressly waived and excluded by the parties, because: (a) Propeller has been and will be free from any control or direction by the City over the performance of the services covered by this contract; (b) the services to be performed by Propeller are outside the normal course and scope of the City's usual business; and (c) Propeller has been independently engaged in performing the services required under this Agreement prior to the date of this Agreement.

**D.** ***Waiver of Benefits.*** Propeller, as an independent contractor, will not receive from the City any sick and annual leave benefits, medical insurance, life insurance, paid vacations, paid holidays, sick leave, pension, or Social Security for any services rendered to the City under this Agreement.

## ARTICLE XI - NOTICE

**A.** ***In General.*** Except for any routine communication, any notice, demand, communication, or request required or permitted under this Agreement will be given in writing and delivered in person or by certified mail, return receipt requested as follows:

1. To the City:

   Ellen Lee, Director of the Office of Community and Economic Development
   City of New Orleans
   1340 Poydras St, Suite 1800
   New Orleans, LA 70112

   &

   Sunni J. LeBeouf, City Attorney
   City of New Orleans
   1300 Perdido Street, Suite 5E03
   New Orleans, LA 70112

2. To the Contractor:

   Andrea Chen, Executive Director
   Propeller: A Force for Social Innovation
   4035 Washington Ave.
   New Orleans, LA 70125

**B.** ***Effectiveness.*** Notices are effective when received, except any notice that is not received due to the intended recipient's refusal or avoidance of delivery is deemed received as of the date of the first attempted delivery.

**C.** ***Notification of Change.*** Each party is responsible for notifying the other in writing that references this Agreement of any changes in its address(es) set forth above.

## ARTICLE XII - ADDITIONAL PROVISIONS

**A.** ***Amendment.*** No amendment of or modification to this Agreement shall be valid unless and until executed in writing by the duly authorized representatives of both parties to this Agreement.

**B.** ***Assignment.*** This Agreement and any part of Propeller's interest in it are not assignable or transferable without the City's prior written consent.

**C.** ***Audit and Other Oversight.*** Propeller will abide by all provisions of City Code § 2-1120, including without limitation City Code § 2-1120(12), which requires Propeller to provide the Office of Inspector General with documents and information as requested. Failure to comply with such requests is a material breach of the Agreement. In signing this Agreement, Propeller agrees that it is subject to the jurisdiction of the Orleans Parish Civil District Court for purposes of challenging a subpoena.

**D.** ***Choice of Law.*** This Agreement will be construed and enforced in accordance with the laws of the State of Louisiana without regard to its conflict of laws provisions.

**E.** ***Compliance with the City's Hiring Requirements – Ban the Box.*** (i) The Contractor agrees to adhere to the City's hiring requirements contained in City Code Sections 2-8(d) and 2-13(a)-(f). Prior to executing this Agreement, Contractor must provide a sworn statement attesting to its compliance with the City's hiring requirements or stating why deviation from the hiring requirements is necessary. (ii) Failure to maintain compliance with the City's hiring requirements throughout the term of the Agreement, or to provide sufficient written reasons for deviation, is a material breach of this Agreement. Upon learning of any such breach, the City will provide the Contractor notice of noncompliance and allow Contractor thirty (30) days to come into compliance. If, after providing notice and thirty (30) days to cure, the Contractor remains noncompliant, the City may move to suspend payments to Contractor, void the Agreement, or take any such legal action permitted by law or this Agreement. (iii) This section will not apply to any agreements excluded from the City's hiring requirements by City Code Sections 2-8(d) or (g). Should a court of competent jurisdiction find any part of this section to be unenforceable, the section should be reformed, if possible, so that it is enforceable to the maximum extent permitted by law, or if reformation is not possible, the section should be fully severable and the remaining provisions of the Agreement will remain in full force and effect. (iv) The Contractor will incorporate the terms and conditions of this Article into all subcontracts, by reference or otherwise, and will require all subcontractors to comply with those provisions.

**F. *Conflicting Employment.*** To ensure that Propeller's efforts do not conflict with the City's interests, and in recognition of Propeller's obligations to the City, Propeller will decline any offer of other employment if its performance of this Agreement is likely to be adversely affected by the acceptance of the other employment. Propeller will promptly notify the City in writing of its intention to accept the other employment and will disclose all possible effects of the other employment on Propeller's performance of this Agreement. The City will make the final determination whether the Contractor may accept the other employment.

**G. *Construction of Agreement.*** Neither party will be deemed to have drafted this Agreement. This Agreement has been reviewed by the Parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of the Parties. No term of this Agreement shall be construed or resolved in favor of or against the City or Propeller on the basis of which party drafted the uncertain or ambiguous language. The headings and captions of this Agreement are provided for convenience only and are not intended to have effect in the construction or interpretation of this Agreement. Where appropriate, the singular includes the plural and neutral words and words of any gender shall include the neutral and other gender.

**H. *Convicted Felon Statement.*** The Contractor complies with City Code § 2-8(c) and no principal, member, or officer of the Contractor has, within the preceding 5 years, been convicted of, or pled guilty to, a felony under state or federal statutes for embezzlement, theft of public funds, bribery, or falsification or destruction of public records.

**I. *Employee Verification.*** Propeller swears that (i) it is registered and participates in a status verification system to verify that all employees in the State of Louisiana are legal citizens of the United States or are legal aliens; (ii) it shall continue, during the term of this Agreement, to utilize a status verification system to verify the legal status of all new employees in the State of Louisiana; and (iii) it shall require all subcontractors to submit to Propeller a sworn affidavit verifying compliance with items (i) and (ii) above. Any violation of the provisions of this paragraph may subject this Agreement to termination, and may further result in Propeller being ineligible for any public contract for a period of 3 years from the date the violation is discovered. Propeller further acknowledges and agrees that it shall be liable for any additional costs incurred by the City occasioned by the termination of this Agreement or the loss of any license or permit to do business in the State of Louisiana resulting from a violation of this provision. Propeller will provide to the City a sworn affidavit attesting to the above provisions if requested by the City. The

City may terminate this Agreement for cause if Propeller fails to provide such the requested affidavit or violates any provision of this paragraph.

**J.** ***Entire Agreement.*** This Agreement, including all incorporated documents, constitutes the final and complete agreement and understanding between the parties. All prior and contemporaneous agreements and understandings, whether oral or written, are superseded by this Agreement and are without effect to vary or alter any terms or conditions of this Agreement.

**K.** ***Exhibits.*** The following exhibits will be and are incorporated into this Agreement: Exhibit A: The New Orleans Healthy Corner Store Collaborative Program Details.

**L.** ***Jurisdiction.*** Propeller consents and yields to the jurisdiction of the State Civil Courts of the Parish of Orleans and formally waives any pleas or exceptions of jurisdiction on account of the residence of Propeller.

**M.** ***Limitations of the City's Obligations.*** The City has no obligations not explicitly set forth in this Agreement or any incorporated documents or expressly imposed by law.

**N.** ***No Expectation of Benefit or Special Treatment.*** Propeller swears that, as a result of the donation of the services that are the subject of this Agreement or otherwise, it has no expectation of benefit or special treatment with regard to other contracts or potential contracts with the City.

**O.** ***No Third Party Beneficiaries.*** This Agreement is entered into for the exclusive benefit of the parties and the parties expressly disclaim any intent to benefit anyone not a party to this Agreement.

**P.** ***Non-Exclusivity.*** This Agreement is non-exclusive and Propeller may provide services to other clients, subject to the City's approval of any potential conflicts with the performance of this Agreement and the City may engage the services of others for the provision of some or all of the work to be performed under this Agreement.

**Q.** ***Non-Solicitation Statement.*** The Contractor has not employed or retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Agreement. The Contractor has not paid or agreed to pay any person, other than a bona fide employee working for it, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from this Agreement.

**R.** ***Non-Waiver.*** The failure of either party to insist upon strict compliance with any provision of this Agreement, to enforce any right or to seek any remedy upon discovery of any default or breach of the other party at such time as the initial discovery of the existence of such noncompliance, right, default or breach shall not affect or constitute a waiver of either party's right to insist upon such compliance, exercise such right or seek such remedy with respect to that default or breach or any prior contemporaneous or subsequent default or breach.

**S.** ***Order of Documents.*** In the event of any conflict between the provisions of this Agreement any incorporated documents, the terms and conditions of the documents will apply in this order: the Agreement; Exhibit A.

**T.** ***Ownership Interest Disclosure.*** Propeller will provide the City with a sworn affidavit listing all natural or artificial persons with an ownership interest in Propeller and stating that no other person holds an ownership interest in Propeller via a counter letter. For the purposes of this provision, an "ownership interest" shall not be deemed to include ownership of stock in a publicly traded corporation or ownership of an interest in a mutual fund or trust that holds an interest in a publicly traded corporation. If Propeller fails to submit the required affidavit, the City may, after 30 days' written notice to Propeller, take such action as may be necessary to cause the suspension of any further payments until such the required affidavits are submitted.

**U.** ***Ownership of Records.*** Upon final payment, all data collected and all products of work prepared, created or modified by Propeller in the performance of this Agreement, including without limitation any and all notes, tables, graphs, reports, files, computer programs, source code, documents, records, disks, original drawings or other such material, regardless of form and whether finished or unfinished, but excluding Propeller's personnel and administrative records and any tools, systems, and information used by Propeller to perform the services under this Agreement, including computer software (object code and source code), know-how, methodologies, equipment, and processes and any related intellectual property (collectively, "Work Product") will be the exclusive property of City and the City will have all right, title and interest in any Work Product, including without limitation the right to secure and maintain any copyright, trademark, or patent of Work Product in the City's name. No Work Product may be reproduced in any form without the City's express written consent. The City may use and distribute any Work Product for any purpose the City deems appropriate without Propeller's consent and for no additional consideration to Propeller.

**V.** ***Prohibition of Financial Interest in Agreement.*** No elected official or employee of the City shall have a financial interest, direct or indirect, in this Agreement. For purposes of this provision, a financial interest held by the spouse, child, or parent of any elected official or employee of the City shall be deemed to be a financial interest of such elected official or employee of the City. Any willful violation of this provision, with the expressed or implied knowledge of Propeller, shall render this Agreement voidable by the City and shall entitle the City to recover, in addition to any other rights and remedies available to the City, all monies paid by the City to Propeller pursuant to this Agreement without regard to Propeller's otherwise satisfactory performance of the Agreement.

**W.** ***Prohibition on Political Activity.*** None of the funds, materials, property, or services provided directly or indirectly under the terms of this Agreement shall be used in the performance of this Agreement for any partisan political activity, or to further the election or defeat of any candidate for public office.

**X.** ***Remedies Cumulative.*** No remedy set forth in the Agreement or otherwise conferred upon or reserved to any party shall be considered exclusive of any other remedy available to a party. Rather, each remedy shall be deemed distinct, separate and cumulative and each may be exercised from time to time as often as the occasion may arise or as may be deemed expedient.

**Y.** ***Severability.*** Should a court of competent jurisdiction find any provision of this Agreement to be unenforceable as written, the unenforceable provision should be reformed, if possible, so that it is enforceable to the maximum extent permitted by law or, if reformation is not possible, the unenforceable provision shall be fully severable and the remaining provisions of the Agreement remain in full force and effect and shall be construed and enforced as if the unenforceable provision was never a part the Agreement.

**Z.** ***Subcontractor Reporting.*** Propeller will provide a list of all natural or artificial persons who are retained by Propeller at the time of the Agreement's execution and who are expected to perform work as subcontractors in connection with Propeller's work for the City. For any subcontractor proposed to be retained by Propeller to perform work on the Agreement with the City, Propeller must provide notice to the City within 30 days of retaining that subcontractor. If Propeller fails to submit the required lists and notices, the City may, after thirty 30 days' written notice to the Contractor, take any action it deems necessary, including, without limitation, causing the suspension of any payments, until the required lists and notices are submitted.

**AA.** ***Survival of Certain Provisions.*** All representations and warranties and all obligations concerning record retention, inspections, audits, ownership, indemnification, payment, remedies, jurisdiction, and choice of law shall survive the expiration, suspension, or termination of this Agreement and continue in full force and effect.

**BB.** ***Terms Binding.*** The terms and conditions of this Agreement are binding on any heirs, successors, transferees, and assigns.

## ARTICLE XIII - ELECTRONIC SIGNATURE AND DELIVERY

The Parties agree that a manually signed copy of this Agreement and any other document(s) attached to this Agreement delivered by email shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement. No legally binding obligation shall be created with respect to a party until such party has delivered or caused to be delivered a manually signed copy of this Agreement.

**[SIGNATURES CONTAINED ON NEXT PAGE]**

**[The remainder of this page is intentionally left blank]**

**IN WITNESS WHEREOF**, the City and Propeller, through their duly authorized representatives, execute this Agreement.

**CITY OF NEW ORLEANS**

**BY:** ______________________________
**LATOYA CANTRELL, MAYOR**

**Executed on this** 8TH **of** FEBRUARY, ~~2020~~ 2021.

**FORM AND LEGALITY APPROVED:**
**Law Department**

**By:** ______________________________

**Printed Name:** Travlaus Clark

**SOCIAL ENTREPRENEURS OF NEW ORLEANS, INC. D/B/A PROPELLER: A FORCE FOR SOCIAL INNOVATION**

**BY:** ______________________________
**ANDREA CHEN, EXECUTIVE DIRECTOR**

[redacted]
**TAX I.D.**

**[EXHIBIT A CONTAINED ON NEXT PAGES]**

**[The remainder of this page is intentionally left blank]**

## EXHIBIT A: THE NEW ORLEANS HEALTHY CORNER STORE COLLABORATIVE PROGRAM DETAILS

### *Problem*

In New Orleans:[2]

- Over 30% of adults are obese;
- Only 20.6% of adults consume five or more servings of fruits and vegetables per day;
- 40% of adults consume soft drinks daily;
- 31% of adults eat snack foods daily.

Food Availability:

- One-third of Orleans Parish lives in a classified food desert (a low-income census tract farther than half a mile from the nearest supermarket);[3]
- There are 152 corner stores in Orleans Parish alone (defined as small retail business that sell a limited variety of food and other products);[4]
- Corner stores are common in low-income settings. The food offerings at these stores are often limited with a majority of options being cheap, high-fat, high-sugar, processed foods.[5]
- A higher density of corner stores in low-income neighborhoods is associated with higher levels of obesity among adults and children;[6]

Barriers for Carrying Fresh Fruits and Vegetables:[7]

- **Cost:** fresh produce is an expensive and risky inventory item. Produce wholesalers have minimum order requirements that are often too large for corner store needs. Corner store owners are unable to order low volume/high frequency and thus are at risk of losing money due to spoilage;
- **Infrastructure:** Many corner stores lack the infrastructure needed to reduce spoilage as well as the space/displays to showcase the produce. The investment needed for additional coolers, fixtures, and shelving can be a disincentive to carry fresh produce;
- **Customer Demand:** Corner store operators must be convinced the produce will sell before carrying it. There is a perceived lack of demand for fresh fruits and vegetables.

### *Solution*

The New Orleans Healthy Corner Store Collaborative's Good to Go Program, implemented

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2 Congressional Hunger Center. (2009). Healthy corner stores for healthy New Orleans neighborhoods: a toolkit for neighborhood groups who want to take action to improve their food environment. Retrieved from http://www.healthycornerstores.org/wp-content/uploads/resources/NOLA_Healthy_Corner_Stores_Toolkit.pdf
3 USDA (2015). Food Access Research Atlas: Low income and low access layers. Retrieved from http://www.ers.usda.gov/data-products/food-access-research-atlas/go-to-theatlas.aspx
4 City of New Orleans. Open Data: NOLA Grocery Stores. Retrieved from https://data.nola.gov/Health-Education-and-Social-Services/NOLA-Grocery-Stores/fwm6-d78i
5 PolicyLink. The Grocery Gap: Who has access to healthy food and why it matters. Retrieved from http://policylink.org/sites/default/files/FINALGroceryGap.pdf
6 Bodor JN, Rice JC, Farley, TA, Swalm CM, Rose D. The association between obesity and urban food environments. *J Urban Health.* 2010;87:771-781
7 Keelia, O., Gustat, J., Rice, J., Johnson, C. (2013). Feasibility of Increasing Access to Healthy Foods in Neighborhood Corner Stores. *Journal of Community Health.* 2013;38:741-749.

by Propeller: A Force for Social Innovation, will assist a minimum of two corner store operators with purchasing, marketing, merchandizing and profit analysis. The program has been modeled after current and successful healthy corner store projects from around the country including the Urban Food Project in Birmingham, the Food Trust in Philadelphia and DC Central Kitchen in Washington, DC. The program components are evidence-based and informed by the Tulane Prevention Research Center's healthy retail research, feasibility study, and case studies of New Orleans corner stores.

Managing Risk

One of the most important aspects of the New Orleans Healthy Corner Store Collaborative is the produce order and delivery service. Propeller will order produce from a wholesaler at the required order volume, break down the orders into 5-10 count cases, and deliver this produce to corner stores bi-weekly. Corner store operators will be able to order produce by the piece versus by weight. Additionally, each store will receive an invoice credit for any piece of produce which spoils before it can be sold, for the first four months of the program or until the total credit amount reaches $150, whichever occurs first. The purpose of this spoilage credit is to remove a large financial and administrative burden from the corner store operators as they work to find the produce variety and amounts that meet their customers' needs.

Enhancing Capacity

A strong selling point of this program for corner stores will be the free infrastructure upgrades offered. Necessary equipment such as coolers, shelving, display and fixtures will be provided to enable increased sales of fresh fruits and vegetables. Level of financial investment in each store will be determined based on current store infrastructure and identified needs, demonstrated commitment to the program and pursuing identified store goals, maintaining produce displays/inventory as well as level of participation in trainings and promotional opportunities.

The technical assistance provided to participating corner store operators will serve as a crucial component of this program. Propeller will match each corner store operator with a lead business consultant who will help their store to become more profitable with efficient point of sale, accounting and inventory management systems.

Balancing Supply and Demand

To address the perceived "lack of demand" for fresh produce, the New Orleans Healthy Corner Store Collaborative will include a strong health marketing campaign. Signage and health marketing materials will be placed in the interior and exterior of stores along with nutrition education materials and recipe cards. Similarly, produce "tastings" and nutrition education presentations will be occurring at each store, if they can be executed in accordance with current public health guidance on public gatherings and food safety measures. These marketing components are derived from evidenced based strategies which have been proven to motivate shoppers to buy healthier foods.[8]

Leveraging Local Partnerships

The Healthy Corner Store program will be implemented with partners such as Top Box New

8 Moore, L., Pinard, C., Yaroch, A. (2016). Features in Grocery Stores that Motivate Shoppers to Buy Healthier Foods. Journal of Community Health. 2016: 41:812-817

Orleans while using existing community infrastructure for cold storage space and produce distribution (anticipated to be managed by Liberty's Kitchen). There will be a strong commitment to community outreach and engagement. Through efforts by Propeller, the City of New Orleans, and other partners including schools, community centers, and nonprofits, the Healthy Corner Store Program will gain entry to areas and communities that would otherwise be hard to access.

Equitable Access

This program will promote food equity by making fresh healthy foods more accessible in underserved areas of New Orleans. The various components of food access include the physical food environment (availability, quality, proximity, and transportation) the economic environment (food affordability) and the sociocultural environment (food literacy and necessary cooking skills). Deficit/inequities in any of these elements can have detrimental effects on community health. The Healthy Corner Store program will address each of these components in the following ways:

- Creating an alternative distribution system for corner store owners will allow for increased availability of fresh produce in areas of "low-access" in New Orleans;
- Produce will be sold at appealing price points for corner store customers. Additionally, corner store shoppers will save time and money (opportunity cost) by shopping at a location at closer proximity to their home;
- With increased access to fresh healthy foods, community members will have more autonomy over their nutrition behaviors leading to an increase in food sovereignty;
- Through a strong health marketing campaign, cooking demos, recipe distribution and in-store tastings, this program will increase a community's knowledge and skills needed to prepare healthy meals at home

Economic Impact

Failure to act to address food inequities is not only harmful to individual health, but it also has long term economic effects on the community. The direct and indirect costs associated with obesity-related chronic disease can be costly. The Healthy Corner Store program will increase community health while stimulating the local economy in the following ways: [9]

- Supporting small minority-owned businesses;
- Owners of small corner stores are increasingly turning to fresh fruit and vegetable sales as a means to increase their bottom line. Fresh goods often have a higher profit margin than shelf stable snack foods and canned goods;
- Job creation for local residents;
- Capturing local dollars that would otherwise be spent outside the community (additional tax revenue);
- Supporting local farmers;
- Neighborhood revitalization through serving as a retail anchor.

The Good to Go Program

9 Food Trust. (2011). Healthy Corner Stores Issue Brief: Healthy Corner Stores as an Economic Development Strategy. Retrieved from http://thefoodtrust.org/uploads/media_items/winter2011issuebrief.original.pdf

A minimum of two New Orleans corner stores will participate in the 2020 program. A community advisory committee will support with store identification, evaluation and selection. The advisory committee will also make an effort to select stores from the various City Council Districts.

- Stores will be evaluated using following criteria:
  - Location- priority will be given to stores located in a food desert/low access area
  - SNAP/WIC authorized retailer- priority will be given to stores who are authorized to accept SNAP/WIC benefits
  - Interest in participation
  - Capacity to participate
  - Interest in health of surrounding community
  - Level of involvement with the community
  - Store owner presence minimum 50% of time
  - Clean store (interior and exterior)
  - Less than 50% of sales are tobacco and alcohol
  - Willingness to share sales data

The corner store must also agree to participation requirements which will include commitment to stock a minimum level of fresh produce, commitment to display marketing materials, program signage and product/pricing labels, agreement to participate in technical assistance and training sessions, etc. This commitment will be secured via a Memorandum of Understanding between the corner store and Propeller.

Defining Success

At the end of the program, participating corner stores will have accomplished the following:

- Increased their fresh fruit and vegetable offerings;
- Increased the visibility and attractiveness of fresh fruit and vegetable offerings;
- Increased their knowledge about order, handling and marketing of fresh produce;
- Increased sales of fresh produce items; and
- Once spoilage credit period ends, corner store operators will be empowered to continue ordering produce from the Healthy Corner Store program.

**[END OF AGREEMENT]**