TEXAS DEPARTMENT OF AGRICULTURE
AND
US FOODS INC. (US FOODS)

ANNUAL AMENDMENT, 2020-2021
COMMERCIAL DELIVERY AND DISTRIBUTION OF USDA FOODS AGREEMENT
Region 6

I PARTIES

The parties to this amendment (Amendment) are the Texas Department of Agriculture (TDA), an agency of the State of Texas, and US Foods Inc. (Contractor), (collectively referred to as the "parties"), under the agreement (Contract) entered into for delivery and warehousing of United States Department of Agriculture (USDA) foods.

II PURPOSE

The purpose of this Amendment is to revise and extend the Contract awarded under TDA Request for Proposals (RFP) No. 551-6-03933 to Contractor for warehousing and delivery of USDA Foods donated by the United States Department of Agriculture (USDA). Contractor shall perform all of the services, functions, and duties required by the Contract and TDA RFP No. 551-6-03933, as further described in Contractor's Proposal submitted in response to the RFP, all of which are incorporated by reference herein the same as if fully copied and set forth at length.

III CONTRACT DOCUMENTS

This Amendment incorporates by reference and amends the Contract, TDA RFP No. 551-6-03933 dated January 7, 2016, as well as Contractor's response to the RFP, hereafter referred to collectively as the "Contract."

IV. RATE SCHEDULE AND PAYMENT UNDER THE CONTRACT

There will be no direct funding provided from TDA to Contractor under the Contract or this Amendment. Contractor shall be paid by the applicable regional Contracting Entity (CE) according to the approved specified rates for the region quoted in Contractor's Price Proposal for Bid Region, which was attached to and incorporated into the Contract for all purposes. Contractor shall store and deliver USDA Foods, pursuant to the Contract, at the rates listed in this Amendment. Rates are based on the Consumer Price Index (CPI) for February 2020. Rate increases based on the CPI are pursuant to Section 1.6 – R of the RFP.

a. Contractor rate to deliver USDA Foods is Rate Schedule 5, which will be provided to Contractor by TDA.
b. The per-case price for pick up is $1.05.
c. The monthly price for private storage (after 45 days of allocation without delivery) of USDA Foods and processed private storage is:
    1. For Dry Foods: $1.20 per case
    2. For Chilled Foods: $1.20 per case
    3. For Frozen Foods: $1.20 per case

V. FEES AND RATES

Contractor shall receive, store and deliver USDA Foods, pursuant to all terms and conditions, governing rates and fees stated in the Contract as provided in RFP Contract No. 551-16-FN-C1031.

If there is any conflict or inconsistency among terms, the Contract as amended, followed by TDA's RFP terms and conditions, shall control.

VI. PERFORMANCE BOND/ INSURANCE

The Contract is hereby amended by adding the following bonding or insurance requirement: within thirty (30) days, the Contractor will procure a Performance Bond or insurance to cover the value of the USDA Foods. If the Contractor is securing a Performance Bond, it must be through a surety company licensed to do business in the state of Texas with all fees current. The Contractor shall submit such a bond or insurance to TDA. The estimated monthly value of USDA Foods for the last completed program year in Region 6 was $466,371.

VII. TERM

Pursuant to this Amendment, the Contract is hereby renewed for a term of one year beginning June 1, 2020 and ending May 31, 2021. The Contract may be terminated by either party upon written notification least 60 days prior to the effective date of termination, or as provided for in the Contract. Additional renewal options are as set forth in the original Contract and RFP and are hereby incorporated into this Amendment and Contract for all purposes.

VIII. FORCE AND EFFECT

Except as amended herein, the Contract shall remain in full force and effect throughout the above-referenced term.

IX. EFFECTIVE WHEN EXECUTED

This Amendment is not effective unless and until it is signed by authorized representatives of TDA and Contractor.

X. NO WAIVER

The parties agree that the execution of this amendment does not waive any requirements, terms or conditions of the Contract, or any other independent benefits, rights, remedies, or other claims which may be available to TDA or the state, whether legal or equitable.

Accepted and agreed:

TEXAS DEPARTMENT OF AGRICULTURE

Catherine Wright-Steele

for Angela Olige
Assistant Commissioner
Food & Nutrition

Date: 5.14.2020

US FOODS INC.

By: John Frankhouser

Name: JOHN FRANKHOUSER

Title: VP OPERATIONS

Date: MAY 7th 2020