

**TEXAS DEPARTMENT OF AGRICULTURE
AND
El Pasoans Fighting Hunger**

**ANNUAL AMENDMENT, 2022-2023
COMMERCIAL DELIVERY AND DISTRIBUTION OF USDA FOODS AGREEMENT
Region 7**

I. PARTIES

The parties to this amendment (Amendment) are the Texas Department of Agriculture (TDA), an agency of the State of Texas, and El Pasoans Fighting Hunger, a Texas corporation (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. 551-20-00488 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 Contract No. 551-20-00488-G-00-FN, 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 TDA RFP Contract No. 551-21-00488-G-00-FN dated April 23, 2021, 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 2022. Rate increases based on the CPI are pursuant to Section H-Annual Automatic Fee Adjustment of the RFP.

- a. Contractor rate to deliver USDA Foods will be provided to Contractor by TDA.
- b. The per-case price for pick up is \$1.40.
- 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: \$0.90 per case
 2. For Chilled Foods: \$0.95 per case
 3. For Frozen Foods: \$1.00 per case

V. CONFLICT OF TERMS

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

VI. LIABILITY INSURANCE OR PERFORMANCE BOND

Within thirty (30) days, the Contractor will procure Liability Insurance or a Performance Bond, through a surety company licensed to do business in the state of Texas with all fees current. Contractor shall submit such a bond or insurance to TDA. The Performance Bond or Liability Insurance amount for each contracted region must cover the value of the USDA Foods. The estimated monthly value of USDA Foods for the last completed program year in Region 7 was \$62,599.29.

VII. TERM

Pursuant to this Amendment, the Contract is hereby renewed for a term of one year beginning June 1, 2022 and ending May 31, 2023. 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

BY: Lena Wilson
Lena Wilson
Assistant Commissioner
Food & Nutrition

Date: 4-14-22

EL PASOANS FIGHTING HUNGER

BY: Thomas V Cihonski
Name: Thomas V Cihonski
Title: COO

Date: 3/29/22