

EXHIBIT
"A"

**CITY OF ROUND ROCK
AGREEMENT FOR THE PURCHASE OF
FOOD AND FOOD SERVICE EQUIPMENT
WITH
US FOODS, INC.**

THE STATE OF TEXAS §
CITY OF ROUND ROCK § **KNOW ALL BY THESE PRESENTS:**
COUNTY OF WILLIAMSON §
COUNTY OF TRAVIS §

THAT THIS Agreement for the purchase of food and food service equipment (referred to herein as the "Agreement"), is made and entered into on this the ____ day of the month of _____, 2021, by and between the CITY OF ROUND ROCK, TEXAS, a home-rule municipality whose offices are located at 221 East Main Street, Round Rock, Texas 78664 (referred to herein as the "City") and US FOODS, INC., whose offices are located at 9399 West Higgins Road, Suite 800, Rosemont, Illinois 60019 (referred to herein as the "Vendor").

RECITALS:

WHEREAS, City desires to purchase food and food service equipment and related services needed for the maintenance of City owned vehicles; and

WHEREAS, City is a member of Sourcewell Cooperative and Vendor is an approved Sourcewell vendor; and

WHEREAS, the City desires to purchase certain goods and services from Vendor through Sourcewell Cooperative Contract No. 112917-USF to receive pricing and services as set forth herein; and

WHEREAS, the parties desire to enter into this Agreement to set forth in writing their respective rights, duties, and obligations;

NOW, THEREFORE, WITNESSETH:

That for and in consideration of the mutual promises contained herein and other good and valuable consideration, sufficiency and receipt of which are hereby acknowledged, it is mutually agreed between the parties as follows:

1.01 DEFINITIONS

A. **Agreement** means the binding legal contract between City and Vendor whereby City agrees to buy specified goods and/or services and Vendor is obligated to provide said goods/services. The Agreement includes any exhibits, addenda, and/or amendments thereto.

B. **City** means the City of Round Rock, Williamson and Travis Counties, Texas.

C. **Effective Date** means the date upon which the binding signatures of both parties to this Agreement are affixed.

D. **Force Majeure** means acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind from the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, restraint of the government and the people, civil disturbances, explosions, or other causes not reasonably within the control of the party claiming such inability.

E. **Goods and services** mean the specified services, supplies, materials, commodities, or equipment.

2.01 EFFECTIVE DATE AND TERM

A. This Agreement shall be effective on the date it has been signed by both parties hereto, and shall remain in full force and effect, unless and until it expires by operation of the term stated herein, or until terminated as provided herein.

B. The term of this Agreement shall be from the effective date of the Agreement until January 22, 2023. City reserves the right to review the relationship at any time, and may elect to terminate this Agreement, with or without cause, or may elect to continue.

3.01 CONTRACT DOCUMENTS AND EXHIBITS

City selected Vendor to supply the goods and services as outlined in Exhibit "A," attached hereto and incorporated herein by reference.

The goods and services which are the subject of this Agreement are described in Exhibit "A" and, together with this Agreement and the Addendum to this Agreement, attached hereto as Exhibit "B," and incorporated herein by reference, comprise the Contract Documents.

4.01 ITEMS AWARDED AND SCOPE OF WORK

When taken together with the appended exhibit, this Agreement shall evidence the entire understanding and agreement between the parties and shall supersede any prior proposals, correspondence or discussions. Vendor shall satisfactorily provide all goods and services described under the attached Exhibit "A" at the sole request of the City. Vendor provide goods and services in accordance with this Agreement, in accordance with the appended exhibits, in accordance with due care, and in accordance with prevailing industry standards for comparable services.

5.01 COSTS

A. City agrees to pay for goods during the term of this Agreement at the pricing set forth in Exhibit "A."

B. The City is authorized to pay the Vendor an amount not-to-exceed **One Hundred Forty Thousand and No/100 Dollars (\$140,000.00)** for the term of this Agreement.

6.01 INVOICES

All invoices shall include, at a minimum, the following information:

A. Name and address of Vendor;

B. Purchase Order Number;

C. Description and quantity of items received or services provided; and

A. Delivery or performance dates.

7.01 NON-APPROPRIATION AND FISCAL FUNDING

This Agreement is a commitment of City's current revenues only. It is understood and agreed that City shall have the right to terminate this Agreement at the end of any City fiscal year if the governing body of City does not appropriate funds sufficient to purchase the services as determined by City's budget for the fiscal year in question. City may affect such termination by giving Vendor a written notice of termination at the end of its then current fiscal year.

8.01 PROMPT PAYMENT POLICY

In accordance with Chapter 2251, V.T.C.A., Texas Government Code, payment to Vendor will be made within thirty (30) days of the day on which City receives the performance, supplies, materials, equipment, and/or deliverables, or within thirty (30) days of the day on which the performance of services was complete, or within thirty (30) days of the day on which City receives a correct invoice for the performance and/or deliverables or services, whichever is later. Vendor may charge interest on an overdue payment at the "rate in effect" on September 1 of the fiscal year in which the payment becomes overdue, in accordance with V.T.C.A., Texas Government Code, Section 2251.025(b); however, this Policy does not apply to payments made by City in the event:

A. There is a bona fide dispute between City and Vendor, a contractor, a subcontractor or supplier about the goods delivered or the service performed that cause the payment to be late; or

- B. The terms of a federal contract, grant, regulation, or statute prevent City from making a timely payment with federal funds; or
- C. There is a bona fide dispute between Vendor and a subcontractor or between a subcontractor and its supplier about the goods delivered or the service performed that causes the payment to be late; or
- B. Invoices are not mailed to City in strict accordance with instructions, if any, on the purchase order or the Agreement or other such contractual agreement.

9.01 GRATUITIES AND BRIBES

City may, by written notice to Service Provider, cancel this Agreement without liability to Vendor if it is determined by City that gratuities or bribes in the form of entertainment, gifts, or otherwise were offered or given by Vendor or its agents or representatives to any City officer, employee or elected representative with respect to the performance of this Agreement. In addition, Vendor may be subject to penalties stated in Title 8 of the Texas Penal Code.

10.01 TAXES

City is exempt from Federal Excise and State Sales Tax; therefore, tax shall not be included in Service Provider's charges.

11.01 ORDERS PLACED WITH ALTERNATE SERVICE PROVIDERS

If Vendor cannot provide the goods as specified, City reserves the right and option to obtain the products or services from another supplier or suppliers.

12.01 INSURANCE

Vendor shall meet all requirements required by the City as set forth at:
https://www.roundrocktexas.gov/wp-content/uploads/2014/12/corr_insurance_07.20112.pdf

13.01 CITY'S REPRESENTATIVE

City hereby designates the following representatives authorized to act in its behalf with regard to this Agreement:

Chad McKenzie
Director of Sports Management and Tourism
221 East Main Street
Round Rock, Texas 78664
(512) 218-5488
cmckenzie@roundrocktexas.gov

14.01 RIGHT TO ASSURANCE

Whenever either party to this Agreement, in good faith, has reason to question the other party's intent to perform hereunder, then demand may be made to the other party for written assurance of the intent to perform. In the event that no written assurance is given within the reasonable time specified when demand is made, then and in that event the demanding party may treat such failure as an anticipatory repudiation of this Agreement.

15.01 DEFAULT

If Vendor abandons or defaults under this Agreement and is a cause of City purchasing the specified goods elsewhere, Vendor agrees that it may be charged the difference in cost, if any, and that it will not be considered in the re-advertisement of the service and that it may not be considered in future bids for the same type of work unless the scope of work is significantly changed.

Vendor shall be declared in default of this Agreement if it does any of the following:

- A. Fails to make any payment in full when due;
- B. Fails to fully, timely and faithfully perform any of its material obligations under this Agreement;
- C. Fails to provide adequate assurance of performance under the "Right to Assurance" section herein; or
- D. Becomes insolvent or seeks relief under the bankruptcy laws of the United States.

16.01 TERMINATION AND SUSPENSION

A. City has the right to terminate this Agreement, in whole or in part, for convenience and without cause, at any time upon thirty (30) days' written notice to Vendor.

B. In the event of any default by Vendor, City has the right to terminate this Agreement for cause, upon ten (10) days' written notice to Vendor.

C. Vendor has the right to terminate this Agreement only for cause, that being in the event of a material and substantial breach by City or by mutual agreement to terminate evidenced in writing by and between the parties.

D. In the event City terminates under subsections (A) or (B) of this section, the following shall apply: Upon City's delivery of the referenced notice to Vendor, Vendor shall discontinue all services in connection with the performance of this Agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such orders and contracts are chargeable to this Agreement. Within thirty (30) days after such notice of termination, Vendor

shall submit a statement showing in detail the goods and/or services satisfactorily performed under this Agreement to the date of termination. City shall then pay Vendor that portion of the charges, if undisputed. The parties agree that Vendor is not entitled to compensation for services it would have performed under the remaining term of the Agreement except as provided herein.

17.01 INDEMNIFICATION

Vendor shall defend (at the option of City), indemnify, and hold City, its successors, assigns, officers, employees and elected officials harmless from and against all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees, and any and all other costs or fees arising out of, or incident to, concerning or resulting from the fault of Service Provider, or Service Provider's agents, employees or subcontractors, in the performance of Vendor's obligations under this Agreement, no matter how, or to whom, such loss may occur. Nothing herein shall be deemed to limit the rights of City or Vendor (including, but not limited to the right to seek contribution) against any third party who may be liable for an indemnified claim.

18.01 COMPLIANCE WITH LAWS, CHARTER AND ORDINANCES

A. Vendor, its agents, employees and subcontractors shall use best efforts to comply with all applicable federal and state laws, the Charter and Ordinances of the City of Round Rock, as amended, and with all applicable rules and regulations promulgated by local, state and national boards, bureaus and agencies.

B. In accordance with Chapter 2271, Texas Government Code, a governmental entity may not enter into a contract with a company for goods and services unless the contract contains written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The signatory executing this Agreement on behalf of Vendor verifies Vendor does not boycott Israel and will not boycott Israel at any time during the term of this Agreement.

19.01 ASSIGNMENT AND DELEGATION

The parties each hereby bind themselves, their successors, assigns and legal representatives to each other with respect to the terms of this Agreement. Neither party shall assign, sublet or transfer any interest in this Agreement without prior written authorization of the other party.

20.01 NOTICES

All notices and other communications in connection with this Agreement shall be in writing and shall be considered given as follows:

1. When delivered personally to the recipient's address as stated in this Agreement;
or

2. Three (3) days after being deposited in the United States mail, with postage prepaid to the recipient's address as stated in this Agreement.

Notice to Vendor:

US Foods, Inc.
9399 West Higgins Road, Suite 800
Rosemont, IL 60018

Notice to City:

City Manager
221 East Main Street
Round Rock, TX 78664

AND TO: Stephen L. Sheets, City Attorney
309 East Main Street
Round Rock, TX 78664

Nothing contained herein shall be construed to restrict the transmission of routine communications between representatives of City and Vendor.

21.01 APPLICABLE LAW; ENFORCEMENT AND VENUE

This Agreement shall be enforceable in Round Rock, Texas, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for same shall lie in Williamson County, Texas. This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

22.01 EXCLUSIVE AGREEMENT

This document, and all appended documents, constitutes the entire Agreement between Vendor and City. This Agreement may only be amended or supplemented by mutual agreement of the parties hereto in writing, duly authorized by action of the City Manager or City Council.

23.01 DISPUTE RESOLUTION

City and Vendor hereby expressly agree that no claims or disputes between the parties arising out of or relating to this Agreement or a breach thereof shall be decided by any arbitration proceeding, including without limitation, any proceeding under the Federal Arbitration Act (9 USC Section 1-14) or any applicable state arbitration statute.

24.01 SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or

provision held to be void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

25.01 MISCELLANEOUS PROVISIONS

Standard of Care. Vendor represents that it employs trained, experienced and competent persons to perform all of the services, responsibilities and duties specified herein and that such services, responsibilities and duties shall be performed in a manner according to generally accepted industry practices.

Time is of the Essence. Vendor understands and agrees that time is of the essence and that any failure of Vendor to fulfill obligations for each portion of this Agreement within the agreed timeframes will constitute a material breach of this Agreement. Vendor shall be fully responsible for its delays or for failures to use best efforts in accordance with the terms of this Agreement. Where damage is caused to City due to Service Provider's failure to perform in these circumstances, City may pursue any remedy available without waiver of any of City's additional legal rights or remedies.

Force Majeure. Neither City nor Vendor shall be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder by reasons for which it is not responsible as defined herein. However, notice of such impediment or delay in performance must be timely given, and all reasonable efforts undertaken to mitigate its effects.

Multiple Counterparts. This Agreement may be executed in multiple counterparts, any one of which shall be considered an original of this document; and all of which, when taken together, shall constitute one and the same instrument.


[Signatures on the following page.]

IN WITNESS WHEREOF, City and Vendor have executed this Agreement on the dates indicated.

City of Round Rock, Texas

By: _____
Printed Name: _____
Title: _____
Date Signed: _____

US Foods, Inc.

By: 
Printed Name: Theresa Madden
Title: VP National Sales Vizient
Date Signed: December 2, 2021

Attest:

By: _____
Meagan Spinks, City Clerk

For City, Approved as to Form:

By: _____
Stephan L. Sheets, City Attorney

Exhibit "A"

Pricing, Delivery, Audits, and Administrative Fee

- 7) Provide a general narrative description of the equipment/products and related services you are offering in your proposal.

As the current awarded distributor for NJPA's food contract, US Foods is honored to respond to this RFP. US Foods offers more than 400,000 national brand products to more than 250,000 customers, including government and educational institutions, healthcare and hospitality entities and independent and multi-unit restaurants. We are a

US Foods-NJPA

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Exhibit "A"

broadline (food and food related equipment and supplies) distributor offering value and variety for all classes of trade noted above.

Our mission is to be ***First In Food***. We strive to inspire and empower chefs and foodservice operators to bring great food experiences to their customers and students. This mission is supported by our ***strategy of Great Food. Made Easy***. It centers on providing a broad and innovative offering of high-quality products to our customers, as well as a comprehensive suite of industry-leading e-commerce, technology and business solutions. Our scale gives us the ability to serve customers nationwide with a highly efficient distribution network and centralized business processes. As we say on our trucks, we are ***Keeping Kitchens Cooking*** across America.

To provide maximum savings and enhanced qualitative offerings for NJPA members, our proposal utilizes Vizient's Distributor Agreement through National IPA. NJPA members may also have access to other programs through National IPA and its relationships with affiliates, subsidiaries, channel partners, and purchasing partners (collectively, "National IPA"), which includes but is not limited to Vizient's Distributor Agreement awarded to US Foods. Procurement costs are significantly reduced through awarded Manufacturer Agreements (MA). Leveraging more than \$100 Billion in customer purchasing power results in the country's largest, most competitive, and extensive manufacturer contract portfolio. Our proposal also offers many exclusive value added tools and business solutions, focused on customer success and satisfaction. NJPA members utilizing the cooperative contract resulting from this RFP award will be given a National IPA ID providing access to the programs available through National IPA including the Vizient pricing and manufacturer agreements as stated in our proposal. There are no fees or volume commitment associated with National IPA access.

- 8) Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the NJPA discounted price) on all of the items that you want NJPA to consider as part of your RFP response. Provide a SKU for each item in your proposal. (Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract. See the body of the RFP and the Price and Product Change Request Form for more detail.)

US Foods' Pricing Model:

US Foods uses a Delivered Price Plus Markup Methodology (commonly referred to as Cost Plus % markup or fee/cs). All products purchased by participating NJPA member are covered by a firm markup by category. Our price model is delivered price plus fee per case for K-12, and Preschool when required, and delivered price plus % markup for all other classes of trade. US Foods calculates the price at which we sell each product under this RFP to NJPA members, with either a fee per case or a percentage mark up, using the following definitions and calculations.

Exhibit "A"

Product Category	Fee/Cs Over	Fee/Cs Under	Fee/Cs Over	Fee/Cs Under	Fee/Cs Over	Fee/Cs Under	Fee/Cs Over	Fee/Cs Under	Fee/Cs Under	Fee/Cs Under
	\$2500	\$2500	\$2500 \$1M+	\$2500 \$1M+	\$2500 \$2M+	\$2500 \$2M+	\$2500 \$3M+	\$2500 \$3M+	\$2500 \$3M+	\$2500 \$5M+
Boxed Meats	\$2.11	\$3.02	\$2.05	\$2.96	\$2.02	\$2.88	\$1.97	\$2.88	\$2.84	\$1.93
Coffee (Inc Frz)	\$3.05	\$3.24	\$2.99	\$3.68	\$2.96	\$3.60	\$2.91	\$3.60	\$3.56	\$2.87
Dairy	\$1.74	\$2.02	\$1.68	\$1.96	\$1.65	\$1.88	\$1.60	\$1.88	\$1.84	\$1.56
Disposable Cutlery	\$1.05	\$1.12	\$1.00	\$1.06	\$0.97	\$0.98	\$0.92	\$0.98	\$0.94	\$0.88
Disposables	\$2.52	\$2.87	\$2.46	\$2.81	\$2.43	\$2.73	\$2.38	\$2.73	\$2.69	\$2.34
Dry/Refrg Goods	\$1.62	\$1.73	\$1.56	\$1.67	\$1.53	\$1.59	\$1.48	\$1.59	\$1.55	\$1.44
Foam Trays	\$1.75	\$1.99	\$1.69	\$1.93	\$1.66	\$1.85	\$1.61	\$1.85	\$1.81	\$1.57
Fresh/Frozen Poultry, Seafood, Beef, Pork, Deli Meats (Ext Boxed)	\$2.08	\$2.23	\$2.02	\$2.17	\$1.99	\$2.09	\$1.94	\$2.09	\$2.05	\$1.90
Frozen Goods	\$2.57	\$2.73	\$2.51	\$2.67	\$2.48	\$2.59	\$2.43	\$2.59	\$2.55	\$2.39
Frozen Juice	\$1.06	\$1.19	\$1.00	\$1.13	\$0.97	\$1.05	\$0.92	\$1.05	\$1.01	\$0.88
Frozen Potatoes	\$1.62	\$1.86	\$1.56	\$1.80	\$1.53	\$1.72	\$1.48	\$1.72	\$1.68	\$1.44
Portion control condiments	\$1.06	\$1.20	\$1.00	\$1.14	\$0.97	\$1.06	\$0.92	\$1.06	\$1.02	\$0.88
Produce	\$1.84	\$2.11	\$1.78	\$2.05	\$1.75	\$1.97	\$1.70	\$1.97	\$1.93	\$1.66
Frozen Vegetables	\$1.62	\$1.89	\$1.56	\$1.83	\$1.53	\$1.75	\$1.48	\$1.75	\$1.71	\$1.44
Shell Eggs	\$2.41	\$2.64	\$2.35	\$2.58	\$2.32	\$2.50	\$2.27	\$2.50	\$2.46	\$2.23
Processed Eggs (Refrg and Froz)	\$1.62	\$2.05	\$1.56	\$1.99	\$1.53	\$1.91	\$1.48	\$1.91	\$1.87	\$1.44
<i>The categories below are industry accepted as % mark up.</i>										
Foodservice Chemicals	12.05%	13.60%	11.77%	13.32%	11.60%	13.15%	11.38%	12.92%	12.75%	11.21%
Smallwares/Equipment	11.00%	11.00%	10.72%	10.72%	10.56%	10.56%	10.34%	10.34%	10.17%	10.17%
Equipment (single items >\$1,000)	8.00%	8.00%	7.73%	7.73%	7.57%	7.57%	7.35%	7.35%	7.20%	7.20%

Product Category	C&U/Healthcare over 2500	C&U/Healthcare under 2500	Preschool over \$1,000	Preschool under \$1,000
Boxed Meats	4.65%	6.10%	6.10%	10.04%
Coffee (Inc Frz)	8.05%	9.80%	9.80%	13.54%
Dairy	6.55%	8.10%	8.10%	12.04%
Disposables	9.65%	10.15%	11.10%	16.04%
Dry/Refrg Goods	7.65%	8.15%	9.10%	13.04%
Foodservice Chemicals	12.05%	13.80%	13.80%	17.54%
Fresh/Frozen Poultry, Seafood, Beef, Pork, Deli Meats (Ext Boxed)	6.55%	7.16%	8.10%	12.04%
Frozen Goods	8.65%	9.16%	10.10%	14.04%
Frozen Juice	6.55%	8.10%	8.10%	12.04%
Nutritionals	4.65%	6.10%	6.10%	10.04%
Produce	8.05%	9.80%	9.80%	13.54%
Frozen Vegetables	7.65%	9.10%	9.10%	13.04%
Shell Eggs	8.05%	9.80%	9.80%	13.54%
Processed Eggs (Refrg and Froz)	7.65%	9.10%	9.10%	13.04%
Smallwares/Equipment	11.00%	11.00%	11.00%	11.00%
Equipment (single items >\$1,000)	8.00%	8.00%	8.00%	8.00%

Exhibit "A"

Sell Price:

Sell Price is the price at which we will sell products to NJPA members. US Foods' customers are responsible for all customs, duties, fees, taxes or other payment for such products.

The sell price of each product priced under this agreement will equal (a) the delivered price of such product, plus (b) the percentage markup or fee per case markup on the Distribution Markup Schedule for the product category, less (c) off-invoice discounts or off-invoice allowances. For those NJPA members that require a fee per case mark up, the Sell Price is calculated as follows: $\text{Sell Price} = \text{Delivered Price} + \text{fee per case}$. For those NJPA members that require a percentage mark up, the Sell Price is calculated as follows: $\text{Sell Price} = \text{Delivered Price} \times (1 + \text{Mark-Up})$.

Example Fee/Cs Sell Price	
Distributor Delivered Price	\$31.00
Manufacturer Agreement Discount	-\$6.20
Distributor Discounted Delivered Price	\$24.80
Fee Per Case	\$1.44
Member Invoiced Sell Price	\$26.24

The price to participating members for all products sold under this agreement (the "Sell Price") will be calculated on the basis of delivered price to US Foods. For the purposes of this agreement, "delivered price" to US Foods is defined as follows:

- In the case of contract products, the amount provided in the applicable supplier agreement as the national or regional contract price to be billed to members without the subtraction for cash discounts allowed by suppliers for prompt payment and prior to the addition of the markup.
- In the case of non-contract products, the manufacturer's (supplier, packer or any other vendor) delivered price on the manufacturer's invoice, if available from manufacturer, or unit price FOB manufacturer's dock plus standard freight (as hereinafter defined) to USF's distribution center, less off-invoice discounts or off-invoice allowances (to mean manufacturer-generated discounts or allowances on particular items for set periods of time, which are specifically reflected on the invoice).
- Where a participating member, or USF on behalf of a participating member, has determined a price for any product directly with its supplier, the delivered price for all such products shall be that determined price.

Standard freight, in those cases where the invoice cost to the delivering primary ordering location is not a delivered price, means a reasonable freight charge to transport a product from the supplier to the primary ordering location based on market tariff conditions. Freight charges may include common or contract carrier charges imposed by the manufacturer (supplier, packer or any other vendor) or a carrier or charges billed by USF's freight management service. Standard freight for any product will not exceed (a) the manufacturer freight price normally payable by the Authorized Distributor distribution center for inbound shipments of regular quantity requirements of such products for such distribution center that would have been paid had freight not been managed by USF or its affiliates; or (b) if there is no manufacturer price, an average price based on market conditions for freight in the same market for the same type of freight service for like products, shipping methods and quantities, which may include consideration of standard tariff rates.

We also earn income and profit from value-added services we provide, such as regional and national marketing, freight management, procurement leverage, consolidated warehousing, quality assurance, and performance

Exhibit "A"

based product marketing. We also receive income and make a profit from the sale of our Exclusive Brand Products, from our Suppliers through promotional allowances, cash discounts, prompt pay discounts, growth programs, and from other transactional payments and our management of competitive conditions. All of this income and profit is referred to as "Earned Income." We may negotiate or set the invoice price and amount of earned income we receive from our Suppliers. The Sell Price is not adjusted for Earned Income.

Due to the added handling and damage costs associated with handling less than full cases of the product, a special handling charge of 1 percent will be added to the markup of all products sold by individual container or in less than full cases. This special handling charge will be applied to the markup as defined above.

Delivered Price:

The Delivered Price refers to our Supplier's invoice or quote, which may include a transportation fee for inbound shipment to our distribution center. For purposes here of, "Supplier" means manufacturers, vendors, suppliers, packers, brokers, redistributors, consolidators, transaction service providers and USF business units and affiliates. When our Supplier's invoice or quote does not include a fee for transporting products, Delivered Price will include compensation to us for inbound shipment to our distribution centers and, in such situations, the transportation fee will not exceed the average market freight price, for comparable products, shipping methods and quantities. We may use our logistics expertise to manage freight and consolidate orders and may earn income and profit from those freight management activities; provided that Delivered Price will not exceed the f.o.b. origin unit price plus the transportation fee for inbound shipments to our distribution center that would have been payable at the quantities ordered had we not managed freight.

For products sold under trademarks owned and licensed by us ("Exclusive Brand Products"), Delivered Price may be calculated based on our published price list plus any applicable service charge. If there is a national agreement between us and a Supplier that specifies the price we must charge our customers for certain products, the Sell Price, which is the price at which we will sell products to you, will be governed by such national agreements. Delivered Price will include any duties, taxes or fees we are charged by a Supplier. All manufacturer's discounts on the face of the invoice or that are otherwise designated by a Supplier to be passed on to you will be applied when determining the Sell Price. Delivered Price is a price, not an actual product cost, and may include Earned Income. "Earned Income" is the income and profit we make from value-added services we provide, such as regional and national marketing, freight management, procurement leverage, consolidated warehousing, quality assurance, and performance based product marketing. We also receive income and make a profit from the sale of our Exclusive Brand Products, from our Suppliers through promotional allowances, cash discounts, prompt pay discounts, growth programs, and from other transactional payments and our management of competitive conditions. All of this income and profit is referred to as "Earned Income." We may negotiate or set the invoice price and amount of earned income we receive from our Suppliers. The Sell Price is not adjusted for Earned Income.

Changes in Cost Indices:

For customers requiring a fee per case mark up, the fee will be reviewed on an annual basis and will be adjusted to reflect changes in the Consumer Price Index (CPI-U). We understand and will comply with the NJPA guidelines for price change communication.

Price Change Frequency:

US Foods will provide all customers with an order guide listing current prices for products at the beginning of each month during the term of the awarded contract. The price for each product will be determined based on the above formula at the time the order guide is prepared and sent to customers, and will be subject to weekly updates in the product categories listed below.

Exhibit "A"

<u>Weekly</u>	<u>Weekly</u>	<u>Monthly</u>
Beef, Veal	Mayonnalse	Disposables, Dry Goods
Cheese	Oils & Shortenings	Refrigerated Items
Coffee	Orange Juice	Foodservice Chemicals
Dairy, Shell Eggs	Pork & Poultry	Frozen Goods, Frozen Juice
Flour, Rice, Sugar	Produce	Nutritionals
Lamb, Spec. Meats	Seafood	Small Wares/Equipment

Stock Keeping Units:

US Foods provides approximately 400,000 fresh, frozen, and dry food stock-keeping units, or SKUs, as well as non-food items, sourced from over 5,000 suppliers, which are available for review on usfoods.com to customers based on the servicing division. Due to the number of items we make available restricts our ability to provide these items within the context of this response.

- 9) Please quantify the discount range presented in this response. For example, indicate that the pricing in your response represents is a 50% percent discount from the MSRP or your published list.

US Foods' pricing model is not based on a discount from MSRP/published list. As stated above in question 8, our price model is delivered price plus fee per case for K-12, and Preschool when required, and delivered price plus % markup for all other classes of trade. Through National IPA, members will have access to 250+ manufacturer agreements with average discounts of 20%.

- 10) The pricing offered in this proposal is

- a. the same as the Proposer typically offers to an individual municipality, university, or school district.
- b. the same as the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.
- c. better than the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.
- d. other than what the Proposer typically offers (please describe).

- 11) Describe any quantity or volume discounts or rebate programs that you offer.

Our proposal offers several incentives and rebate programs, enabling members to further maximize program value based on total spend, operational efficiencies and product selection.

1) Operational Incentives

Operational incentives are applied off invoice as a line item deduction off the total invoice. This means this incentive is instant and there is no waiting period to receive your incentive. Incentives will be applied to each invoice as a final total volume adjustment.

Volume Incentive: This incentive may be earned by individual customers with annual spend of \$1M or greater. Districts and multi-unit customers who make purchasing decisions as a group are considered one entity and may earn volume incentive based on group, district, or system total annual spend. Volume Incentive for K-12 and Early Learning entities can be a part of the mark up schedule vs. separate off invoice line item incentive.

Volume Annual	Incentive %
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Exhibit "A"

\$1-\$2,000,000	0.25%
\$2-\$3,000,000	0.40%
\$3-\$5,000,000	0.60%
\$5,000,000 +	0.75%

Prompt Pay Incentive: This incentive is calculated using DSO (Days Sales Outstanding) over a period of one quarter, based on purchasing practices for the previous quarter.

Prompt Payment/Prepay	Incentive %
Prepayment	-0.60%
0-10 days	-0.30%
11-15 days	-0.25%
16-20 days	-0.10%
21-30 days	0.00%
31-45 days (up charge)	0.25%
46-60 days (up charge)	0.50%
Each additional 15 days greater than 60	0.25%

Average Delivery Size: This incentive is calculated using each delivery location's average delivery size over a period of one quarter, based on purchasing practices for the previous quarter.

Average Delivery Size	Incentive %
\$3,000 - \$3,499	-0.15%
\$3,500 - \$3,999	-0.25%
\$4,000 - \$5,499	-0.35%
\$5,500 - \$6,999	-0.50%
\$7,000 - \$10,999	-0.65%
\$11,000 - \$15,999	-0.95%
\$16,000 +	-1.20%

2) Impact Standardization Rebate Program

The IMPACT Food Standardization Program provides quarterly rebates for customers that standardize their purchasing dollars to a group of selected suppliers. In addition, the program offers participants incremental rebates for standardizing their total food distribution purchases with US Foods. Standardization rebates work in conjunction with the program's invoice discounts and provide an additional source of value. This optional program is available to all members with the exception of early education entities.

3) New Member Rebate:

US Foods offers a rebate to any new member of NJPA that elects to transition from another distributor to US Foods under the terms and conditions of an awarded agreement. The New Member Rebate will be calculated at .85% of total purchases for the first twelve (12) months starting from the date of the first delivery. This is paid as a credit or a check in two 6 month intervals.

12) Propose a method of facilitating "sourced" products or related services, which may be referred to as "open market" items or "nonstandard options". For example, you may supply such items "at cost" or "at cost plus a percentage," or you may supply a quote for each such request.

Exhibit "A"

US Foods is able to special order products from all of our manufacturers. The Special Order Process is detailed below in question 27. There is no additional charge for special order products. Special Order products will be priced at delivered price plus the distribution fee or percentage mark up according to the applicable pricing tier and product category, as outlined in our definition of delivered price and sell above in question 8.

- 13) Identify any total cost of acquisition costs that are **NOT** included in the pricing submitted with your response. This cost includes all additional charges that are not directly identified as freight or shipping charges. For example, list costs for items like installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.

This question does not apply to US Foods, as our pricing model includes all costs of acquisition.

- 14) If delivery or shipping is an additional cost to the NJPA Member, describe in detail the complete shipping and delivery program.

Stocked and Special Order purchases from US Foods include freight, as outlined in our definition of delivered price and sell above in question 8. The exception to this may be foodservice equipment shipped directly from the manufacturer. If a NJPA member wants to order foodservice equipment, shipped directly from the manufacturer, US Foods will provide a quotation to the customer which identifies any additional freight fees. Freight fees are determined by the shipping manufacturer.

- 15) Specifically describe those shipping and delivery programs for Alaska, Hawaii, Canada, or any offshore delivery.

Currently, US Foods provides delivery service to the contiguous United States.

- 16) Describe any unique distribution and/or delivery methods or options offered in your proposal.

US Foods provides direct ship programs designed to broaden the unique product offerings that customers can access in addition to the stocked and special order products available in each Division.

US Foods Culinary Equipment & Supply



CES offers a variety of equipment and small wares available via the internet on www.usfood.com and USFood.com, including product descriptions, specs and pictures, pricing and ordering via US Foods Culinary and Equipment and Supplies (CES). Products are delivered via Fed Ex to your door. USFoods.com/equipmentandsupplies.com.

Food Innovations



Food Innovations is comprised of a team of chefs dedicated to delivering the finest quality and freshest gourmet and unique products available directly to fellow chefs and culinary enthusiasts.

Perishable products are procured direct from source, when possible, from around the world, and delivered to the customer within two business days.

- These high quality products include origin specific seafood, Japanese and American Kobe Beef, Exotic game meats, Specialty produce and microgreens, as well as imported and domestic cheeses.

Exhibit "B"



This Addendum to City of Round Rock Agreement ("Agreement") for the Purchase of Food and Food Service Equipment between City of Round Rock ("Customer") and US Foods, Inc. ("US Foods" or "Authorized Distributor")

US Foods is confident that our relationship will be mutually beneficial to us both. Our proposal and these modifications represent what we do best, and it coincides with the desired products, prices, and services you have outlined in your solicitation. The terms "we," "us," and "our" refer to US Foods and the terms "you" and "your" refer to Customer.

12.01 INSURANCE

For clarification, with regards to the US Foods' insurance requirements, US Foods shall provide certificates evidencing that the coverage and limits as outlined in the Insurance Requirements are in force, except that in the state of Texas, US Foods is non-subscriber under the Texas Workers Compensation Act and does not carry workers' compensation insurance in Texas. Notwithstanding the foregoing, US Foods does comply with all laws applicable to non-subscribers, including all applicable disclosure obligations. US Foods covenants that it will maintain in force and effect an ERISA plan that provides benefits to employees in the event of workplace injury.

US Foods covenants that the insurance reflected in the insurance certificate(s) issued to you will remain in force, and should any of the described policies, including any applicable ERISA plan, be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. US Foods does not intend to use any third-party service provider or contractor to provide services to its customers, including you. If any third-party service provider or contractor is identified to provide services in the future however, US Foods covenants and agrees that all such providers shall be required to maintain insurance comparable to the insurance required of US Foods under the Agreement.

15.01 DEFAULT

In case of default by the vendor, Customer may procure the articles or services covered by this order from other sources, however US Foods will not be responsible for excess costs. US Foods employ a proactive approach to seek resolution, should any issues arise as it relates to our team, our program, and contract obligations. Our goal is to service Customer in a seamless manner. Although rarely used, Vizient is your advocate, and the program includes the following Service Damages.

- i. Pricing Error Damages.
- ii. Damages for Non-Compliance with Product Substitution Provision.
- iii. Damages for Non-Compliance with Stocking Requirements.
- iv. Fill Rate Damages

In the event Customer meets with irresolvable issues with no applicable damage provision with respect to US Foods' implementation or compliance with the Vizient program, you may request initiation of the General Problem Resolution Process with Vizient.

17.01 INDEMNIFICATION

With regards to all sections on hold harmless and indemnification, the following will apply:

US Foods shall indemnify, defend and hold harmless Customer and/or their officers, agents, employees, representatives, subcontractors, assignees and/or designees from and against any and all allegations, claims, lawsuits, judgments, losses, civil penalties, liabilities, damages, costs, and expenses, including reasonable attorney's fees and court costs (each a "Claim"), arising out of or related to (A) any damage or defect to any good caused by US Foods while such products were in the care, custody or control of US Foods; (B) any negligent or grossly negligent action,

Exhibit "B"



inaction, omission or intentional misconduct of US Foods in its performance of this Agreement; or (C) US Foods' breach of any representation, warranty, term, covenant, or other obligation under this Agreement, including compliance with all laws.

US Foods shall abide by and indemnify Customer, its directors, officers, employees, and agents except that there shall be no right to indemnification hereunder for any Loss arising out of the acts or omissions of Customer, its directors, officers, employees, and agents.

Customer acknowledges that the terms of the resulting contract are governed by and construed by the terms and clarifications of this document, which shall become part of the resulting Agreement.