

EXHIBIT

"A"

**CITY OF ROUND ROCK AGREEMENT
FOR PURCHASE OF FOOD SUPPLIES AND SERVICES
AT ROUND ROCK FACILITIES
WITH
U.S. FOODS, INC**

THE STATE OF TEXAS

§

§

CITY OF ROUND ROCK

§

KNOW ALL BY THESE PRESENTS:

§

COUNTY OF WILLIAMSON

§

COUNTY OF TRAVIS

This Agreement for provision of uniform food supplies and services, referred to herein as the "Agreement," is made and entered into on this the ____ day of the month of _____, 2016, 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 "City," and U.S. FOODS, INC, with offices located at 2150 Firecracker Drive, Buda, Texas 78610, referred to herein as "Vendor or US Foods." This Agreement supersedes and replaces any previous agreements between the named parties, whether oral or written, and whether or not established by custom and practice.

RECITALS:

WHEREAS, City desires to contract for the purchase of food supplies and services at various City facilities, and City desires to purchase same from Vendor; and

WHEREAS, City is a member of National Joint Powers Alliance (NJPA) Cooperative and Vendor is an approved NPJA vendor; and

WHEREAS, the City desires to purchase certain goods and services from Vendor through NPJA Cooperative 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, the receipt and sufficiency of which are hereby acknowledged, the parties mutually agree as follows:

1.01 DEFINITIONS

A. **Agreement** means the binding legal contract between City and Vendor whereby City is obligated to buy specified goods and Vendor is obligated to sell same.

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 mean the specified supplies, materials, commodities, or equipment.

F. Services mean work performed to meet a demand or effort by Vendor to comply with promised delivery dates, specifications, and technical assistance specified.

G. Vendor means U.S. Foods, Inc. or any of its corporate structures, successors or assigns.

2.01 EFFECTIVE DATE, INITIAL TERM, AND ALLOWABLE RENEWALS

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 or extended as provided herein.

B. The term of this Agreement shall be for five (5) consecutive twelve-month periods from the effective date hereof. The NJPA food contract # 090414-USF was awarded on October 21, 2014 and remains in effect until October 21, 2018. To meet the City's requirements, NJPA and Vizient have authorized US Foods to offer the program specifics detailed in Exhibit A for the term requested.

3.01 CONTRACT DOCUMENTS AND EXHIBITS

The goods which are the subject matter of this Agreement are described in Exhibit "A" and, together with this Agreement and the Vizient Agreement, comprise the total Agreement and they are fully a part of this Agreement as if repeated herein in full.

4.01 SCOPE OF WORK

Vendor shall satisfactorily provide all deliverables and services described in Exhibit "A" as requested by the City within the contract term specified. A change in the Scope of Services and any additional fees related thereto must be negotiated and agreed in all relevant details, and must be embodied in a valid Supplemental Agreement as described herein.

5.01 COSTS

City shall receive the appropriate discounts set forth in Exhibit “A” for the various bid items listed in Exhibit “A.”

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
- D. 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 effect 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, any payment to be made by City to Vendor will be made within thirty (30) days of the date City receives goods under this Agreement, the date the performance of the services under this Agreement are completed, or the date City receives a correct invoice for the goods 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). This Prompt Payment Policy does not apply to payments made by City if:

- A. There is a bona fide dispute between City and Vendor, a contractor, subcontractor, or supplier about goods delivered or the service performed that causes the payment to be late; or
- B. 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
- C. The terms of a federal contract, grant, regulation, or statute prevent City from making a timely payment with federal funds; or

D. The invoice is not mailed to City in strict accordance with any instruction on the purchase order relating to the payment.

9.01 GRATUITIES AND BRIBES

City may, by written notice to Vendor, cancel this Agreement without incurring any 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 Vendor's charges.

11.01 ORDERS PLACED WITH ALTERNATE VENDORS

If Vendor cannot provide the goods as specified, City reserves the right and option to obtain same from another source or supplier(s).

12.01 INSURANCE

Vendor shall meet all City of Round Rock Insurance Requirements set forth in Exhibit "B."

13.01 CITY'S REPRESENTATIVE

City hereby designates the following representative(s) authorized to act in its behalf with regard to this Agreement:

Chad McKenzie
Sports Management and Tourism Director
City of Round Rock
221 E. Main Street
Round Rock, Texas 78664
(512) 218-5488

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 hereunder and is a cause of City purchasing the specified services elsewhere, Vendor agrees 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 hereunder;
- 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, in whole or in part, for convenience and without cause, at any time upon thirty (30) days’ written notice to City.

D. Vendor has the right to terminate this Agreement for cause, in the event of material and substantial breach by City.

E. In the event of a termination under this section, the following shall apply: Upon delivery of the referenced notice to the applicable party, 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 notice of termination, Vendor shall submit a statement detailing 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 SUPPLEMENTAL AGREEMENT

The terms of this Agreement may be modified by written Supplemental Agreement hereto, duly authorized by City Council or by the City Manager, if the City determines that there has been a significant change in (1) the scope, complexity, or character of the services to be performed; or (2) the duration of the work. Any such Supplemental Agreement must be executed by both parties within the period specified as the term of this Agreement.

18.01 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 directly out of, or incident to, concerning or resulting from the gross negligence or willful misconduct of Vendor, or Vendor's agents, employees or subcontractors, in the performance of Vendor's obligations under this Agreement. 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.

19.01 COMPLIANCE WITH LAWS, CHARTER AND ORDINANCES

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

B. Vendor acknowledges and understands that City has adopted a Storm Water Management Program (SWMP) and an Illicit Discharge Ordinance, Sections 14-139 through 14-152 of the City's Code of Ordinances, to manage the quality of the discharges from its Municipal Separate Storm Sewer System (MS4) and to be in compliance with the requirements of the Texas Commission on Environmental Quality (TCEQ) and the Texas Pollutant Discharge Elimination System (TPDES). The Services Provider agrees to perform all operations on City-owned facilities in compliance with the City's Illicit Discharge Ordinance to minimize the release of pollutants into the MS4. The Services Provider agrees to comply with of the City's stormwater control measures, good housekeeping practices and any facility specific stormwater management operating procedures specific to a certain City facility. In addition, the Services Provider agrees to comply with any applicable TCEQ Total Maximum Daily Load (TMDL) Requirements and/or I-Plan requirements.

20.01 ASSIGNMENT AND DELEGATION

The parties 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.

21.01 NOTICES

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

- A. When delivered personally to recipient's address as stated in this Agreement; or
- B. 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:

U.S. Foods, Inc
2150 Firecracker Drive
Buda, TX 78610

Notice to City:

City Manager
221 East Main Street
Round Rock, TX 78664

AND TO: Stephan 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.

22.01 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.

23.01 EXCLUSIVE AGREEMENT

This document, and all appended documents, constitutes the entire Agreement between City and Vendor. 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.

As a participating member of NJPA, your purchases of food and food related products from US Foods are made under and subject to that certain Authorized Distributor Agreement between US Foods and Vizient, Inc. (Vizient f/k/a Novation), effective as of July 1, 2009 (as amended, supplemented, restated or otherwise modified from time to time, the "Vizient Agreement").

24.01 DISPUTE RESOLUTION

City and Provider 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.

25.01 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 such 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 hereof shall not prevent this entire Agreement from being void should a provision that is of the essence of this Agreement be determined to be void.

26.01 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. Each party understands and agrees that time is of the essence and that any failure to fulfill obligations for each portion of this Agreement within the agreed timeframes will constitute a material breach of this Agreement. Each party 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 due to failure to perform, each party may pursue any remedy available without waiver of any of its additional legal rights or remedies.

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 appear of 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: _____

U.S. Foods, Inc

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

For City, Attest:

By: _____
Sara L. White, City Clerk

For City, Approved as to Form:

By: _____
Stephan L. Sheets, City Attorney

Food and Food Related Solutions and Services Contract Overview

NJPA Awarded
Supplier:
US Foods

Contract #090414-USF

CONTRACT NO. # 090414-USF

SUPPLIER US Foods
9399 W. Higgins Road, Suite 800
Rosemont, IL 60018

TIME FRAME 10/21/2014-10/21/2018

PRODUCTS Food and Food Related Solutions and Services

CONTACTS NJPA, Tom Morgan *tom.morgan@njpacoop.org*
National IPA, *info@nationalipa.org*
US Foods, Kathy Anthony- West *kathy.anthony@usfoods.com*
US Foods, Paula Bruck- East *paula.bruck@usfoods.com*

DISTRIBUTION Products will be distributed through the US Food's distribution network. US Foods currently operates more than 60 wholly owned primary ordering locations, or POLs.

PRICING The price to Participating Members for all products sold (the "Sell Price") will be calculated on the basis of Delivered Price to US Foods. Please refer to the pricing section of this contract summary for complete information.

CONFIDENTIALITY NOTICE US Foods regards contract information as proprietary and confidential. We have attempted to balance the Participating Member's needs for contract information by providing in this document a summary of the Participating Member's affirmative obligations under this particular contract. If a Participating Member has specific needs beyond this summary, US Foods is prepared to work with the Participating Member to address these needs. The Participating Member should contact US Foods to initiate such a request.

NJPA VENDOR
CONTRACT
SUMMARY AND RFP
DOCUMENTATION

NJPA VENDOR CONTRACT SUMMARY AVAILABLE AT WWW.NJPA.ORG
CONTRACT SUMMARY CONSISTS OF THE FOLLOWING DOCUMENTS:

- REQUEST FOR PROPOSAL (RFP)
- BID ACCEPTANCE AND AWARD
- BID EVALUATION
- BID COMMENT AND REVIEW
- AFFIDAVIT OF ADVERTISEMENT
- BID OPENING WITNESS PAGE
- BOARD MINUTES

As a participating member of NJPA, your purchases of food and food related products from US Foods, Inc. ("US Foods") are made under that certain Authorized Distributor Agreement between US Foods and Vizient (formerly known as Novation) , effective as of July 1, 2009 (as amended, supplemented, restated or otherwise modified from time to time, the "Vizient Agreement").

PRICING

Definition of Sell Price

The price to Participating Members for all products sold under the Vizient Agreement (the "Sell Price") will be calculated on the basis of Delivered Price to US Foods. For the purposes of the Vizient Agreement, "Delivered Price" to US Foods is defined as follows:

1. 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 Participating Members without the subtraction for cash discounts allowed by suppliers for prompt payment and prior to the addition of the markup.
2. 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 US Food'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).
3. Where a Participating Member, or US Foods on behalf of a Participating Member, has negotiated a price for any product directly with its supplier, the Delivered Price for all such products shall be that negotiated 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 US Food's freight management service. Standard freight for any product will not exceed (a) the manufacturer freight price normally payable by the US Food's 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 US Foods 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.

The Sell Price of each product priced under the Vizient Agreement will equal (a) the Delivered Price of such product, plus (b) the percentage of markup or fixed fee specified on the Distribution Markup Schedule for the product category, less (c) off-invoice discounts or off-invoice allowances (as defined above).

Except as otherwise specified, the price for each product on an order guide will be calculated on a monthly basis at the time the order guide is prepared. Prices for all products on the order guide will be maintained until the next order guide is prepared and sent to the Participating Members, such to the price changes as described in the Price Change Frequency Schedule. If the Delivered Price of any monthly priced product increases by more than 10 percent, US Foods may immediately recalculate the Delivered Price, provided it notifies Participating Members (via electronic or other means determined by US Foods) of adjustment to Delivered Price at least 48 hours prior to implementation of the adjustment.

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.

Price Changes

US Foods will make every effort to provide 10 days' prior notification to any change in pricing terms except where price changes occur more frequently than every 30 days. Prices for non-contract products shall not change more frequently than noted below:

PRODUCT CATEGORY	PRICE CHANGE FREQUENCY
Beef	Weekly
Cheese	Weekly
Coffee (Including Frozen)	Weekly
Dairy	Weekly
Disposables	Monthly
Dry Goods and Refrigerated Goods	Monthly
Flour	Weekly
Foodservice Chemicals	Monthly
Frozen Goods	Monthly
Frozen Juice (other than Orange Juice)	Monthly
Lamb	Weekly
Mayonnaise	Weekly
Nutritionals	Monthly
Oils and Shortening	Weekly
Orange Juice	Weekly
Pork	Weekly
Poultry	Weekly
Produce	Weekly
Rice	Weekly
Seafood	Weekly
Shell Eggs	Weekly
Small Wares/Equipment	Monthly
Specialty Meats	Weekly
Sugar	Weekly
Veal	Weekly

US Foods will provide an order guide to each Participating Member listing current pricing at the beginning of each month, or at any other time requested by the Participating Member , provided that Participating Member receives an updated order guide no less than once every 30 days. Weekly updates to the order guide will be provided to Participating Members for items in product categories with weekly price change frequency.

Mark Up Schedule

Product Category	HC / C&U / Muni /CORP under 2500	HC / C&U / Muni /CORP over 2500	Preschool over \$1,000	Preschool under \$1,000
Boxed Meats	6.10%	4.55%	6.10%	10.04%
Coffee (Inc Frz)	9.60%	8.05%	9.60%	13.54%
Dairy	8.10%	6.55%	8.10%	12.04%
Disposables	10.15%	9.55%	11.10%	15.04%
Dry/Refrig Goods	8.15%	7.55%	9.10%	13.04%
Foodservice Chemicals	13.60%	12.05%	13.60%	17.54%
Fresh/Frozen Poultry, Seafood, Beef, Pork, Deli Meats (Exl Boxed)	7.15%	6.55%	8.10%	12.04%
Frozen Goods	9.15%	8.55%	10.10%	14.04%
Frozen Juice	8.10%	6.55%	8.10%	12.04%
Nutritionals	6.10%	4.55%	6.10%	10.04%
Produce	9.60%	8.05%	9.60%	13.54%
Frozen Vegetables	9.10%	7.55%	9.10%	13.04%
Shell Eggs	9.60%	8.05%	9.60%	13.54%
Processed Eggs (Refrig and Froz)	9.10%	7.55%	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%

Mark Up Schedule (Fee per Case)

2016 Fee Schedules				2016 Fee Schedules with Volume Incentive						
Contract #	15010098	25010098	55010365		65010365	35010098	45010098		55010098	
Product Category	K-12 Over \$2500	K-12 Under \$2500	K-12 Over \$2500 \$1M+	K-12 Under \$2500 \$1M+	K-12 Over \$2500 \$2M+	K-12 Under \$2500 \$2M+	K-12 Over \$2500 \$3M+	K-12 Under \$2500 \$3M+	K-12 Under \$2500 \$5M+	K-12 Over \$2500 \$5M+
Boxed Meats	\$2.10	\$3.01	\$2.04	\$2.95	\$2.01	\$2.87	\$1.96	\$2.87	\$2.83	\$1.92
Coffee (Inc Frz)	\$3.04	\$3.73	\$2.98	\$3.67	\$2.95	\$3.59	\$2.90	\$3.59	\$3.55	\$2.86
Dairy	\$1.73	\$2.01	\$1.67	\$1.95	\$1.64	\$1.87	\$1.59	\$1.87	\$1.83	\$1.55
Disposable Cutlery	\$1.05	\$1.11	\$0.99	\$1.05	\$0.96	\$0.97	\$0.91	\$0.97	\$0.93	\$0.87
Disposables	\$2.51	\$2.86	\$2.45	\$2.80	\$2.42	\$2.72	\$2.37	\$2.72	\$2.68	\$2.33
Dry/Refrig Goods	\$1.61	\$1.72	\$1.55	\$1.66	\$1.52	\$1.58	\$1.47	\$1.58	\$1.54	\$1.43
Foam Trays	\$1.74	\$1.98	\$1.68	\$1.92	\$1.65	\$1.84	\$1.60	\$1.84	\$1.80	\$1.56
Foodservice Chemicals	12.05%	13.60%	11.77%	13.32%	11.60%	13.15%	11.38%	12.92%	12.75%	11.21%
Fresh/Frozen Poultry, Seafood, Beef, Pork, Deli Meats (Exl Boxed)	\$2.07	\$2.22	\$2.01	\$2.16	\$1.98	\$2.08	\$1.93	\$2.08	\$2.04	\$1.89
Frozen Goods	\$2.56	\$2.72	\$2.50	\$2.66	\$2.47	\$2.58	\$2.42	\$2.58	\$2.54	\$2.38
Frozen Juice	\$1.05	\$1.18	\$0.99	\$1.12	\$0.96	\$1.04	\$0.91	\$1.04	\$1.00	\$0.87
Frozen Potatoes	\$1.61	\$1.85	\$1.55	\$1.79	\$1.52	\$1.71	\$1.47	\$1.71	\$1.67	\$1.43
Portion control condiments	\$1.05	\$1.19	\$0.99	\$1.13	\$0.96	\$1.05	\$0.91	\$1.05	\$1.01	\$0.87
Produce	\$1.83	\$2.10	\$1.77	\$2.04	\$1.74	\$1.96	\$1.69	\$1.96	\$1.92	\$1.65
Frozen Vegetables	\$1.61	\$1.88	\$1.55	\$1.82	\$1.52	\$1.74	\$1.47	\$1.74	\$1.70	\$1.43
Shell Eggs	\$2.40	\$2.63	\$2.34	\$2.57	\$2.31	\$2.49	\$2.26	\$2.49	\$2.45	\$2.22
Processed Eggs (Refrig and Froz)	\$1.61	\$2.04	\$1.55	\$1.98	\$1.52	\$1.90	\$1.47	\$1.90	\$1.86	\$1.43
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%

Volume Incentive Discount Schedule

NOTE: Incentive discounts have been built into the foregoing K-12 Fee/Case Mark Up Schedule.

The Volume Incentive described above will apply to qualified single and multi-unit accounts:

- For all new accounts and/or bids effective October 1, 2013
- For accounts that meet all Agreement requirements and Authorized Distributor is their primary distributor
- For multiple-units that have direct control of the purchasing behavior and act as a single purchasing entity
- Multiple-units that participate in one bid/RFP process and are committed to act and held accountable to make a unified single decision on the outcome of the RFP.

Annual Fee Per Case Review Process:

On an annual basis, the fee per case amount for all applicable contracts shall be reviewed, and decreased or increased based on the following methodology:

Authorized Distributor shall provide the new fee per case to Vizient by March 1st of each year for review and acceptance by March 31st for all bids effective July 1st.

Information provided will include:

- CPI Index increase or decrease shall account for 60% of the calculation. This will be based upon the average for last 12 months compared to prior year. Example: February 2012 – January 2013 compared to February 2013 – January 2014.
- Average Case cost increase or decrease shall account for 40% of the calculation. The average case cost will be based upon Vizient K12 volume over the last 13 weeks average. Example: November 2012 – January 2013 compared to November 2013 – January 2014.

*The blended result of this equation will equal the % decrease or increase to the fee per case structure.

Non-Price Specifications

Any upcharges and/or discounts will be applied as a percentage to each invoice as a final total volume adjustment. For the purpose of calculating discounts, total monthly volume, average order size, and DSO will be determined and maintained for a period of one quarter, based on purchasing practices for the previous quarter.

Total Monthly Volume

MONTHLY VOLUME	TRANSLATES TO QUARTERLY	INCENTIVE %
\$83,000-\$175,999	\$249,000-\$527,997	-0.25%
\$176,000-\$268,999	\$527,997-\$806,997	-0.40%
\$269,000-\$423,999	\$806,997-\$1,271,997	-0.60%
\$424,000 +	\$1,271,997 +	-0.75%

Average Order Size

AVERAGE ORDER 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%

(The average order size maintained during the prior quarter will be the basis for the discount qualification.)

Prompt Payment/Prepayment

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 (upcharge)	0.25%
46-60 days (upcharge)	0.50%
Each additional 15 days greater than 60	0.25%

(For new participating members, payment terms will be assigned by US Foods based on a fully completed and executed credit application and US Foods good-faith analysis of member's credit and financial status. Payment terms may range from COD to Net 30 days.)

Minimum Order Requirements

US Foods may impose a \$600 minimum order requirement for Participating Members (the "Minimum Order Requirement")

REBATE AND PAYMENT

New Member Rebate

US Foods will offer a rebate (the "New Member Rebate") to any customer that elects to transition from another distributor to US Foods under the terms and conditions of the Vizient Agreement. The New Member Rebate will be calculated at eighty-five basis points (.85%) of total purchases for the first twelve (12) months starting from the date of the first delivery from US Foods under the Vizient Agreement. For purposes of this provision New Member(s) are those customers who have not purchased Products from US Foods in 26 weeks (seasonal business 52 weeks) or current Participating Members buying less than 20% of total food and supply budget from US Foods.

New Member Rebate	. -0.85%
<i>Paid in two six month installments for new customers</i>	

The New Member Rebates will be paid to each applicable Participating Member in two (2) installments within forty-five (45) days of the conclusion of each six (6) month period during the discount period.

Payment Terms

Payment terms will be assigned by US Foods based on a fully completed and executed credit application and US Food's good faith analysis of each Participating Member's credit and financial status. Standard payment terms shall be Net 30 days, subject to each Participating Member's creditworthiness.

SERVICES TO PARTICIPATING MEMBERS

Services to Participating Members

The following services shall be provided to Participating Member s at no additional fee:

A. Local Representative

US Foods will appoint for each Participating Member a local representative in its area with a background in the industry. This US Food's representative will be responsible for the following activities:

- visit each member as needed, or at the frequency agreed to by US Foods and the Participating Member
- address and be empowered to solve the following:
 - fill rate issues
 - invoice accuracy
 - pricing issues
 - product stocking issues
 - delivery scheduling issues
 - days sales outstanding (DSO) issues (accounts payable/receivable issues)
 - electronic order entry issues
 - contract/data file and customer order guide accuracy
 - delivery issues
 - review of backorder report
 - review of product return status
- review all sales data
- review product usage and items
- assist with and suggest pre-approved substitute products
- assist with customized distribution solutions
- review logistical needs of the Participating Member

- review utilization of Vizient contracted products and assist with conversion opportunities
- support the Participating Member 's initiatives for achieving the lowest total Delivered Price of product and services

B. Customer Service

US Foods shall provide a customer service representative during normal business hours. The customer service representative should be familiar with the Participating Member 's account and shall, at a minimum, be able to assist the Participating Member with:

- order placement and status of pending orders
- status and resolution of backorders
- status of all pertinent account information, including DSO
- suggested substitutions for backordered products
- advanced notification of delivery issues
- expediting orders (Hot Shots)
- notification of potential backorders
- Participating Member's usage of electronic order entry

C. Business Reviews

US Foods will meet with each Participating Member at least four times per year, or as often as the Participating Member may request, to discuss participation in the Vizient Agreement. The US Food's representative will encourage the attendance of key personnel from the Participating Member's administration, materials management, and other appropriate staff, as well as the Participating Member's account executive.

US Foods and each Participating Member shall meet to discuss at a minimum the following topics:

- review prior quarter's sales
- review discounts earned and opportunities for maximizing discounts for the following:
 - total monthly volume
 - average order size
 - prompt payment or prepayment (DSO)
 - electronic order entry
 - weekend/night delivery
 - US Food's label (if applicable)
 - integrated system performance
- provide information on and assistance with implementation of value-added programs
- review prior quarter's service levels:
 - fill rates
 - invoice accuracy
 - product substitutions
- discuss opportunities for product standardization and utilization

RETURNS

Product Return Policy

From time to time customers need to return product to US Foods due to product damage, defective merchandise, quality issues, shipping the wrong product, an unwanted product, out-of-date product, or an order error. To comply with food safety regulations, and to insure product safety, quality and packaging integrity; and to minimize temperature shock exposure, the following policy is in place:

Refused Product – credits at the time of delivery

It is essential that Participating Members check-in all orders to verify the accuracy and completeness of the invoice. From time to time it may be necessary to refuse product at the time of delivery.

Exceptions: Credit will not be issued on made-to-order products such as fresh-cut meat, seafood, and poultry; special or custom print paper goods, or equipment, unless such products are:

- received outdated or received otherwise unusable
- received damaged, or received defective or nonconforming to supplier specifications
- specifically authorized for return by supplier through US Foods
- recalled

In the case of fresh meat, poultry, or seafood, returns will not be accepted if the sealed box is opened, unless there is concealed damage or quality issues.

Product Returns – pick-up and credit requests

Should a product pick-up be necessary, Participating Member should notify US Foods customer service or your local representative immediately. Returned merchandise must be in resalable condition and must be packed in its original carton, unless an authorization is made to return merchandise for quality inspection. All returns must have the original warehouse pick label affixed to them.

- dry grocery and nonfood items — return within seven days of receipt of merchandise
- refrigerated items — return during delivery only
- refrigerated items delivered by key drop or honor drop — customer should notify US Foods upon checking in its order, by close of business the same day to request a product return authorization. The product should be picked up at the customer location on its next delivery day.
- frozen items — return within seven days of receipt of merchandise

Returns will not be authorized for made-to-order products such as fresh-cut meat, seafood, and poultry; special or custom print paper goods, or equipment, unless such products are:

- received outdated or received otherwise unusable
- received damaged, or received defective or nonconforming to supplier specifications
- specifically authorized for return by supplier through US Foods
- recalled

PRODUCT STOCKING

Product Stocking Requirements

1. Stocking Requirements
 - A. US Foods agrees to warehouse at primary ordering locations at its own cost, except as otherwise provided herein, such quantities of products as is reasonably necessary to satisfy the anticipated requirements of Participating Members served by the POLs. In addition, US Foods shall have the following inventory responsibilities with respect to non-contract products:
 1. US Foods will maintain sufficient inventory of products to support participating members at the fill rate of 98 percent.

2. US Foods will stock locally any item requested by participating member for which use of the item by members and other customers creates anticipated inventory turns of at least three cases per week per POL. If a Participating Member requests that US Foods stock non-contract products that create less than three cases per week per POL, US Foods may elect to stock the products(s) and deviate from distribution fees for them. Deviation shall not exceed 1 percent unless otherwise agreed. Participating Member will be notified in advance with respect to any such deviation.
 3. Upon request of a Participating Member to add items to stock, US Foods will add the items to stock from any supplier that (a) meets industry standards of good manufacturing practices, (b) has credit worthiness comparable to other suppliers with which US Foods does business, and (c) completes US Foods standard vendor documentation, where product's usage meets the minimum movement requirements as described above. Within 30 days after supplier's completion of the standard documentation or reasonable industry standard lead time, of receipt of usage data, US Foods will make reasonable efforts to have the items in stock and advise the requesting Participating Member that the items are available at the POL.
 4. US Foods will not remove from stock at the POL any non-contract product that is being purchased by a Participating Member, unless US Foods no longer distributes the product. US Foods will review its stock on an appropriate basis to identify those non-contract products that have generated movement of less than three cases per week per POL. US Foods may then contact any Participating Member that was purchasing these products within the last 90 calendar days to ascertain continuing need. If no need is expressed, US Foods may give written or electronic notice to the Participating Members of its intent to remove the items from stock. Within 10 business days after such notice, if a Participating Member provides US Foods with its usage estimates that are in excess of three cases per week per POL, US Foods will maintain the items in stock. If US Foods does not receive usage data, it may discontinue the items and will notify the Participating Member
 5. US Foods and its POLs will attempt to stock non-contract products that meet the product specifications of Participating Members serviced by that POL. If products that meet the product specification requirements of Participating Member are not stocked, US Foods will provide samples of like products that are currently in inventory. If the products offered by US Foods are not found to be acceptable by the Participating Member, then: (a) the products in question shall be identified to the POL, (b) a cutting of the product in question along with the preferred product will take place with a US Foods representative, and (c) if US Foods product is concluded as unsatisfactory in the reasonable judgment of the Participating Member, it will bring into stock the preferred product subject to the inventory turns requirements state above.
- B. US Foods shall adhere to the following inventory responsibilities with respect to contract and non-contract products:
1. If a supplier advises US Foods that specific products will be available in reduced quantities or will be allocated, US Foods may not be able to honor all requests for them. It will allocate, based upon past purchasing history of Participating Members, a portion of the affected products to Participating Members s and will advise the Participating Members of the allocation quantities.
 2. US Foods may refuse to stock products if warehouse sanitation or existing storage or transportation environment is incompatible with their requirements and nature. In such instances, upon a Participating Member request, US Foods will arrange for the supplier to ship such product(s) directly to the Participating Member (a drop-shipment), if available, and such transaction will be subject to the terms of the Vizient Agreement, including the pricing terms. US Foods may pass-through to the Participating Member any freight or

applicable service charges levied by supplier on US Foods for drop-shipments and, upon request, shall notify the affected Participating Member of such charges.

- C. Substitution of Products. US Foods may make no product substitutions without prior approval from the Participating Member. If US Foods fails to have a product on hand at the POL when the product is ordered, and the Participating Member has provided written or electronic preapproval to substitute another product for it, US Foods will automatically make the approved substitution ("automatic product substitution" or "auto-sub"). Further, the Participating Member may, upon being notified of the out-of-stock condition, authorize an alternative product be substituted ("authorized substitution" or "authorized-sub"). Automatic product substitutions must be of equal or better quality to the product originally ordered. Auto-sub and authorized-sub products shall be priced at Delivered Price plus the distribution fees.
- D. Product Recall. US Foods shall notify the Participating Members of all product recalls and the reason(s) for such recalls as soon as reasonably possible after the information is made available to it. US Foods is required to provide product removal and replacement assistance to Participating Members in the event of a product recall.
- E. Proprietary Products. "Proprietary products" include any (1) Participating Member-labeled products and (2) products that US Foods brings into inventory at the request of a Participating Member to address that Participating Member's unusual or excessive demand (including pursuant to a special order). In the event the Vizient Agreement expires or is terminated, or service from any of US Foods distribution center is discontinued by either US Foods, or a Participating Member for any reason (other than breach of the Vizient Agreement by US Foods that is not cured within 30 days of its receipt of notice of such breach), each Participating Member shall purchase, or cause a third party acceptable to US Foods to purchase, all proprietary products brought into inventory for the Participating Member at the Sell Price. Each Participating Member (or the applicable approved third party) shall pick up all frozen and refrigerated proprietary products within seven days of the expiration, termination or service discontinuation date, and all other proprietary products within 15 days of the expiration, termination or service discontinuation date. The Participating Member shall pay all amounts due for such proprietary products within 30 days of the expiration, termination or service discontinuation date. US Foods reserves the right to offset any amounts owed any Participating Member against any amounts due to US Foods for such proprietary products. If any proprietary products are not removed from US Foods distribution centers within the prescribed time frames, US Foods may dispose of them in any manner it deems appropriate, and the applicable Participating Member shall reimburse it for any related costs, fees, and expenses. Under no circumstances shall the Participating Member be obligated to purchase (or cause a third party to purchase) any proprietary products in the event the Vizient Agreement expires or is terminated or service from any of US Food's distribution centers is discontinued by either US Foods, or a Participating Member for any reason.

Product Fill Rates

- 1. US Foods shall guarantee an unadjusted fill rate of 98 percent, as measured according to the formula below, in any one-month period beginning with the second full month US Foods is servicing a Participating Member.
- 2. Product fill rate is defined as the percentile representation of line items filled, on the first scheduled delivery following order placement for a Participating Member during a one-month period, divided by total line items ordered by that Participating Member for that same period. Line items filled do not include authorized or unauthorized substituted products.
- 3. US Food service's inability to deliver due to a force majeure event, crop shortage, manufacturer allocations, inventory shortage caused by the Participating Member's unusual demand (greater than 110 percent of

prior month average order for each item), or special orders (items not included in the Participating Member's regular order guide) will not be included in fill rate calculations if US Foods provides notice of such conditions when Participating Member's order is confirmed.

AUDIT

Additional Requirements

1. Pricing Audit Requirements. The following will apply to Participating Member-specific audit requests:

Participating Member-specific audit process is subject to the following:

- a. Participating Member must request a price audit in writing at least 20 business days prior to the suggested date of the price audit. This request must identify the 30 items to be verified with one price point verification per item.
- b. The audit period shall be limited to the 13 weeks immediately preceding such audit.
- c. The date and time of the audit must be to the mutual agreement of both parties.
- d. The audit will be conducted at the POL servicing the Participating Member.

If the 30-item audit reveals an error ratio greater than 10 percent, the Participating Member has the right to request an expanded audit of 100 items, following the process cited above.

If the 100-item audit reveals an error ratio greater than 10 percent, the Participating Member has the right to request an audit of all purchases for the 13 weeks preceding such audit.

Should the expanded audit reveal significant discrepancies, the Participating Member has the right to refer the matter to NJPA in accordance with the process outlined for general problem resolution.

2. Product Handling Requirements. US Foods shall comply with all U.S. Food and Drug Administration Hazard Analysis Critical Control Points (HACCP) guidelines and any state and local laws relating to the storage and delivery of food products in and from all POLs.
3. Reports to Participating Members. US Foods will provide the following quarterly reports to each Participating Member within 30 days of the end of the calendar quarter reflected in such report. A copy of each Participating Member's report shall be forwarded to the appropriate account executive representing the clients.
 - a. Fill Rate Report. The fill rate report will include unadjusted fill rate before substitution and unadjusted fill rate after substitution.
 - b. Discount Report. The discount report shall include all relevant performance data such as total monthly volume, average order size, average number of deliveries, DSO, and number of lines ordered using electronic order entry. The discount report shall itemize dollar amounts earned under the various discount opportunities available to the Participating Member under the Vizient Agreement.

RECALLS

Safety- Product Recalls

US Foods will post all Product Recalls on www.usfoods.com to keep its customers apprised of product recall status. In addition, if a Participating Member is affected by a recall, your US Foods distribution center will contact you within 24 hours.



CITY OF ROUND ROCK
INSURANCE REQUIREMENTS

1. **INSURANCE:** The Vendor shall procure and maintain at its sole cost and expense for the duration of the agreement or purchase order resulting from a response to the Solicitation/Specification, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work as a result of the solicitation by the successful respondent, its agents, representatives, volunteers, employees or subcontractors.
 - 1.1. Certificates of Insurance and endorsements shall be furnished to the City and approved by the City before work commences.
 - 1.2. The following standard insurance policies shall be required:
 - 1.2.1. General Liability Policy
 - 1.2.2. Automobile Liability Policy
 - 1.2.3. Worker's Compensation Policy
 - 1.3. The following general requirements are applicable to all policies:
 - 1.3.1. Only insurance companies licensed and admitted to do business in the State of Texas shall be accepted.
 - 1.3.2. Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
 - 1.3.3. Claims made policies shall not be accepted, except for Professional Liability Insurance.
 - 1.3.4. Upon request, certified copies of all insurance policies shall be furnished to the City.
 - 1.3.5. Policies shall include, but not be limited to, the following minimum limits:
 - 1.3.5.1. Minimum Bodily Injury Limits of \$300,000.00 per occurrence.
 - 1.3.5.2. Property Damage Insurance with minimum limits of \$50,000.00 for each occurrence.
 - 1.3.5.3. Automobile Liability Insurance for all owned, non-owned, and hired vehicles with minimum limits for Bodily Injury of \$100,000.00 each person, and \$300,000.00 for each occurrence, and Property Damage Minimum limits of \$50,000.00 for each occurrence.
 - 1.3.5.4. Statutory Worker's Compensation Insurance and minimum \$100,000.00 Employers Liability Insurance.
 - 1.3.6. Coverage shall be maintained for two years minimum after the termination of the Agreement.
 - 1.4. The City shall be entitled, upon request, and without expense to receive copies of insurance policies and all endorsements thereto and may make reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions are established by law or regulation binding either of the parties hereto or the underwriter of any of such policies). Upon such request by the City, the Vendor shall exercise reasonable efforts to accomplish such changes in policy coverage and shall pay the cost thereof. All insurance and bonds shall meet the requirements of the solicitation specification and the insurance endorsements stated below.

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- 1.5. Vendor agrees that with respect to the required insurance, all insurance contracts and certificate(s) of insurance will contain and state, in writing, on the certificate or its attachment, the following provisions:
 - 1.5.1. Provide for an additional insurance endorsement clause declaring the Vendor's insurance as primary.
 - 1.5.2. Name the City and its officers, employees, and elected officials as additional insured's, (as the interest of each insured may appear) as to all applicable coverage.
 - 1.5.3. Provide thirty days' notice to the City of cancellation, non-renewal, or material changes.
 - 1.5.4. Remove all language on the certificate of insurance indicating:
 - 1.5.4.1. That the insurance company or agent/broker shall endeavor to notify the City; and,
 - 1.5.4.2. Failure to do so shall impose no obligation of liability of any kind upon the company, its agents, or representatives.
 - 1.5.5. Provide for notice to the City at the addresses listed below by registered mail:
 - 1.5.6. Vendor agrees to waive subrogation against the City, its officers, employees, and elected officials for injuries, including death, property damage, or any other loss to the extent same may be covered by the proceeds of insurance.
 - 1.5.7. Provide that all provisions of the agreement concerning liability, duty, and standard of care together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.
 - 1.5.8. All copies of the Certificate of Insurance shall reference the project name, solicitation number or purchase order number for which the insurance is being supplied.
 - 1.5.9. Vendor shall notify the City in the event of any change in coverage and shall give such notices not less than thirty days prior notice to the change, which notice shall be accomplished by a replacement Certificate of Insurance.
 - 1.5.10. All notices shall be mailed to the City at the following addresses:

**Assistant City Manager
City of Round Rock
221 East Main
Round Rock, TX 78664-5299**

**City Attorney
City of Round Rock
309 East Main
Round Rock, TX 78664**

2. WORKERS COMPENSATION INSURANCE

- 2.1. Texas Labor Code, Section 406.098 requires workers' compensation insurance coverage for all persons providing services on building or construction projects for a governmental entity.
 - 2.1.1. Certificate of coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Workers' Compensation Commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.
 - 2.1.2. Duration of the project - includes the time from the beginning of the work on the project until the CONTRACTOR'S/person's work on the project has been completed and accepted by the OWNER.
- 2.2. Persons providing services on the project ("subcontractor") in Section 406.096 – includes all persons or entities performing all or part of the services the CONTRACTOR has undertaken to perform on the project, regardless of whether that person contracted directly with the CONTRACTOR and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-

EXHIBIT "B"

operators, employees of any such entity, or employees of any entity, which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- 2.3. The CONTRACTOR shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the CONTRACTOR providing services on the project, for the duration of the project.
- 2.4. The CONTRACTOR must provide a certificate of coverage to the OWNER prior to being awarded the agreement.
- 2.5. If the coverage period shown on the CONTRACTOR'S current certificate of coverage ends during the duration of the project, the CONTRACTOR shall, prior to the end of the coverage period, file a new certificate of coverage with the OWNER showing that coverage has been extended.
- 2.6. The CONTRACTOR shall obtain from each person providing services on a project, and provide to the OWNER:
 - 2.6.1. a certificate of coverage, prior to that person beginning work on the project, so the OWNER will have on file certificates of coverage showing coverage for all persons providing services on the project; and
 - 2.6.2. no later than seven (7) calendar days after receipt by the CONTRACTOR, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- 2.7. The CONTRACTOR shall retain all required certificates of coverage for the duration of the project and for one (1) year thereafter.
- 2.8. The CONTRACTOR shall notify the OWNER in writing by certified mail or personal delivery, within ten (10) calendar days after the CONTRACTOR knew or should have known, or any change that materially affects the provision of coverage of any person providing services on the project.
- 2.9. The CONTRACTOR shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- 2.10. The CONTRACTOR shall contractually require each person with whom it contracts to provide services on a project, to:
 - 2.10.1. provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all its employees providing services on the project, for the duration of the project;
 - 2.10.2. provide to the CONTRACTOR, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on a project, for the duration of the project;
 - 2.10.3. provide the CONTRACTOR, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

EXHIBIT "B"

- 2.10.3.1. obtain from each other person with whom it contracts, and provide to the CONTRACTOR:
 - 2.10.3.1.1. a certificate of coverage, prior to the other person beginning work on the project; and
 - 2.10.3.1.2. a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project
- 2.10.3.2. retain all required certificates of coverage on file for the duration of the project and for one (1) year thereafter;
- 2.10.3.3. notify the OWNER in writing by certified mail or personal delivery, within ten (10) calendar days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
- 2.10.3.4. contractually require each person with whom it contracts, to perform as required by paragraphs (2.1 thru 2.7), with the certificates of coverage to be provided to the person for whom they are providing services.
- 2.10.3.5. By signing the solicitation associated with the specification, or providing, or causing to be provided a certificate of coverage, the Contractor is representing to the Owner that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- 2.10.3.6. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the Owner to declare the agreement void if the Contractor does not remedy the breach within ten (10) calendar days after receipt of notice of breach from the owner.

EXHIBIT "B"