

**FY 2019-2020 Annual Bid Contract Between  
Webb County and Ben E. Keith Foods**

**WHEREAS** at a Webb County Commissioner’s Court Meeting held on the 9<sup>th</sup> day of September 2019, the Court approved and awarded Bid No. 2020-14, entitled Annual Contract for Produce, to Ben E. Keith Foods.

**NOW, THEREFORE, IT IS AGREED** by, and between the parties hereto the County of Webb, acting by and through its Commissioners Court, hereinafter referred to as “County” and Ben E. Keith Foods, hereinafter referred to as “Independent Contractor” shall provide “County” with the scope of services as more particularly described and attached herein as Exhibit A Bid Price Sheet.

**Effective Date and Termination Date of Annual Contract:**

The effective date of this Agreement is October 1, 2019, and shall terminate effective September 30, 2020 with no options to extend.

**1. Independent Contractor**

It is hereby covenanted and agreed by the parties that the services to be provided to “County” by the Independent Contractor and/or Professional shall incorporate the scope of work and requirements as set forth under Bid No. 2020-14, entitled Annual Contract for Produce attached hereto as Exhibit A Bid Price Sheet, and incorporated by reference for all intents and purposes. Independent Contractor/Professional shall perform the services listed under Exhibit A Bid Price Sheet, attached hereto and incorporated herein by reference as if set out in full for all intents and purposes.

**2. Price Matching**

If the Purchasing Agent is able to identify a significantly lower price of any product/service provided by independent contractor and determines that it’s in the best interest of Webb County; the Purchasing Agent shall first notify the independent contractor either in writing or via email and provide Independent Contractor with the opportunity to match the lower price of any product / service that County is seeking. In the event that the independent contractor is not able to match the lower price Independent Contractor shall notify the Purchasing Agent either in writing or via email no later than next working day. Once notification is received within the required timeline specified in this section the Purchasing Agent is authorized to go outside of the annual contract to obtain the product/services in accordance with the Webb County Purchasing manual rules and regulations.

**3. Compensation**

The County of Webb shall pay the Independent Contractor for goods/services provided which have been authorized by an Official Purchase Order signed by the Webb County Purchasing Agent. The County Auditor will only authorize payment for the goods/services described on the Official Purchase Order unless otherwise permitted by law or the Webb County Purchasing Policy. Further, compensation for unauthorized change orders will not be paid by Webb County. Only change orders authorized by the Purchasing Agent through an Official Purchase Order will

be paid once all goods are received and/or services completed. No other County Official, employee, officer or Elected Official is authorized to approve purchases and/or changes to purchase orders unless approved by the Webb County Purchasing Agent.

#### **4. Billing Address**

All invoices must be submitted to the Webb County Business Office in electronic format and/or delivered to the following address:

Webb County  
1110 Washington Street, Ste. 203  
Laredo, Texas 78040  
Attn: Business Office

Or email to: [apinvoices@webbcountytexas.gov](mailto:apinvoices@webbcountytexas.gov)

**ALL** invoices must reference Purchase Order #

#### **5. Independent Contractor**

In the performance of work, duties, and obligations required of the Independent Contractor whether one or more, under this Agreement, it is mutually understood, and agreed, that Independent Contractor is, at all times, acting and performing as an independent Contractor. Webb County's sole interest is to assure that the Independent Contractor services be performed and rendered in a competent, efficient, and satisfactory manner. The Independent Contractor hereby agrees to perform the services in strict accordance with approved methods, and practices, in the general field of his expertise.

#### **6. Ethical Standards**

The Bidder warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Bidder for the purpose of securing business. For breach or violation of this warranty, the County shall have the right in addition to any other right or rights to cancel this contract without liability and to deduct from the contract price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

#### **7. No Conflicts**

Independent contractor represents and warrants that contractor has no actual or potential conflicts of interest in providing services to County under this contract and the contractor's provision of services under this contract would not reasonably create an appearance of impropriety.

#### **8. Additional Services and Expenses**

Any and all additional services, parts, costs, fees or expenses, not included in this agreement, shall require both a written request by the Independent Contractor to the County and prior formal approval by a quorum of the Webb County Commissioner's Court at either a regular, special and/or emergency called meeting of the "County". The County shall not be responsible for

and/or shall not compensate the Independent Contractor for these costs without both a written request and prior approval by the County.

### **9. Terms and Conditions**

The Independent Contractor certifies, and affirms, that he/she/company is not legally, or professionally, disqualified from the performance of the duties under this Agreement. Independent Contractor shall advise the County, in writing, of any change in status of the Independent Contractor which may materially affect the ability of Independent Contractor to legally, or professionally, carry out the duties herein.

### **10. Access to Criminal History Record and Termination of Contract or Disqualification of Bid for Cause**

Please be advised that Webb County is entitled to obtain the criminal history information of any person and/or business owner who contracts with the County in accordance with Section 411.1295 of the Texas Government Code. In the event that any criminal history of a person or business owner who contracts with Webb County is discovered, then at that event, Webb County at its sole discretion reserves the exclusive right and shall be entitled to immediate termination of the contract and/or immediate disqualification of bid submittal in the event that such criminal history is discovered, by providing notice to the person and/or business owner of such termination and/or disqualification of bid submittal in accordance with the Notice provisions set forth in Section 13 herein-below.

### **11. Termination for Convenience**

Termination for convenience, also known as a no-fault termination, allows the County to terminate any contract, in whole or in part, at any time in its sole discretion, if it is determined that the termination is in the best interest of the County. As notified by the Purchasing Agent through a 15 day written notice / via email of such intent to terminate contract for convenience.

Purchasing provides the Independent Contractor a written notice specifying the extent of termination and the effective date, providing as much notice as possible. The Independent Contractor is generally paid for allowable costs incurred up to the effective date of termination. The County is not liable for payment to the Independent Contractor related to the terminated portion of the work or any work performed or costs incurred after the effective date of the termination.

### **12. Termination for Default**

A contract may be terminated for default when (a) the County concludes that the Independent Contractor fails to perform, make progress, or in any way breaches the contract and continues to do so after receiving written notice/email notice of such default/issues and fails to cure such default/issues within 10 working days (b) Termination for default should be used as the last resort. The County should do everything practicable to assist the Independent Contractor in curing a default. Factors to consider before making a decision to terminate for default include: (1) The provisions of the contract and applicable regulations, (2) The specific contractual failure(s) and the explanation provided for the failures, (3) The urgency of the need for the contracted supplies or services, (4) Actions the County may have taken that aggravated the problems, (4) The availability of the supplies or services from other sources and the time

required to obtain them, and (5) Availability of funds or resources to re-purchase if the costs cannot be recovered from the defaulting Independent Contractor.

**13. Notices**

All notices called for, or contemplated, hereunder shall be in writing, and shall be deemed to have been duly given, when personally delivered and/or via e-mail, or seventy-two (72) hours after mailed to each party by certified mail, return receipt requested, postage prepaid.

**Any notices required to be sent hereunder shall be sent as follows:**

TO: Independent Contractor  
Ben E. Keith Foods  
c/o Ronald M. Brown  
17635 Ben E. Keith Way  
Selma, TX 78154  
(210) 507-6276

TO: Webb County  
Jose Angel Lopez III, CTPM  
Webb County Purchasing Agent  
1110 Washington Street, Ste. 101  
Laredo, Texas 78040  
(956) 534-4125

E-Mail: [rmbrown@benekeith.com](mailto:rmbrown@benekeith.com)

E-Mail: [joel@webbcountytx.gov](mailto:joel@webbcountytx.gov)

**14. Severability**

Each paragraph, and provision, hereof is severable from the entire Agreement, and if any provision is declared invalid, the remaining provisions shall nevertheless remain in effect.

**15. Prohibitions against Assignment.**

No assignment or transfer of this Agreement can be made without written consent of both parties, hereto.

**16. Hold Harmless**

The independent contractor shall indemnify and hold Webb County harmless from all claims for personal injury, death and/or property damage resulting directly or indirectly from independent contractor's performance. Independent contractor shall procure and maintain, with respect to the subject matter of this ITB, appropriate insurance coverage including, as a minimum, public liability and property damage with adequate limits to cover Bidder's liability as may arise directly or indirectly from work performed and goods or services sold and under the terms of this ITB. Certification of such coverage must be provided to the County upon request.

**17. Venue/Laws of Texas**

This Agreement shall be governed by, and construed in accordance with, the laws of the State of Texas, and the exclusive venue for any and all legal disputes between the parties shall be enforced and shall lie in the Webb County, Texas.

**18. Entire Agreement**

This Agreement incorporates all the agreements, covenants, and understandings between the parties herein concerning the subject matter hereof; and all such covenants, agreements, and understandings have been merged into this written Agreement. No other prior agreement, or

understandings, verbal or otherwise, of the parties, or their agents, shall be valid, or enforceable, unless signed by both parties, and attached hereto, and/or embodied herein.

**19. Amendment**

This Agreement may be modified, only in writing, executed by both parties, and approved by a majority of a quorum of the Webb County Commissioner's Court.

**20. Confidentiality**

Any confidential information provided to, or developed by, Independent Contractor in the performance of the Agreement shall be kept confidential, unless otherwise provided by law, and shall not be made available to any individual, or organization without the prior approval of COUNTY. All work products, whether in draft or final form is the sole property of Webb County and may not be used by INDEPENDENT CONTRACTOR for any purpose without written consent of COUNTY.

**21. Headings**

The headings used herein are for convenience only, and shall not constitute a part hereof, or affect the construction or interpretation hereof.

**22. Counterparts**

This Agreement may be executed in any number or, and by, the different parties hereto on separate counterparts, each of which when so executed, shall be deemed to be an original, and such counterparts shall, together, constitute but one and the same document.

**23. Terminology and Definitions**

All personal pronouns used herein, whether used in the masculine, feminine, or neutral, shall include all other genders; the singular shall include the plural, and the plural shall include the singular.


**24. Effective Date**

This Agreement becomes effective on October 1, 2019.

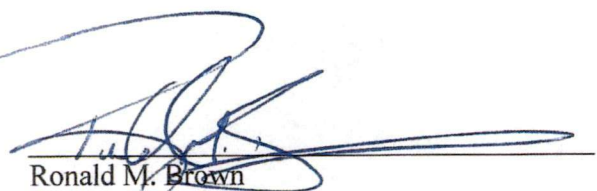
**WEBB COUNTY**

**INDEPENDENT CONTRACTOR**

Ben E. Keith Foods

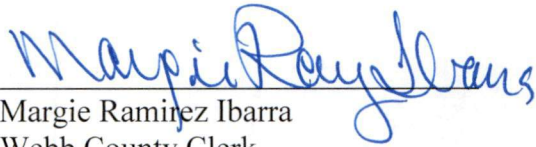


Tano Tijerina  
Webb County Judge



Ronald M. Brown  
District Sales Manager

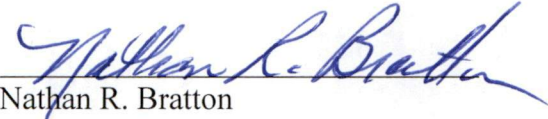
**ATTEST:**



Margie Ramirez Ibarra  
Webb County Clerk



**APPROVED AS TO FORM:**



Nathan R. Bratton  
General Counsel

Webb County Civil Legal Division \*

\*The General Counsel, Civil Legal Division's office, may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval of their own respective attorney(s).

*Presented for Approval at the Webb County Commissioner's Court meeting held on the 9th day of September, 2019, Item No. 19c.*

**Bid 2020-14 Annual Contract for Produce**

**Contract Term: October 1, 2019 thru September 30, 2020**

*Annual Contract is not limited to the items listed below. Please request pricing for additional item from vendor.*

Ben E. Keith Foods  
 c/o Matt Brown  
 17635 Ben E. Keith Way  
 Selma, TX 78154  
 (210) 507-6276  
[rbrown@benekeith.com](mailto:rbrown@benekeith.com)  
[mejimenez@benekeith.com](mailto:mejimenez@benekeith.com)

Description	Pkg Size	Quantity	Case Price	Extended Price
CARROT CARROTEENIE 100 2 OZ	2 Oz	140	\$ 25.38	\$ 3,553.33
APPLE RED DL XF WSH 88 CT	40 Lb	70	\$ 34.01	\$ 2,380.66
APPLE RED DL FCY WSH 113 CT	40 Lb	5	\$ 34.85	\$ 174.23
APPLE RED DL FCY WSH 125 CT	40 Lb	20	\$ 36.47	\$ 729.32
APPLE RED DL FCY WSH 138 CT	40 Lb	80	\$ 37.39	\$ 2,990.89
APPLE RED DL XF	5 Lb	5	\$ 10.02	\$ 50.11
APPLE GRANNY SMTH FCY 88 CT	88 Ct	10	\$ 47.53	\$ 475.33
APPLE GRANNY SMTH FCY 113 CT	113 Ct	15	\$ 48.65	\$ 729.74
APPLE GRANNY SMTH FCY 125 CT	125 Ct	35	\$ 41.12	\$ 1,439.03
APPLE SLICED RED USA	2 Oz	500	\$ 13.99	\$ 6,993.94
BANANA GREEN TIP	40 Lb	1000	\$ 26.54	\$ 26,535.70
BANANA PREMIUM	10 Lb	20	\$ 8.77	\$ 175.40
BLUEBERRY	6 Oz	25	\$ 37.88	\$ 946.94
STRAWBERRY CLAMSHHELL	1 Lb	400	\$ 37.86	\$ 15,144.75
LEMON CHOICE 200 CT	35 Lb	10	\$ 49.98	\$ 499.80
JUICE LEMON FRESH SQUEEZED	Qt	5	\$ 23.16	\$ 115.79
ORANGE CHOICE 56 CT	35 Lb	5	\$ 30.42	\$ 152.11
ORANGE CHOICE 88 CT	88 Ct	70	\$ 33.29	\$ 2,330.13
ORANGE CHOICE 113 CT	113 Ct	20	\$ 32.29	\$ 645.76
ORANGE CHOICE 138 CT	138 Ct	1000	\$ 30.88	\$ 30,878.72
JUICE ORANGE FRESH SQUEEZED	1 Gal	5	\$ 34.87	\$ 174.36
CANTALOUPE US#1 6 CT	6 Ct	50	\$ 20.46	\$ 1,023.13
CANTALOUPE US#1 3 CT	3 Ct	5	\$ 10.36	\$ 51.78
HONEYDEW MELONS US #1 3 CT	3 Ct	50	\$ 12.47	\$ 623.55
HONEYDEW MELONS US#1 8 CT	30 Lb	100	\$ 23.44	\$ 2,344.16
WATERMELON SEEDLESS RED	Each	100	\$ 9.54	\$ 954.44
GRAPE GREEN SEEDLESS	5 Lb	10	\$ 19.37	\$ 193.69
GRAPE RED SEEDLESS 5 LB	5 Lb	5	\$ 14.98	\$ 74.92
GRAPE LUNCH BUNCH RED SDLESS	21 Lb	60	\$ 39.13	\$ 2,347.76
PLUM RED US #1 4X5 CALIFORNIA	28 Lb	35	\$ 31.02	\$ 1,085.63
AVOCADO HASS RIPE 48 CT	48 Ct	5	\$ 49.70	\$ 248.52
KIWI FRUIT #1 33/36 CT	7 1/2 L	100	\$ 17.94	\$ 1,794.34
MANGO US#1 9/12 CT	Ctn	5	\$ 12.84	\$ 64.18
FIG BROWN 35-40CT DRIED	5 Lb	5	\$ 47.81	\$ 239.04
BROCCOLI FLORET ICELESS	3 Lb Ct	5	\$ 23.33	\$ 116.63
BROCCOLI FLORET ICELESS	18 Lb	15	\$ 26.26	\$ 393.85
CABBAGE GREEN US#1	50 Lb S	35	\$ 19.22	\$ 672.59
CABBAGE RED US#1 CALIFORNIA	50 Lb	5	\$ 29.13	\$ 145.63
SPRING MIX CONVENTIONAL	1.5 Lb	5	\$ 11.24	\$ 56.19
CARROT JUMBO TX/MEX/MICH	50Lb Ba	30	\$ 21.11	\$ 633.25
CARROT JUMBO	25 Lb	5	\$ 18.64	\$ 93.18
CARROT JUMBO US #1	10 Lb B	5	\$ 13.03	\$ 65.17
CARROT SHRED	5 Lb	30	\$ 12.85	\$ 385.54
PEAR D ANJOU 110 CT	110 Ct	60	\$ 50.20	\$ 3,012.19
CILANTRO 1 LB CELLO WASH & TRI	1 Lb	200	\$ 10.41	\$ 2,081.35
CANTALOUPE 9 CT	9 Ct	140	\$ 24.54	\$ 3,435.05
CANTALOUPE 12 CT	12 Ct	25	\$ 25.49	\$ 637.20
HONEYDEW MELON 6 CT	30 Lb	10	\$ 23.34	\$ 233.42
PINEAPPLE CHUNK	8 Lb	5	\$ 28.92	\$ 144.61
FRUIT SALAD DELUXE PRESV FREE	8 Lb	5	\$ 26.30	\$ 131.50
LETTUCE ICEBERG 24 CT	Cs	40	\$ 29.67	\$ 1,186.67
LETTUCE ICEBERG PREM PALLETIZD	24 Ct	500	\$ 34.09	\$ 17,045.29
LETTUCE SHRED 1/8 INCH	5 Lb	5	\$ 13.18	\$ 65.90
LETTUCE ROMAINE 24 CT	24 Ct	20	\$ 28.60	\$ 572.06
LETTUCE ROMAINE WASH&TRIM K	5 Lb Ba	10	\$ 22.27	\$ 222.67
SALAD MIX ICEBERG/ROM 50/50	5 Lb	5	\$ 23.23	\$ 116.17
SALAD MIX W/BAG	5 Lb Ba	5	\$ 20.64	\$ 103.21
LIME PERSIAN 1 200 CT	40 Lb	25	\$ 31.19	\$ 779.66
GRAPE GREEN SEEDLESS	19 Lb	10	\$ 37.25	\$ 372.49
ONION WHITE JUMBO US#1	50 Lb S	10	\$ 37.69	\$ 376.93
ONION WHITE JUMBO US#1	10Lb Ba	10	\$ 13.11	\$ 131.09
ONION YELLOW JUMBO	50 Lb	80	\$ 17.40	\$ 1,392.21
ONION YELLOW JUMBO	10Lb Ct	5	\$ 9.67	\$ 48.34
PEA SNO GREEN US #1	10 Lb	5	\$ 31.33	\$ 156.66
PEPPER BELL GREEN CHOPPER	1 1/9 B	150	\$ 29.96	\$ 4,493.44
PEPPER BELL RED	5 Lb Cs	10	\$ 15.41	\$ 154.07
PEPPER BELL GOLD	5 Lb Ba	10	\$ 15.83	\$ 158.25
PEPPER SERRANO	5 Lb Cs	100	\$ 12.23	\$ 1,222.88
PEPPER SERRANO US #1	10 Lb C	5	\$ 19.20	\$ 96.01
PEPPER SERRANO	Vol Fil	30	\$ 45.74	\$ 1,372.27
PEPPER BELL RED CHOPPER	1 1/9 B	5	\$ 36.99	\$ 184.97
PEPPER HABANERO	8 Lb	5	\$ 41.99	\$ 209.93
PEPPER ANCHO	5 Lb	5	\$ 34.34	\$ 171.70
POTATO RED B SIZE US#1	10Lb Ba	5	\$ 11.61	\$ 58.06





MARGIE R. IBARRA  
COUNTY CLERK  
FILED

2019 OCT -4 PM 4:13  
WEBB COUNTY, TEXAS

BY VB DEPUTY