

AGREEMENT

between

NEBRASKA DAIRY INDUSTRY DEVELOPMENT BOARD

and

NEBRASKA DEPARTMENT OF AGRICULTURE

18-01-176

This Agreement is entered into this 1st day of July, 2013, by and between the Nebraska Department of Agriculture hereinafter referred to as the "Department," and the Nebraska Dairy Industry Development Board, hereinafter referred to as the "Board," and shall continue in effect until June 30, 2014, unless sooner terminated or modified by mutual agreement of the parties hereto, in writing.

- A. The parties wish to mutually acknowledge the following:
1. The Board is responsible for the administration of the Dairy Industry Development Act (§2-3948, et seq.), the provisions of which are hereby declared to be a part of this Agreement.
 2. The Department is responsible for the administration of the Nebraska Agricultural Products Marketing Act (§2-3801 et seq.), and the Management Services Expense Revolving Fund (§§81-201.03 and 81-201.04), the provisions of which are declared to be a part of this Agreement.
 3. The Board desires the Department to assist the Board in performing fee collection, budget, accounting, and auditing services, and the Department is desirous of providing such assistance.
 4. Each party specifically agrees that the funds expended pursuant to this Agreement shall be spent only on the work specified and for no other purposes, and that any amendments to the Agreement shall be in writing and executed by each party to be valid.
- B. The Department agrees to assist the Board by providing the following services on a cost reimbursement basis, but such services shall not exceed six thousand five hundred thirty-nine dollars and no cents (\$6,539.00) in value.

1. Fee Collection Services:

- (a) Distribution of monthly fee forms.
- (b) Processing and return of forms.
- (c) Follow-up on delinquent accounts in accordance with enforcement procedures.
- (d) Process refunds as requests are made.
- (e) Update enforcement procedures as needed for Board approval.
- (f) Maintain an updated mailing list of first purchasers.
- (g) Maintain records in accordance with State records retention schedule.

2. Fiscal Services:

- (a) Prepare and electronically submit board-approved budget.
- (b) Perform accounting functions to enable the Board to operate as a State agency.
- (c) Monitor fund investment.
- (d) Deposit revenue into Nebraska Dairy Industry Development Cash Fund.
- (e) Prepare revenue and expenditure documents.
- (f) Review expenditures for compliance with State guidelines.
- (g) Prepare a monthly summary of revenue and expenditure fiscal report.
- (h) Maintain records in accordance with State record retention schedule.

3. Auditing Services:

- (a) Conduct field auditing of first purchaser accounts as authorized by Board action.
- (b) Internal auditing of revenue and expenditures for compliance.

Audit Authority:

Neb. Rev. Stat. §2-3958(2), states:

The Board may audit financial and other records of first purchasers of milk, producers, and their agents pertaining to the assessment provided for in this section and otherwise ensure compliance with the Dairy Industry Development Act.

Audit Scope:

Neb. Rev. Stat. §2-3958(1), states:

There shall be paid to the Board a mandatory assessment of ten cents (.10) per hundredweight on all milk produced in the State of Nebraska for commercial use.

The auditors will verify reports submitted to the Dairy Industry Development Board by examining records that may include, but are not limited to, the general ledger and its accounts, purchases journals or registers, check registers, producer accounts, and/or any other record or records which pertain to the assessment or compliance with the Act. A primary contact person will be noted for use in follow up for making future contact, and will be presented with the results of the audit. The standard audit form presented will serve as a notice of refund due in the case an overpayment, or as an invoice in the case of an underpayment. Payments are to be sent to the customary fee collection agency and not collected by the auditor. The audit results, less any proprietary information, will also be presented to the Board at its next regularly scheduled meeting.

4. To provide the above services, the Department shall employ the necessary personnel and incur the necessary operating and travel expenditures. Each month a State Budget Status report shall be provided to the Board detailing the total budget, monthly expenditures, and fiscal year-to-date expenditures incurred under this Agreement, along with an Interagency Billing Transaction Document billing for the prior month's services performed.

If services in excess of \$6,539.00 are requested by the Board, through Board action, this Agreement may be amended accordingly.

- C. The Board agrees to the Department performing duties outlined in this Agreement in accordance with the three areas outlined in section B. Furthermore, the Board requests that the Department keep all producer and first purchaser fee collection data and audit information confidential to the extent possible under the State of Nebraska Public Records Laws, Neb. Rev. Stat. §§84-712 to 84-712.09. Due to a limited number of first purchasers and/or processors, it is the Board's desire that records and information generated pursuant to this Agreement not create a proprietary advantage for a first purchaser of milk. The Department shall report total dollars deposited and/or refunded to the Board and the Board's

administrative office, but not disclose to Board members, the administrator, or others individual milk first purchaser data. It is agreed the Department shall not be liable nor responsible for an agency or employee of the State of Nebraska not part of, or employed by, the Nebraska Department of Agriculture or for any other individual not employed by the Department relative to the confidentiality of this paragraph. Any dispute relative to this shall be the responsibility of the Board to seek legal guidance from the State Attorney General.

- D. The Board agrees to compensate the Department for the services provided hereunder, as follows:

Direct charges shall be made to the Board, monthly, for services performed, but the total Department charges shall not exceed \$6,539.00, provided sufficient funds and appropriation is available. A one-month advance payment shall be made by the Board to the Department upon receipt of an Intrastate Transaction Document from the Department. Upon termination of the Department as the independent contractor, any unearned credit from the advance payment will be refunded to the Board.

- E. The Department and the Board agree to:

1. Not discriminate against recipients of services on the basis of race, color, religion, national origin, sex, qualified disability or age; and
2. Not discriminate against any employee or applicant for employment on the basis of race, color, religion, national origin, sex, or otherwise qualified disability status.
3. Have in force during the agreement period and available for inspection, a policy regarding a drug-free workplace. The policy shall contain:
 - (a) A statement notifying employees that the unlawful manufacture, distribution, possession or use of a controlled substance is prohibited in the contractor's workplace;
 - (b) The actions that will be taken against employees for violating the policy;
 - (c) A requirement that each employee receive a copy of the policy.

- F. Each party to this Agreement assumes liability for the acts, or omissions of such acts, by their respective employees or Board members arising out of, or relating to, contents of this Agreement and agrees to indemnify the

other party for any claims or liability arising out of, or relating to, such acts or omissions. The obligation to indemnify shall survive the expiration or termination of this Agreement. Such indemnification and assumption of liability found in this section is limited to the extent provided for by law.

- G. This Agreement shall be for the period from July 1, 2013, to June 30, 2014, unless sooner terminated by a sixty (60) day advance written notice of either party.
- H. All provisions to this Agreement are subject to the Americans with Disabilities Act.

DEPARTMENT OF AGRICULTURE

7/18/13
Date

Bobbie Wach
for Greg Ibach, Director

NEBRASKA DAIRY INDUSTRY
DEVELOPMENT BOARD

6-17-13
Date

James Eschliman
James Eschliman, Chairman

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