

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
CONTRACT APPEALS BOARD**

APPEAL OF:

US FOODS, INC.)	
)	
)	CAB No. D-1584
Under Contract Nos. CW88127, CW88323, and)	
CW88326)	

**ORDER SCHEDULING A TRIAL DATE, GRANTING THE PARTIES' JOINT
MOTION FOR EXTENSION OF STAY AND PROVIDING A MEDIATION UPDATE**

Filing ID #71141466

The following matters are presently before the Board: (1) the status of the parties' ongoing mediation and settlement efforts herein; and (2) the parties' October 6, 2023, joint motion to extend the stay in this matter from September 20, 2023, to December 31, 2023. (*See generally* Joint Mot. for Extension of Stay & Suppl. Joint Mediation Status Report ("Joint Mot. to Extend Stay") at 1-3; *see also* Am. Alternative Dispute Resolution Scheduling Order at 1.) We address both matters below.

First, the Board Neutral held an in-person mediation session on October 12, 2023, at 10:00 a.m., in the Board's courtroom. Attending in-person for Appellant, US Foods, Inc., was David Yang, Esq., who was joined virtually by two employees of Appellant. Attending in-person for Appellee, the District of Columbia were Assistant Attorneys General Rebecca P. Barnes, Esq., and Nicholas Feldstern, Esq., who were joined virtually by two employees of the D.C. Department of Behavioral Health. At the mediation, the parties presented their respective positions regarding a potential global settlement herein. In particular, Appellant presented a newly revised spreadsheet titled "Revised DHB 6.15.23 Payment Detail Pivot (Final)," which Appellant provided to the Board as Appeal File Exhibit 32 shortly before the mediation session commenced. (*See generally* Appeal File ("AF") Ex. 32.) Appeal File Exhibit 32 contains a revised summary of Appellant's purportedly unpaid invoices. (*See generally* AF Ex. 32.)

In response, the District stated that it will review and determine which invoices in Appeal File Exhibit 32 are still pending, review its internal payment records against the purportedly unpaid invoices in Appeal File Exhibit 32, and provide a corresponding accounting to US Foods regarding the District's findings concerning Appeal File Exhibit 32 by November 13, 2023. In lieu of a telephone conference in two weeks, which Appellant has requested, each party is requested to separately submit a one-page maximum status update to the Board on the status of the review of Appeal File Exhibit 32 on or around October 26, 2023.

Notwithstanding the stay herein (discussed further below), this matter is being assigned a trial date of November 13-15, 2024 (which is approximately two years after the appeal herein was first filed). The rest and remainder of the scheduling order will be determined by the Presiding Judge assigned to this case if the parties are unable to reach a settlement.

Finally, as noted above, on October 6, 2023, the parties jointly moved to enlarge the stay herein to December 31, 2023. (*See generally* Joint Mot. to Extend Stay at 1-3.) Upon review of the parties' joint motion to extend the stay, and the entire record herein, and to offer the parties an opportunity to pursue their global settlement objectives more effectively, the Board hereby grants the motion, and orders that the stay in this appeal shall be extended to January 2, 2024—the previous two days being a Sunday and a holiday, respectively.

SO ORDERED.

Date: October 19, 2023

/s/ Marc D. Loud, Sr.
MARC D. LOUD, SR.
Chief Administrative Judge
Board Neutral

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