

# Dane County Contract Cover Sheet

RES 028  
Significant

<b>Dept./Division</b>	ADMINISTRATION
<b>Vendor Name</b>	Second Harvest Foodbank of Southern WI
<b>Vendor MUNIS #</b>	11356
<b>Brief Contract Title/Description</b>	Supplying, Warehousing & Distributing Food to Pantries that have been depleted because of COVID-19
<b>Contract Term</b>	5/1/20 - 7/31/20
<b>Total Contract Amount</b>	\$ 3,000,000

<b>Contract #</b> <small>Admin will assign</small>	<b>14005</b>
<b>Addendum</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Type of Contract</b>	
<input checked="" type="checkbox"/>	Dane County Contract
<input type="checkbox"/>	Grant
<input type="checkbox"/>	County Lessee
<input type="checkbox"/>	County Lessor
<input type="checkbox"/>	Intergovernmental
<input type="checkbox"/>	Purchase of Property
<input type="checkbox"/>	Property Sale
<input type="checkbox"/>	Other

<b>Purchasing Authority</b>	<input type="checkbox"/> <b>\$11,000 or under – Best Judgment</b> (1 quote required)	
	<input type="checkbox"/> <b>Between \$11,000 – \$37,000 (\$0 – \$25,000 Public Works)</b> (3 quotes required)	
	<input type="checkbox"/> <b>Over \$37,000 (\$25,000 Public Works)</b> (Formal RFB/RFP required)	<b>RFB/RFP #</b>
	<input type="checkbox"/> <b>Bid Waiver – \$37,000 or under</b> (\$25,000 or under Public Works)	
	<input type="checkbox"/> <b>Bid Waiver – Over \$37,000</b> (N/A to Public Works)	
	<input type="checkbox"/> <b>N/A – Grants, Leases, Intergovernmental, Property Purchase/Sale, Other</b>	

MUNIS Req.	Org Code	Obj Code	Amount	\$
Req #	Org Code	Obj Code	Amount	\$
Year	Org Code	Obj Code	Amount	\$

<b>Resolution</b>	<b>A resolution is required if the contract exceeds \$100,000 (\$40,000 Public Works). A copy of the Resolution must be attached to the contract cover sheet.</b>				
	<input type="checkbox"/> Contract does not exceed \$100,000 (\$40,000 Public Works) – a resolution is not required.				
	<input type="checkbox"/> Contract exceeds \$100,000 (\$40,000 Public Works) – resolution required.			<b>Res #</b>	028
	<input type="checkbox"/> A copy of the Resolution is attached to the contract cover sheet.			<b>Year</b>	2020

Contract Review/Approvals				
Initials	Dept.	Date In	Date Out	Comments
<i>mg</i>	Received by DOA	4/30/20		
<i>ck</i>	Controller		4/30/20	approval via email
<i>pp</i>	Purchasing		4/30/20	approval via email
<i>cap</i>	Corporation Counsel		4/30/20	approval via email
<i>dl</i>	Risk Management		4/30/20	approval via email
	County Executive			

Dane County Dept. Contact Info		Vendor Contact Info	
<b>Name</b>	Chuck Hicklin	<b>Name</b>	
<b>Phone #</b>		<b>Phone #</b>	
<b>Email</b>		<b>Email</b>	
<b>Address</b>		<b>Address</b>	

Certification:	
The attached contract is a:	
<input type="checkbox"/>	Dane County Contract <u>without</u> any modifications.
<input checked="" type="checkbox"/>	Dane County Contract <u>with</u> modifications. <b>The modifications have been reviewed by: Carlos Pabellon</b>
<input type="checkbox"/>	Non-standard contract.

## Contract Cover Sheet Signature

Department Approval of Contract		
<b>Dept. Head / Authorized Designee</b>	Signature	Date
	Printed Name	
	Charles Hicklin	

## Contracts Exceeding \$100,000

Major Contracts Review – DCO Sect. 25.11(3)

<b>Director of Administration</b>	Signature	Date
	<i>Greg Brockmeyer</i>	5/1/20
	Comments	
<b>Corporation Counsel</b>	Signature	Date
	<i>Carlos Pabellon</i>	4/30/20
	Comments	

## Goldade, Michelle

---

**From:** Goldade, Michelle  
**Sent:** Thursday, April 30, 2020 1:23 PM  
**To:** Hicklin, Charles; Patten (Purchasing), Peter; Pabellon, Carlos; Lowndes, Daniel  
**Cc:** Stavn, Stephanie  
**Subject:** Contract #14005  
**Attachments:** 14005.pdf

**Importance:** High

<b>Tracking:</b>	<b>Recipient</b>	<b>Read</b>	<b>Response</b>
	Hicklin, Charles	Read: 4/30/2020 1:26 PM	Approve: 4/30/2020 1:26 PM
	Patten (Purchasing), Peter		Approve: 4/30/2020 1:32 PM
	Pabellon, Carlos	Read: 4/30/2020 1:24 PM	
	Lowndes, Daniel	Read: 4/30/2020 1:23 PM	Approve: 4/30/2020 1:25 PM
	Stavn, Stephanie	Read: 4/30/2020 1:38 PM	

Contract #14005

Department: Administration

Vendor: Second Harvest Foodbank of Southern Wisconsin

Contract Description: Supplying, Warehousing & Distributing Food to Pantries that have been depleted because of COVID-19 (220 RES-028)

Contract Term: 5/1/20 – 7/31/20

Contract Amount: \$3,000,000

Please review the contract and indicate using the vote button above if you approve or disapprove of this contract.

*Michelle Goldade*

Administrative Assistant II

Dane County Department of Administration

Room 362, City-County Building

210 Martin Luther King, Jr. Boulevard

Madison, WI 53703

PH: 608/266-4941

Fax: 608/266-4425

TDD: Call WI Relay 711

## Goldade, Michelle

---

**From:** Pabellon, Carlos  
**Sent:** Thursday, April 30, 2020 2:04 PM  
**To:** Goldade, Michelle  
**Subject:** Approve: Contract #14005

1  
2  
3 **2020 RES-028**

4 **ESTABLISHING A COVID-19 FOOD PROGRAM AND APPROVING A CONTRACT**  
5 **WITH SECOND HARVEST FOOD BANK TO PURCHASE**  
6 **AND DISTRIBUTE FOOD TO DANE COUNTY FOOD PANTRIES**

7  
8 Demand at Dane County food pantries has increased dramatically due to the economic  
9 devastation caused by the COVID-19 pandemic. The county can ensure its most  
10 vulnerable populations retain access to food by establishing a food program to  
11 supplement the resources available to supply food pantries. The COVID Relief Fund  
12 provides the county with the funding to supply the pantries.

13  
14 The county has developed a contract with Second Harvest Food Bank to provide \$1  
15 million per month for the months of May, June and July 2020 for the purchase of food  
16 and distribution to local food pantries.

17  
18  
19 THEREFORE BE IT RESOLVED that, the County Board does hereby establish the  
20 COVID-19 Food Program as program for relief and approves the contract with Second  
21 Harvest Food Bank in the amount of \$1 million per month for May, June and July 2020  
22 and that the County Executive and County Clerk are authorized to execute the contract.

23  
24 BE IT FURTHER RESOLVED that account ADMADM 20025 "COVID Expenses" be  
25 increased by \$3,000,000 and account ADMADM NEW "CARES ACT REVENUE" be  
26 created with an appropriation of \$3,000,000, and

27  
28 BE IT FINALLY RESOLVED that the Department of Administration is hereby authorized  
29 to manage the program and the Controller's Office is authorized to issue checks for  
30 payment of invoices under this contract.

31

# DANE COUNTY CONTRACT # 14005



**# of Pages Including Schedules:**

**Expiration Date:** July 31, 2020

**Authority:** Res. # , 20-21

**Department:** ADMINISTRATION

**Maximum Cost:** \$ 3,000,000

**Registered Agent:**

**Registered Agent Address:**

**THIS AGREEMENT**, made and entered into, by and between the County of Dane (hereafter referred to as "COUNTY") and Second Harvest Foodbank of Southern Wisconsin, Inc. (hereafter, "PROVIDER"),

## **WITNESSETH:**

**WHEREAS** COUNTY, whose address is Department of Administration, 210 Martin Luther King, Jr. Blvd, Room 425, Madison, WI 53703 desires to purchase services from PROVIDER for the purpose of supplying, warehousing and distributing food to pantries that have been depleted because of the COVID-19 public health emergency so that they can serve vulnerable populations in Dane County; and

**WHEREAS** PROVIDER, whose address is 2802 Dairy Drive, Madison, WI 53718 is able and willing to provide such services;

**NOW, THEREFORE**, in consideration of the above premises and the mutual covenants of the parties hereinafter set forth, the receipt and sufficiency of which is acknowledged by each party for itself, COUNTY and PROVIDER do agree as follows:

**I. TERM:**

The term of this Agreement shall commence as of the date by which all parties have executed this Agreement and shall end as of the EXPIRATION DATE set forth on page 1 hereof, unless sooner agreed to in writing by the parties. PROVIDER shall complete its obligations under this Agreement not later than the EXPIRATION DATE. Upon failure of PROVIDER to complete its obligation set forth herein by the EXPIRATION DATE, COUNTY may invoke the penalties, if any, set forth in this document and its attachments.

**II. SERVICES:**

A. PROVIDER agrees to provide the services detailed on the attached Schedule A, which is fully incorporated herein by reference.

B. PROVIDER shall commence, carry on and complete its obligations under this Agreement with all deliberate speed and in a sound, economical and efficient manner, in accordance with this Agreement and all applicable laws. In providing services under this Agreement, PROVIDER agrees to cooperate with the various departments, agencies, employees and officers of COUNTY.

- C. PROVIDER agrees to secure at PROVIDER's own expense all personnel necessary to carry out PROVIDER's obligations under this Agreement. Such personnel shall not be deemed to be employees of COUNTY nor shall they or any of them have or be deemed to have any direct contractual relationship with COUNTY.

**III. ASSIGNMENT/TRANSFER:**

PROVIDER shall neither assign nor transfer any interest or obligation in this Agreement, without the prior written consent of COUNTY unless otherwise provided herein, provided that claims for money due or to become due PROVIDER from COUNTY under this Agreement may be assigned to a bank, trust company or other financial institution without such approval if and only if the instrument of assignment contains a provision substantially to the effect that it is agreed that the right of the assignee in and to any moneys due or to become due to PROVIDER shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this Agreement. PROVIDER shall promptly provide notice of any such assignment or transfer to COUNTY.

**IV. TERMINATION:**

A. Failure of PROVIDER to fulfill any of its obligations under this Agreement in a timely manner, or violation by PROVIDER of any of the covenants or stipulations of this Agreement, shall constitute grounds for COUNTY to terminate this Agreement by giving a thirty (30) day written notice to PROVIDER.

B. The following shall constitute grounds for immediate termination:

1. violation by PROVIDER of any State, Federal or local law, or failure by PROVIDER to comply with any applicable States and Federal service standards, as expressed by applicable statutes, rules and regulations.
2. failure by PROVIDER to carry applicable licenses or certifications as required by law.
3. failure of PROVIDER to comply with reporting requirements contained herein.
4. inability of PROVIDER to perform the work provided for herein.

C. Failure of the Dane County Board of Supervisors or the State or Federal Governments to appropriate sufficient funds to carry out COUNTY's obligations hereunder, shall result in automatic termination of this Agreement as of the date funds are no longer available, without notice.

D. In the event COUNTY terminates this Agreement as provided herein, all finished and unfinished documents, services, papers, data, products, and the like prepared, produced or made by PROVIDER under this Agreement shall at the option of COUNTY become the property of COUNTY, and PROVIDER shall be entitled to receive just and equitable compensation, subject to any penalty, for any satisfactory work completed on such documents, services, papers, data, products or the like. Notwithstanding the above, PROVIDER shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of this Agreement by PROVIDER, and COUNTY may withhold any payments to PROVIDER for the purpose of offset.

**V. PAYMENT:**

COUNTY agrees to make such payments for services rendered under this Agreement as and in the manner specified herein and in the attached Schedule B, which is fully incorporated herein by reference. Notwithstanding any language to the contrary in this Agreement or its attachments, COUNTY shall never be required to pay more than the sum set forth on page 1 of this Agreement under the heading MAXIMUM COST, for all services rendered by PROVIDER under this Agreement.

**VI. REPORTS:**

PROVIDER agrees to make such reports as are required in the attached Schedule C, which is fully incorporated herein by reference. With respect to such reports it is expressly understood that time is of the essence and that the failure of PROVIDER to comply with the time limits set forth in said Schedule C shall result in the penalties set forth herein.

**VII. DELIVERY OF NOTICE:**

Notices, bills, invoices and reports required by this Agreement shall be deemed delivered as of the date of postmark if deposited in a United States mailbox, first class postage attached, addressed to a party's address as set forth above. It shall be the duty of a party changing its address to notify the other party in writing within a reasonable time.

**VIII. INSURANCE:**

A. PROVIDER shall indemnify, hold harmless and defend COUNTY, its boards, commissions, agencies, officers, employees and representatives against any and all liability, loss (including, but not limited to, property damage, bodily injury and loss of life), damages, costs or expenses which COUNTY, its officers, employees, agencies, boards, commissions and representatives may sustain, incur or be required to pay by reason of PROVIDER's furnishing the services or goods required to be provided under this Agreement, provided, however, that the provisions of this paragraph shall not apply to liabilities, losses, charges, costs, or expenses caused by or resulting from the acts or omissions of COUNTY, its agencies, boards, commissions, officers, employees or representatives. The obligations of PROVIDER under this paragraph shall survive the expiration or termination of this Agreement.

B. In order to protect itself and COUNTY, its officers, boards, commissions, agencies, agents, volunteers, employees and representatives under the indemnity provisions of the subparagraph above, PROVIDER shall, at PROVIDER's own expense, obtain and at all times during the term of this Agreement keep in full force and effect the insurance coverages, limits, and endorsements listed below. When obtaining required insurance under this Agreement and otherwise, PROVIDER agrees to preserve COUNTY's subrogation rights in all such matters that may arise that are covered by PROVIDER's insurance. Neither these requirements nor the COUNTY's review or acceptance of PROVIDER's certificates of insurance is intended to limit or qualify the liabilities or obligations assumed by the PROVIDER under this Agreement. The County expressly reserves the right to require higher or lower insurance limits where County deems necessary.

**Commercial General Liability.**

PROVIDER agrees to maintain Commercial General Liability insurance at a limit of not less than \$1,000,000 per occurrence. Coverage shall include, but not be limited to, Bodily Injury and Property Damage to Third Parties, Contractual Liability, Personal Injury and Advertising Injury Liability, Premises-Operations, Independent PROVIDERs and Subcontractors, and Fire Legal Liability. The policy shall not exclude Explosion, Collapse, and Underground Property Damage Liability Coverage. The policy shall list DANE COUNTY as an Additional Insured.

**Commercial/Business Automobile Liability.**

PROVIDER agrees to maintain Commercial/Business Automobile Liability insurance at a limit of not less than \$1,000,000 Each Occurrence. PROVIDER further agrees coverage shall include liability for Owned, Non-Owned & Hired automobiles. In the event PROVIDER does not own automobiles, PROVIDER agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

**Workers' Compensation.**

PROVIDER agrees to maintain Workers Compensation insurance at Wisconsin statutory limits.



Umbrella or Excess Liability.

PROVIDER may satisfy the minimum liability limits required above for Commercial General Liability and Business Auto Liability under an Umbrella or Excess Liability policy. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability; however, the Annual Aggregate limit shall not be less than the highest "Each Occurrence" limit for the Commercial General Liability and Business Auto Liability. PROVIDER agrees to list DANE COUNTY as an "Additional Insured" on its Umbrella or Excess Liability policy.

- C. Upon execution of this Agreement, PROVIDER shall furnish COUNTY with a Certificate of Insurance listing COUNTY as an additional insured and, upon request, certified copies of the required insurance policies. If PROVIDER's insurance is underwritten on a Claims-Made basis, the Retroactive Date shall be prior to or coincide with the date of this Agreement, the Certificate of Insurance shall state that professional malpractice or errors and omissions coverage, if the services being provided are professional services coverage is Claims-Made and indicate the Retroactive Date, PROVIDER shall maintain coverage for the duration of this Agreement and for six (6) years following the completion of this Agreement. PROVIDER shall furnish COUNTY, annually on the policy renewal date, a Certificate of Insurance as evidence of coverage. It is further agreed that PROVIDER shall furnish the COUNTY with a 30-day notice of aggregate erosion, in advance of the Retroactive Date, cancellation, or renewal. It is also agreed that on Claims-Made policies, either PROVIDER or COUNTY may invoke the tail option on behalf of the other party and that the Extended Reporting Period premium shall be paid by PROVIDER. In the event any action, suit or other proceeding is brought against COUNTY upon any matter herein indemnified against, COUNTY shall give reasonable notice thereof to PROVIDER and shall cooperate with PROVIDER's attorneys in the defense of the action, suit or other proceeding. PROVIDER shall furnish evidence of adequate Worker's Compensation Insurance. In case of any sublet of work under this Agreement, PROVIDER shall furnish evidence that each and every subcontractor has in force and effect insurance policies providing coverage identical to that required of PROVIDER. In case of any sublet of work under this Agreement, PROVIDER shall furnish evidence that each and every subcontractor has in force and effect insurance policies providing coverage identical to that required of PROVIDER.
- D. The parties do hereby expressly agree that COUNTY, acting at its sole option and through its Risk Manager, may waive any and all requirements contained in this Agreement, such waiver to be in writing only. Such waiver may include or be limited to a reduction in the amount of coverage required above. The extent of waiver shall be determined solely by COUNTY's Risk Manager taking into account the nature of the work and other factors relevant to COUNTY's exposure, if any, under this Agreement.

**IX. NO WAIVER BY PAYMENT OR ACCEPTANCE:**

In no event shall the making of any payment or acceptance of any service or product required by this Agreement constitute or be construed as a waiver by COUNTY of any breach of the covenants of this Agreement or a waiver of any default of PROVIDER and the making of any such payment or acceptance of any such service or product by COUNTY while any such default or breach shall exist shall in no way impair or prejudice the right of COUNTY with respect to recovery of damages or other remedy as a result of such breach or default.

**X. NON-DISCRIMINATION:**

During the term of this Agreement, PROVIDER agrees not to discriminate on the basis of age, race, ethnicity, religion, color, gender, disability, marital status, sexual orientation, national origin, cultural differences, ancestry, physical appearance, arrest record or conviction record, military participation or membership in the national guard, state defense force or any other reserve component of the military forces of the United States, or political beliefs against any person, whether a recipient of services (actual or potential) or an employee or applicant for employment. Such equal opportunity shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, rates of pay, and any other form of compensation or level of service(s). PROVIDER agrees to post in conspicuous places, available to all employees, service recipients and applicants for employment and services, notices setting forth the provisions of this paragraph. The listing of prohibited bases for

discrimination shall not be construed to amend in any fashion state or federal law setting forth additional bases, and exceptions shall be permitted only to the extent allowable in state or federal law.

**XI. CIVIL RIGHTS COMPLIANCE:**

- A. If PROVIDER has 20 or more employees and receives \$20,000 in annual contracts with COUNTY, the PROVIDER shall submit to COUNTY a current Civil Rights Compliance Plan (CRC) for Meeting Equal Opportunity Requirements under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title VI and XVI of the Public Service Health Act, the Age Discrimination Act of 1975, the Omnibus Budget Reconciliation Act of 1981 and Americans with Disabilities Act (ADA) of 1990. PROVIDER shall also file an Affirmative Action (AA) Plan with COUNTY in accordance with the requirements of chapter 19 of the Dane County Code of Ordinances. PROVIDER shall submit a copy of its discrimination complaint form with its CRC/AA Plan. The CRC/AA Plan must be submitted prior to the effective date of this Agreement and failure to do so by said date shall constitute grounds for immediate termination of this Agreement by COUNTY. If an approved plan has been received during the previous CALENDAR year, a plan update is acceptable. The plan may cover a two-year period. Providers who have less than twenty employees, but who receive more than \$20,000 from the COUNTY in annual contracts, may be required to submit a CRC Action Plan to correct any problems discovered as the result of a complaint investigation or other Civil Rights Compliance monitoring efforts set forth herein below. If PROVIDER submits a CRC/AA Plan to a Department of Workforce Development Division or to a Department of Health and Family Services Division that covers the services purchased by COUNTY, a verification of acceptance by the State of PROVIDER's Plan is sufficient.
- B. PROVIDER agrees to comply with the COUNTY's civil rights compliance policies and procedures. PROVIDER agrees to comply with civil rights monitoring reviews performed by the COUNTY, including the examination of records and relevant files maintained by the PROVIDER. PROVIDER agrees to furnish all information and reports required by the COUNTY as they relate to affirmative action and non-discrimination. PROVIDER further agrees to cooperate with COUNTY in developing, implementing, and monitoring corrective action plans that result from any reviews.
- C. PROVIDER shall post the Equal Opportunity Policy, the name of PROVIDER's designated Equal Opportunity Coordinator and the discrimination complaint process in conspicuous places available to applicants and clients of services, applicants for employment and employees. The complaint process will be according to COUNTY's policies and procedures and made available in languages and formats understandable to applicants, clients and employees. PROVIDER shall supply to COUNTY's Contract Compliance Officer upon request a summary document of all client complaints related to perceived discrimination in service delivery. These documents shall include names of the involved persons, nature of the complaints, and a description of any attempts made to achieve complaint resolution.
- D. PROVIDER shall provide copies of all announcements of new employment opportunities to COUNTY's Contract Compliance Officer when such announcements are issued.
- E. If PROVIDER is a government entity having its own compliance plan, PROVIDER'S plan shall govern PROVIDER's activities.

**XII. COMPLIANCE WITH FAIR LABOR STANDARDS:**

- A. Reporting of Adverse Findings. During the term of this Agreement, PROVIDER shall report to the County Contract Compliance Officer, within ten (10) days, any allegations to, or findings by the National Labor Relations Board (NLRB) or Wisconsin Employment Relations Commission (WERC) that PROVIDER has violated a statute or regulation regarding labor standards or relations,. If an investigation by the Contract Compliance Officer results in a final determination that the matter adversely affects PROVIDER'S responsibilities under this Agreement, and which recommends termination, suspension or cancellation of this agreement, the County may take such action.

- B. Appeal Process. PROVIDER may appeal any adverse finding by the Contract Compliance Officer as set forth in Dane County Ordinances Sec. 25.08(20)(c) through (e).
- C. Notice Requirement. PROVIDER shall post the following statement in a prominent place visible to employees: "As a condition of receiving and maintaining a contract with Dane County, this employer shall comply with federal, state and all other applicable laws prohibiting retaliation for union organizing."

**XIII. MISCELLANEOUS:**

- A. Registered Agent. PROVIDER warrants that it has complied with all necessary requirements to do business in the State of Wisconsin, that the persons executing this Agreement on its behalf are authorized to do so, and, if a corporation, that the name and address of PROVIDER's registered agent is as set forth opposite the heading REGISTERED AGENT on page 1 of this Agreement. PROVIDER shall notify COUNTY immediately, in writing, of any change in its registered agent, his or her address, and PROVIDER's legal status. For a partnership, the term 'registered agent' shall mean a general partner.
- B. Controlling Law and Venue. It is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, Wisconsin law shall be controlling. Venue for any legal proceedings shall be in the Dane County Circuit Court.
- C. Limitation Of Agreement. This Agreement is intended to be an agreement solely between the parties hereto and for their benefit only. No part of this Agreement shall be construed to add to, supplement, amend, abridge or repeal existing duties, rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.
- D. Entire Agreement. The entire agreement of the parties is contained herein and this Agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof. The parties expressly agree that this Agreement shall not be amended in any fashion except in writing, executed by both parties.
- E. Counterparts. The parties may evidence their agreement to the foregoing upon one or several counterparts of this instrument, which together shall constitute a single instrument.

**IN WITNESS WHEREOF**, COUNTY and PROVIDER, by their respective authorized agents, have caused this Agreement and its Schedules to be executed, effective as of the date by which all parties hereto have affixed their respective signatures, as indicated below.

**FOR PROVIDER:**

  
\_\_\_\_\_

4/30/20  
\_\_\_\_\_  
Date Signed

\_\_\_\_\_

\_\_\_\_\_  
Date Signed

\* \* \*

**FOR COUNTY:**

\_\_\_\_\_  
Joseph T. Parisi, Dane County Executive

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Scott McDonell, Dane County Clerk

\_\_\_\_\_  
Date Signed

\* [print name and title, below signature line of any person signing this document]

## **SCHEDULE A**

### **Scope of Services**

In accordance with the terms set forth in Schedule B, COUNTY shall provide funding in the amount of \$3,000,000 (“Funding”) for the following services.

I. **Services.** PROVIDER agrees to procure, warehouse and distribute food (“Services”) as set forth below during the months of May, June and July 2020.

#### **A. Procurement**

1. PROVIDER shall obtain or otherwise procure food items that will be used to supply existing Dane County food pantries. For the purposes of this Agreement, “food item” is defined as any type of food, including but not limited to perishable food, such as produce, dairy products, meats as well as any non-perishable food, such as can, dry or packaged foods.
2. PROVIDER shall procure only the amount of food items that can be stored without waste.
3. PROVIDER understands and agrees that the procurement of dairy products and meats from locally sourced farms and produce from local growers will have a beneficial impact on farming operations in Dane County. As such, PROVIDER shall give preference to and make reasonable efforts to obtain dairy products and meats from local Dane County farming operations, such as dairy plants, cheese plants and meat processing plants. PROVIDER shall also give preference to and make reasonable efforts to obtain produce from local Dane County growers and farms through Fair Share CSA Coalition and the Dane County Farmers Market.

#### **B. Warehouse**

1. PROVIDER agrees to provide adequate facilities for the handling and storage of food items.
2. All food items shall be properly safeguarded against theft, spoilage, or other loss.
3. All food items shall be stored in accordance with all applicable federal, state and local safety regulations.

#### **C. Distribution**

1. PROVIDER shall distribute food items to the food pantries and meal sites affiliated with PROVIDER that are located in Dane County.

2. PROVIDER will work with food pantries and meal sites to determine how to distribute the food items, and will accommodate any reasonable requests related to frequency, manner and timing of distribution.
3. PROVIDER shall not charge a fee or require any type of payment related to the distribution of the food items.

II. **Provider Responsibilities.** PROVIDER agrees that all Services provided under this Agreement shall be in furtherance of ensuring access to food items through identified sites serving senior citizens, low or no income Dane County residents, and other vulnerable populations impacted by the COVID-19 outbreak. PROVIDER's responsibilities shall also include the following:

A. **Trailers.** In order to perform the Services under this Agreement, PROVIDER agrees to utilize four (4) trailers that the COUNTY shall provide in order to properly and safely store dairy products, meats, and produce. Two trailers shall be refrigerated, and the other two shall be freezer trailers. PROVIDER further agrees to the Vehicle Lease attached to this Agreement as SCHEDULE D, and shall execute and return the Lease within five (5) days of signing the Agreement.

B. **Records.** PROVIDER shall maintain accurate and complete records to document the procurement, storage and distribution of food items under this Agreement. Any instances of lost food items, for whatever reason, shall also be documented. All records created or associated with this Agreement shall be maintained for a period of not less than seven (7) years after all matters pertaining to this Agreement are resolved or completed.

C. **Cooperation.** PROVIDER understands and agrees that the Funding provided under this Agreement is made available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief and Economic Security Act, and can only be used to respond to the COVID-19 public health emergency ("Emergency"). PROVIDER agrees to cooperate with COUNTY to the fullest extent possible in order to demonstrate that the Services provided under this Agreement were performed as a result of the Emergency. Such cooperation includes, but is not limited, to furnishing records, providing information when necessary, and making PROVIDER's officers and employees reasonably available to answer any inquiries.

D. **Time.** PROVIDER shall commence and complete its obligations under this Agreement in a sound, economical and efficient manner in accordance with this Agreement and all applicable laws.

## **SCHEDULE B**

### **Pricing Structure and Payment**

#### I. Administrative Expenses

- a. PROVIDER shall be permitted to retain up to 10% of the Funding in order to cover expenses related to the administration of the Services provided hereunder.
- b. PROVIDER shall provide to COUNTY a monthly expense report that itemizes the costs associated with the administration of the Services.

#### II. Funding

- a. COUNTY has made available a total of \$3,000,000 to fund the Services that PROVIDER will undertake under this Agreement.
- b. Within ten (10) days of execution of the Agreement, PROVIDER shall invoice COUNTY for the cost of the Services in the amount of \$1,000,000. Thereafter, PROVIDER shall invoice COUNTY for the cost of the Services in an amount of \$1,000,000 at the start of each remaining month in the Term (i.e. June 2020 and July 2020).
- c. COUNTY shall remit payment within fourteen (14) days from the receipt of invoice.

#### III. Unused Funds

- a. Upon the expiration of this Agreement, the PROVIDER shall transfer to the COUNTY any funds on hand at the time of expiration and any accounts receivable attributable to the use of funds.

#### IV. Audit.

- a. PROVIDER may be required to submit to an audit of the Funding used to provide the Services and of all of the expenses related to their administration.
- b. PROVIDER shall make all books, accounting records and other documents available at all reasonable times during the term of this Agreement and for a period of one (1) year from the expiration of this Agreement.

## **SCHEDULE C**

### **Reports**

No later than thirty (30) days after the end of a month during the Term, PROVIDER shall provide the following MONTHLY reports to COUNTY:

- I. Admin Expenses. PROVIDER shall provide a listing of the administrative expenses incurred under this Agreement as set forth in Schedule B., Section 1.b.
  
- II. Services. PROVIDER shall provide the following information:
  - a. The cost, quantity and type of food items procured and stored
  - b. The number of Dane County food pantries served
  - c. An estimate of the number of individuals served



**SCHEDULE D**  
**(VEHICLE LEASE)**

## VEHICLE LEASE AGREEMENT

This Vehicle Lease Agreement (“Agreement”) is entered into this \_\_\_\_ day of 2020, by and between the County of Dane (“Lessor”), a quasi-municipal corporation in the State of Wisconsin and Second Harvest Foodbank of Southern Wisconsin, Inc (“Lessee”). In consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee hereby enter into this Vehicle Lease Agreement in accordance with the following terms:

1. Leased Vehicle. Lessor agrees to lease to Lessee and Lessee hereby leases from Lessor the four (4) vehicles (“Leased Vehicles”) further described in “Exhibit A” attached hereto and made a part hereof.
2. Leased Term. The term of this Agreement shall commence on the later of the dates on which executed by the parties below, which shall be considered the effective date of this Agreement, and shall continue unabated until July 31, 2020 provided Lessee is not in default of any provision of this Agreement and Lessor has not exercised its right of termination hereunder, both parties shall have the option to renegotiate this Agreement at any time by providing a written notice of intent to the other party requesting same. At the conclusion of the lease term, Lessee will return the Leased Vehicles to the Lessor. Lessee agrees to return the Leased Vehicles with their fuel tanks filled.
3. Leased Payments. Lessee shall pay Lessor as rent for the Leased Vehicles the sums outlined in the attached Exhibit A detailing the vehicle(s), lease terms, and payments therein.
4. Operations: In the operation of the Leased Vehicles, Lessee agrees:
  - a. To use the Leased Vehicles solely for the purpose of supplying, warehousing and distributing food to Dane County pantries that have been depleted because of the COVID-19 public health emergency as further specified under the separate Agreement between Lessor and Lessee for such services (**“Dane County Contract # 14005.”**)
  - b. To monitor and refill the fuel tanks of the Leased Vehicles. Lessee understands that due to the nature of Leased Vehicles, fuel levels must be maintained in order to prevent damage.

- c. To monitor the temperature of each Leased Vehicles to ensure that the food items stored in each vehicle is properly preserved for distribution.
  - d. To cause each Leased Vehicle to be operated only by qualified, competent and licensed Lessee's employees.
  - e. To comply with all applicable motor vehicle laws and regulations of the State of Wisconsin and federal government.
  - f. Not to loan, sell, sublet, assign or mortgage the Leased Vehicles or lend or permit them to be subject to any legal process without the Lessor's prior written consent.
  - g. To protect the Leased Vehicles from theft and other hazards while under the Lessee's control.
  - h. To verbally notify the Lessor immediately of any theft, fire, improper performance, damage, accidents or collision in which any Leased Vehicles has been involved; to supply a copy of any report required to be filled with any administrative body or governmental unit, and to supply a written report within seven (7) days of any theft, fire accident or collision involving any Leased Vehicles. In the event of failure to so notify Lessor, Lessee will be responsible for any loss to Lessor as a result of such failure. Lessee agrees to cooperate fully with the Lessor in any reasonable way to prevent loss; to aid in every reasonable way in the defense of suits or other proceedings which may be brought as a result of the operation of the Leased Vehicles; to notify the Lessor promptly of any papers, notices, or documents served upon the Lessee, its agents, or employees, arising out of the operation of the Leased Vehicle. However, it is understood and agreed that Lessee shall file all claims directly with its insurance company in accordance with the terms of the policy, without the requirement of prior notification to or approval by Lessor.
  - i. Lessee shall not commence an action in Court for recovery of damages to the Leased Vehicles without written consent of the Lessor. Lessee shall take no steps which would affect the Lessor's claim for damages.
5. No Warranties. Lessor makes no representations or warranties concerning the condition of the Leased Vehicle(s) or their fitness for any particular purpose. Lessee accepts the Leased Vehicle(s) in "as is" condition subject to reasonable inspection by the Lessee upon Delivery of each vehicle.
6. Maintenance. Lessee shall be responsible for all required maintenance on the Leased Vehicles. At the end of this Agreement, Lessee shall return the Leased Vehicles to Lessor in the same condition in which it was accepted at the commencement of this Agreement, ordinary wear and tear excepted.
7. Insurance: Lessee agrees to maintain insurance that complies with the following terms:

- a. At all times during the term of this Agreement, Lessee shall maintain at a minimum, the levels of insurance coverage and in the manner described that are set forth in Exhibit B, attached hereto and made a part hereof.
  - b. A copy of the policy and endorsements and all notice of proposed cancellation of coverage shall be sent to Lessor at the following addresses:
    - i. Risk Manager  
Dane County  
City-County Building, Room 425  
Madison, Wisconsin 53703
  - c. In the event of any failure by the Lessee to comply with these requirements, the Lessor may, at its option, on notice to the Lessee suspend the performance of this Agreement until there is full compliance. Alternatively, Lessor may terminate the Agreement in accordance with the termination provisions contained herein.
8. Indemnification. Lessee agrees to indemnify and hold Lessor harmless against and from any and all loss, liability, claims or expense, including reasonable attorney's fees, arising from bodily injury, including death, or property damage to any third person caused by the negligent or willful acts or omissions of Lessee, its board of director, officers, employees, or agents, except to the extent the same are caused by the negligence or misconduct of Lessor, its officers, employees, or agents.
  9. Termination. Either party hereto may terminate this Agreement at any time during the term hereof if the other party breaches the terms of this Agreement obligations. A party must provide thirty (30) days prior written notice to the other party that it will terminate the Agreement. Lessee shall return the Leased Vehicles to Lessor at the end of said 30-day period in the same condition in which accepted at the commencement of this Agreement, ordinary wear and tear excepted.
  10. Title. This Agreement is one of leasing only, and the Lessee shall not have or acquire any right, title, or interest in or to the Leased Vehicles, except the right to use or operate them as provided herein.
  11. Representation. Lessor represents and warrants that it is authorized to enter into and perform the terms of this Agreement to which it will become a party. Lessor further represents that it has the authority to lease the Leased Vehicles to Lessee as provided by a separate agreement between the Lessor and a third-party ("Third-Party Agreement"). Lessor shall be responsible for the consequences of its own acts, errors, or omissions related to the Third-Party Agreement and shall be responsible for any

losses, claims, and liabilities which are attributable to such acts, errors, or omissions including providing its own defense.

12. Audits and Inspections. Lessee shall permit the Lessor's designated representatives to audit all books, records and files relative to the operation and maintenance of the Leased Vehicles by the Lessor's representatives, at mutually agreed times.
13. No Waiver. No failure or delay on the part of either party to enforce any of the terms, covenants, conditions or agreements hereof shall operate as a waiver thereof nor avoid or affect the right of the party to enforce the same upon a subsequent default or breach.
14. Notice. All notices to be given under the terms of this Lease shall be signed by the person sending the same, and shall be sent by certified mail, return receipt requested and postage prepaid, to the address of the parties specified below:

For Lessor: Director of Administration  
Dane County  
City-County Building, Room 425  
Madison, Wisconsin 53703

For Lessee: Michelle Orge  
Second Harvest Foodbank of Southern Wisconsin, Inc.  
2802 Dairy Drive  
Madison, WI 53718

15. Captions. The captions of paragraphs appearing in this Agreement are inserted only as a matter of convenience and in no way define or limit the scope or intent of such paragraphs or this lease, nor in any way affect this Agreement.
16. Successor. This Agreement shall bind and insure to the benefit of the parties hereto, their heirs, representatives, successors and assigns, except as otherwise herein specifically provided.
17. Third Parties. This Agreement is intended to be an agreement solely between the parties hereto and for their benefit only. No part of this Agreement shall be construed to add to, supplement, amend, abridge or repeal existing duties, rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.
18. Entire Agreement. The entire agreement of the parties is contained herein and this agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof. The parties expressly agree that this

Agreement shall not be amended in any fashion except in writing, executed by both parties.

19. Controlling Law and Venue. It is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, Wisconsin law shall be controlling. Venue for any legal proceedings shall be in the Dane County Circuit Court.
20. Counterparts. The parties may evidence their agreement to the foregoing upon one or several counterparts of this instrument, which together shall constitute a single instrument.

FOR LESSEE:

Second Harvest Foodbank of Southern Wisconsin, Inc.

BY: \_\_\_\_\_

Date: \_\_\_\_\_

FOR LESSOR:

COUNTY OF DANE

BY: \_\_\_\_\_

Date: \_\_\_\_\_

County Executive

**EXHIBIT A**

<b>Year</b>	<b>Make/Model</b>	<b>VIN</b>	<b>Annual Lease Amount</b>	<b>Term of Lease</b>
			<b>\$1.00</b>	<b>Until 7/31/20</b>
			<b>\$1.00</b>	<b>Until 7/31/20</b>
			<b>\$1.00</b>	<b>Until 7/31/20</b>
			<b>\$1.00</b>	<b>Until 7/31/20</b>

## **EXHIBIT B.**

### **INSURANCE.**

In order to protect itself and Lessor, its officers, boards, commissions, agencies, agents, volunteers, employees and representatives under the indemnity provisions of the Agreement, Lessee shall, at Lessee's own expense, obtain and at all times during the term of this Agreement keep in full force and effect the insurance coverages, limits, and endorsements listed below. When obtaining required insurance under this Agreement and otherwise, Lessee agrees to preserve Lessee's subrogation rights in all such matters that may arise that are covered by Lessee's insurance. Neither these requirements nor the Lessor's review or acceptance of Lessee's certificates of insurance is intended to limit or qualify the liabilities or obligations assumed by the Lessee under this Agreement. The Lessor expressly reserves the right to require higher or lower insurance limits where Lessor deems necessary.

#### **Commercial/Business Automobile Liability.**

Lessee agrees to maintain Commercial/Business Automobile Liability insurance at a limit of not less than \$1,000,000 Each Occurrence. Lessee further agrees coverage shall include liability for Owned, Non-Owned & Hired automobiles. In the event Lessee does not own automobiles, Lessee agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.