



**STATE OF MICHIGAN PROCUREMENT**  
 Department of Natural Resources  
 525 W Allegan, Lansing, MI 48933

**NOTICE OF CONTRACT**

NOTICE OF CONTRACT NO. **250000000082**

between

THE STATE OF MICHIGAN

and

<b>CONTRACTOR</b>	Food Bank Council of Michigan
	330 Marshall St
	Lansing, 48912
	Garrett Zuver
	517-889-9588
	gzuver@fbcnich.org
	CV0029718

<b>STATE</b>	Program Manager	Joeseeph Presgrove	DNR
		presgrovej@michigan.gov	
	517-284-6108		
	Contract Administrator	Kip Conley	DNR
517-388-5956			
Conleyk1@michigan.gov			

<b>CONTRACT SUMMARY</b>			
<b>DESCRIPTION: Disbursement of Processed Meat to Michigan Charitable Organizations</b>			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
1/1/25	12/31/27	5 – 1-year options	12/31/27
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45		NA	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
NA			
MISCELLANEOUS INFORMATION			
<b>THIS IS NOT AN ORDER. This Contract Agreement is awarded on the basis of the State's inquiry bearing the solicitation number RFP 24*3037. Orders for Delivery will be issued directly by the Departments through the issuance of a Delivery Order (DO).</b>			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			<b>\$900,000.00</b>

**FOR THE CONTRACTOR:**

**Food Bank Council of Michigan**

\_\_\_\_\_  
**Company Name**

E-SIGNED by Marsha Keefer  
on 2025-01-07 12:59:07 EST

\_\_\_\_\_  
**Authorized Agent Signature**

**Marsha Keefer**

\_\_\_\_\_  
**Authorized Agent** (Print or Type)

\_\_\_\_\_  
**Date**

**FOR THE STATE:**

E-SIGNED by Laura Gyorkos  
on 2025-01-09 16:31:55 EST

\_\_\_\_\_  
**Signature**

**Laura Gyorkos – Procurement Manager**

\_\_\_\_\_  
**Name & Title**

**Department of Natural Resources**

\_\_\_\_\_  
**Agency**

\_\_\_\_\_  
**Date**

# STANDARD CONTRACT TERMS

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This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and Food Bank Council of Michigan (“**Contractor**”), a non-profit. This Contract is effective on 1/1/2025 (“**Effective Date**”), and unless terminated, will expire on 12/31/2027 (the “**Term**”).

This Contract may be renewed for up to 5 – 1-year additional year period(s). Renewal is at the sole discretion of the State and will automatically extend the Term of this Contract. The State will document its exercise of renewal options via Contract Change Notice.

The parties agree as follows:

- 1. Duties of Contractor.** Contractor must perform the services and provide the deliverables (the “**Contract Activities**”) described in a Statement of Work, the initial Statement of Work is attached as Schedule A – Statement of Work. An obligation to provide delivery of any commodity is considered a service and is a Contract Activity.

Contractor must furnish all labor, equipment, materials, and supplies necessary for the performance of the Contract Activities unless otherwise specified in a Statement of Work.

Contractor must: (a) perform the Contract Activities in a timely, professional, safe, and workmanlike manner consistent with standards in the trade, profession, or industry; (b) meet or exceed the performance and operational standards, and specifications of the Contract; (c) provide all Contract Activities in good quality, with no material defects; (d) not interfere with the State’s operations; (e) obtain and maintain all necessary licenses, permits or other authorizations necessary for the performance of the Contract; (f) cooperate with the State, including the State’s quality assurance personnel, and any third party to achieve the objectives of the Contract; (g) return to the State any State-furnished equipment or other resources in the same condition as when provided when no longer required for the Contract; (h) assign to the State any claims resulting from state or federal antitrust violations to the extent that those violations concern materials or services supplied by third parties toward fulfillment of the Contract; (i) comply with all State physical and IT security policies and standards which will be made available upon request; and (j) provide the State priority in performance of the Contract except as mandated by federal disaster response requirements. Any breach under this paragraph is considered a material breach.

Contractor must also be clearly identifiable while on State property by wearing identification issued by the State, and clearly identify themselves whenever making contact with the State.

2. **Notices.** All notices and other communications required or permitted under this Contract must be in writing and will be considered given and received: (a) when verified by written receipt if sent by courier; (b) when actually received if sent by mail without verification of receipt; or (c) when verified by automated receipt or electronic logs if sent by facsimile or email.

If to State:	If to Contractor:
<b>See Contract Administrator information shown below.</b>	Marsha Keefer 330 Marshall St. Lansing MI 48912 mkeefe@fbcMich.org 517-927-8379

3. **Contract Administrator.** The Contract Administrator, or the individual duly authorized for each party, is the only person authorized to modify any terms of this Contract, and approve and execute any change under this Contract (each a “**Contract Administrator**”):

State:	Contractor:
Kip Conley 525 W Allegan Lansing, MI 48933 517-388-5956 Conleyk1@michigan.gov	Marsha Keefer 330 Marshall St. Lansing MI 48912 mkeefe@fbcMich.org 517-927-8379

4. **Program Manager.** The Program Manager for each party will monitor and coordinate the day-to-day activities of the Contract (each a “**Program Manager**”):

State:	Contractor:
Joeseeph Presgrove 525 W Allegan Lansing, MI 48933 presgrovej@michigan.gov 517-284-6108	Garrett Zuver 330 Marshall St. Lansing MI 48912 gzuver@fbcMich.org 517-899-9588

5. **Performance Guarantee.** Contractor must at all times have financial resources sufficient, in the opinion of the State, to ensure performance of the Contract and must provide proof upon request. The State may require a performance bond (as specified in a Statement of Work) if, in the opinion of the State, it will ensure performance of the Contract.

6. **Insurance Requirements.**
- a. **General Requirements.** Contractor, at its sole expense, must maintain the insurance coverage as specified herein for the duration of the Term. Minimum limits may be satisfied by any combination of primary liability, umbrella or excess liability, and self-insurance coverage. To the extent damages are covered by any

required insurance, Contractor waives all rights against the State for such damages. Failure to maintain required insurance does not limit this waiver.

- b. Qualification of Insurers.** Except for self-insured coverage, all policies must be written by an insurer with an A.M. Best rating of A- VII or higher unless otherwise approved by DTMB Enterprise Risk Management.
- c. Primary and Non-Contributory Coverage.** All policies for which the State of Michigan is required to be named as an additional insured must be on a primary and non-contributory basis.
- d. Claims-Made Coverage.** If any required policies provide claims-made coverage, Contractor must:
  - (1) Maintain coverage and provide evidence of coverage for at least 3 years after the later of the expiration or termination of the Contract or the completion of all its duties under the Contract;
  - (2) Purchase extended reporting coverage for a minimum of 3 years after completion of work if coverage is cancelled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Contract
- e. Proof of Insurance**
  - (1) Insurance certificates showing evidence of coverage as required herein must be submitted to the Contract Administrator within 10 days of the contract execution date.
  - (2) Renewal insurance certificates must be provided on annual basis or as otherwise commensurate with the effective dates of coverage for any insurance required herein.
  - (3) Insurance certificates must be in the form of a standard ACORD Insurance Certificate unless otherwise approved by DTMB Enterprise Risk Management.
  - (4) All insurance certificates must clearly identify the Contract Number (e.g., notated under the Description of Operations on an ACORD form).
  - (5) The State may require additional proofs of insurance or solvency, including but not limited to policy declarations, policy endorsements, policy schedules, self-insured certification or authorization, and audited financial statements.
  - (6) In the event any required coverage is cancelled or not renewed, Contractor must provide written notice to the Contract Administrator no later than 5 business days following such cancellation or nonrenewal.

**f. Subcontractors.** Contractor is responsible for ensuring its subcontractors, if any, carry and maintain insurance coverage as applicable to the subcontracted service(s).

**g. Limits of Coverage & Specific Endorsements.** (See Table 6.1 Below)

TABLE 6.1

Required Limits	Additional Requirements
<b>Commercial General Liability Insurance</b>	
<b>Minimum Limits:</b> \$1,000,000 Each Occurrence \$1,000,000 Personal & Advertising Injury \$2,000,000 Products/Completed Operations \$2,000,000 General Aggregate	Contractor must have their policy endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds using endorsement CG 20 10 11 85, or both CG 20 10 12 19 and CG 20 37 12 19.
<b>Automobile Liability Insurance</b>	
<b>Minimum Limits:</b> \$1,000,000 Per Accident	Contractor must have their policy: (1) endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds; and (2) include Hired and Non-Owned Automobile coverage.
<b>Workers' Compensation Insurance</b>	
<b>Minimum Limits:</b> Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
<b>Employers Liability Insurance</b>	
<b>Minimum Limits:</b> \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease	

**h. Non-Waiver.** This Section 6 is not intended to and is not to be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Contract, including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the State.

**7. RESERVED.**

**8. RESERVED.**

- 9. Relationship of the Parties.** The relationship between the parties is that of independent contractors. Contractor, its employees, and agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor. Neither party has authority to contract for nor bind the other party in any manner whatsoever.
- 10. Intellectual Property Rights.** If a Statement of Work requires Contractor to create any intellectual property, Contractor hereby acknowledges that the State is and will be the sole and exclusive owner of all right, title, and interest in the Contract Activities and all associated intellectual property rights, if any. Such Contract Activities are works made for hire as defined in Section 101 of the Copyright Act of 1976. To the extent any Contract Activities and related intellectual property do not qualify as works made for hire under the Copyright Act, Contractor will, and hereby does, immediately on its creation, assign, transfer and otherwise convey to the State, irrevocably and in perpetuity, throughout the universe, all right, title and interest in and to the Contract Activities, including all intellectual property rights therein.
- 11. Subcontracting.** Contractor may not delegate any of its obligations under the Contract without the prior written approval of the State. Contractor must notify the State at least 90 calendar days before the proposed delegation and provide the State any information it requests to determine whether the delegation is in its best interest. If approved, Contractor must: (a) be the sole point of contact regarding all contractual matters, including payment and charges for all Contract Activities; (b) make all payments to the subcontractor; and (c) incorporate the terms and conditions contained in this Contract in any subcontract with a subcontractor. Contractor remains responsible for the completion of the Contract Activities, compliance with the terms of this Contract, and the acts and omissions of the subcontractor. The State, in its sole discretion, may require the replacement of any subcontractor.
- 12. Staffing.** The State's Contract Administrator may require Contractor to remove or reassign personnel providing services by providing a notice to Contractor.
- 13. Background Checks.** Pursuant to Michigan law, all agencies subject to IRS Pub. 1075 are required to ask the Michigan State Police to perform fingerprint background checks on all employees, including Contractor and Subcontractor employees, who may have access to any database of information maintained by the federal government that contains confidential or personal information, including, but not limited to, federal tax information. Further, pursuant to Michigan law, any agency described above is prohibited from providing Contractors or Subcontractors with the result of such background check. For more information, please see Michigan Public Act 427 of 2018. Upon request, or as may be specified in a Statement of Work, Contractor must perform background checks on all employees and subcontractors and its employees prior to their assignment. The scope is at the discretion of the

State and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks.

- 14. Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.
- 15. Change of Control.** Contractor will notify the State, within 30 days of any public announcement or otherwise once legally permitted to do so, of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other entity; (e) a change in ownership through a transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.

In the event of a change of control, Contractor must require the successor to assume this Contract and all of its obligations under this Contract.

- 16. Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in a Statement of Work.
- 17. Acceptance.** Contract Activities are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them ("**State Review Period**"), unless otherwise provided in a Statement of Work. If the Contract Activities are not fully accepted by the State, the State will notify Contractor by the end of the State Review Period that either: (a) the Contract Activities are accepted but noted deficiencies must be corrected; or (b) the Contract Activities are rejected. If the State finds material deficiencies, it may: (i) reject the Contract Activities without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract in accordance with Section 24, Termination for Cause.

Within 10 business days from the date of Contractor's receipt of notification of acceptance with deficiencies or rejection of any Contract Activities, Contractor must cure, at no additional cost, the deficiency and deliver unequivocally acceptable Contract Activities to the State. If acceptance with deficiencies or rejection of the Contract Activities impacts the content or delivery of other non-completed Contract Activities, the parties' respective Program Managers must determine an agreed to number of days for re-submission that minimizes the overall impact to the Contract. However, nothing herein affects, alters, or relieves Contractor of its obligations to

correct deficiencies in accordance with the time response standards set forth in this Contract.

If Contractor is unable or refuses to correct the deficiency within the time response standards set forth in this Contract, the State may cancel the order in whole or in part. The State, or a third party identified by the State, may perform the Contract Activities and recover the difference between the cost to cure and the Contract price plus an additional 10% administrative fee.

- 18. Delivery.** Contractor must deliver all Contract Activities F.O.B. destination, within the State premises with transportation and handling charges paid by Contractor, unless otherwise specified in a Statement of Work. All containers and packaging become the State's exclusive property upon acceptance.
- 19. Risk of Loss and Title.** Until final acceptance, title and risk of loss or damage to Contract Activities remains with Contractor. Contractor is responsible for filing, processing, and collecting all damage claims. The State will record and report to Contractor any evidence of visible damage. If the State rejects the Contract Activities, Contractor must remove them from the premises within 10 calendar days after notification of rejection. The risk of loss of rejected or non-conforming Contract Activities remains with Contractor. Rejected Contract Activities not removed by Contractor within 10 calendar days will be deemed abandoned by Contractor, and the State will have the right to dispose of it as its own property. Contractor must reimburse the State for costs and expenses incurred in storing or effecting removal or disposition of rejected Contract Activities.
- 20. Warranty Period.** The warranty period, if applicable, for Contract Activities is a fixed period commencing on the date specified in a Statement of Work. If the Contract Activities do not function as warranted during the warranty period, the State may return such non-conforming Contract Activities to the Contractor for a full refund.
- 21. Invoices and Payment.** Invoices must conform to the requirements communicated from time-to-time by the State. All undisputed amounts are payable within 45 days of the State's receipt. Contractor may only charge for Contract Activities provided as specified in a Statement of Work. Invoices must include an itemized statement of all charges. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Services purchased under this Agreement are for the State's exclusive use. Notwithstanding the foregoing, all fees are exclusive of taxes, and Contractor is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the State under this Contract.

The State has the right to withhold payment of any disputed amounts until the parties agree as to the validity of the disputed amount. The State will notify Contractor of any dispute within a reasonable time. Payment by the State will not constitute a waiver of any rights as to Contractor's continuing obligations, including claims for deficiencies or substandard Contract Activities. Contractor's acceptance of final payment by the State constitutes a waiver of all claims by Contractor against the State for payment

under this Contract, other than those claims previously filed in writing on a timely basis and still disputed.

The State will only disburse payments under this Contract through Electronic Funds Transfer (EFT). Contractor must register with the State at <http://www.michigan.gov/SIGMAVSS> to receive electronic fund transfer payments. If Contractor does not register, the State is not liable for failure to provide payment. Without prejudice to any other right or remedy it may have, the State reserves the right to set off at any time any amount then due and owing to it by Contractor against any amount payable by the State to Contractor under this Contract.

Excluding federal government charges and terms, Contractor warrants and agrees that each of the fees, economic or product terms or warranties granted pursuant to this Contract are comparable to or better than the equivalent fees, economic or product term or warranty being offered to any commercial or government customer (including any public educational institution within the State of Michigan) of Contractor. If Contractor enters into any arrangements with another customer of Contractor to provide the products or services, available under this Contract, under more favorable prices, as the prices may be indicated on Contractor's current U.S. and International price list or comparable document, then this Contract will be deemed amended as of the date of such other arrangements to incorporate those more favorable prices, and Contractor will immediately notify the State of such fee and formally memorialize the new pricing in a change notice.

- 22. Liquidated Damages.** Liquidated damages, if applicable, will be assessed as described in a Statement of Work. The parties understand and agree that any liquidated damages (which includes but is not limited to applicable credits) set forth in this Contract are reasonable estimates of the State's damages in accordance with applicable law. The parties acknowledge and agree that Contractor could incur liquidated damages for more than 1 event. The assessment of liquidated damages will not constitute a waiver or release of any other remedy the State may have under this Contract for Contractor's breach of this Contract, including without limitation, the State's right to terminate this Contract for cause under Section 24 and the State will be entitled in its discretion to recover actual damages caused by Contractor's failure to perform its obligations under this Contract. However, the State will reduce such actual damages by the amounts of liquidated damages received for the same events causing the actual damages. Amounts due the State as liquidated damages may be set off against any fees payable to Contractor under this Contract, or the State may bill Contractor as a separate item and Contractor will promptly make payments on such bills.
- 23. Stop Work Order.** The State may suspend any or all activities under the Contract at any time. The State will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 90 calendar days, or any longer period agreed to by Contractor, the State will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate the Contract or

delivery order. The State will not pay for Contract Activities, Contractor's lost profits, or any additional compensation during a stop work period.

**24. Termination for Cause.** (a) The State may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the State: (i) endangers the value, integrity, or security of any facility, data, or personnel; (ii) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (iii) engages in any conduct that may expose the State to liability; (iv) breaches any of its material duties or obligations under this Contract; or (v) fails to cure a breach within the time stated by the State in a notice of breach, if in its sole discretion the State has chosen to provide a time to cure. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

(b) If the State terminates this Contract under this Section, the State will issue a termination notice specifying whether Contractor must: (i) cease performance immediately. Contractor must submit all invoices for Contract Activities accepted by the State within 30 days of the date of termination. Failure to submit an invoice within that timeframe will constitute a waiver by Contractor for any amounts due to Contractor for Contract Activities accepted by the State under this Contract or (ii) continue to perform for a specified period. If it is later determined that Contractor was not in breach of the Contract, the termination will be deemed to have been a Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in Section 25, Termination for Convenience.

The State will only pay for amounts due to Contractor for Contract Activities accepted by the State on or before the date of termination, subject to the State's right to set off any amounts owed by the Contractor for the State's reasonable costs in terminating this Contract. Contractor must promptly reimburse to the State any fees prepaid by the State prorated to the date of such termination, including any prepaid fees. The Contractor must pay all reasonable costs incurred by the State in terminating this Contract for cause, including administrative costs, attorneys' fees, court costs, transition costs, and any costs the State incurs to procure the Contract Activities from other sources.

**25. Termination for Convenience.** The State may immediately terminate this Contract in whole or in part without penalty and for any reason or no reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance of the Contract Activities immediately. Contractor must submit all invoices for Contract Activities accepted by the State within 30 days of the date of termination. Failure to submit an invoice within that timeframe will constitute a waiver by Contractor for any amounts due Contractor for Contract Activities accepted by the State under this Contract, or (b) continue to perform the Contract Activities in accordance with Section 26, Transition Responsibilities. If the State terminates this Contract for convenience, the State will

pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities to the extent the funds are available.

- 26. Transition Responsibilities.** Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed **90** calendar days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, reports and other documentation, to the State or the State's designee; (c) transferring title in and delivering to the State, at the State's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (d) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period.
- 27. Return of State Property.** Upon termination or expiration of this Contract for any reason, Contractor must take all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to the Contractor by any entity, agent, vendor, or employee of the State.
- 28. Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract; (b) any infringement, misappropriation, or other violation of any intellectual property right or other right of any third party; (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and (d) any acts or omissions of Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

The State will notify Contractor in writing if indemnification is sought; however, failure to do so will not relieve Contractor, except to the extent that Contractor is materially prejudiced. Contractor must, to the satisfaction of the State, demonstrate its financial ability to carry out these obligations.

The State is entitled to: (i) regular updates on proceeding status; (ii) participate in the defense of the proceeding; (iii) employ its own counsel; and to (iv) retain control of the defense, at its own cost and expense, if the State deems necessary. Contractor will not, without the State's prior written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding.

Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

The State is constitutionally prohibited from indemnifying Contractor or any third parties.

- 29. Infringement Remedies.** If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.
- 30. Limitation of Liability and Disclaimer of Damages. IN NO EVENT WILL THE STATE'S AGGREGATE LIABILITY TO CONTRACTOR UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE MAXIMUM AMOUNT OF FEES PAYABLE UNDER THIS CONTRACT.** The State is not liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.
- 31. Disclosure of Litigation, or Other Proceeding.** Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (3) any complaint filed in a legal or administrative proceeding alleging the Contractor or its subcontractors discriminated against its employees, subcontractors, vendors, or suppliers during the term of this

Contract; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.

**32. State Data.** All data and information provided to Contractor by or on behalf of the State, and all data and information derived therefrom, is the exclusive property of the State (“**State Data**”); this definition is to be construed as broadly as possible. Upon request, Contractor must provide to the State, or a third party designated by the State, all State Data within 10 calendar days of the request and in the format requested by the State. Contractor will assume all costs incurred in compiling and supplying State Data. No State Data may be used for any marketing or commercial purposes.

**33. RESERVED.**

**34. Non-Disclosure of Confidential Information.** The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties.

a. **Meaning of Confidential Information.** For the purposes of this Contract, the term “**Confidential Information**” means all information and documentation of a party that: (a) has been marked “confidential” or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked “confidential” or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked “confidential” or with words of similar meaning; or, (c) should reasonably be recognized as confidential information of the disclosing party. The term “Confidential Information” does not include any information or documentation that was or is: (a) subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party’s proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). For purposes of this Contract, in all cases and for all matters, State Data is deemed to be Confidential Information.

b. **Obligation of Confidentiality.** The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to a subcontractor is permissible where: (a) use of a subcontractor is authorized under this Contract; (b) the disclosure is necessary or

otherwise naturally occurs in connection with work that is within the subcontractor's responsibilities; and (c) Contractor obligates the subcontractor in a written contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.

- c. **Cooperation to Prevent Disclosure of Confidential Information.** Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.
- d. **Remedies for Breach of Obligation of Confidentiality.** Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the State, at the sole election of the State, the immediate termination, without liability to the State, of this Contract or any Statement of Work corresponding to the breach or threatened breach.
- e. **Surrender of Confidential Information upon Termination.** Upon termination of this Contract or a Statement of Work, in whole or in part, each party must, within 5 calendar days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control; provided, however, that Contractor must return State Data to the State following the timeframe and procedure described further in this Contract. Should Contractor or the State determine that the return of any Confidential Information is not feasible, such party must destroy the Confidential Information and must certify the same in writing within 5 calendar days from the date of termination to the other party. However, the State's legal ability to destroy Contractor data may be restricted by its retention and disposal schedule, in which case Contractor's Confidential Information will be destroyed after the retention period expires.

**35. RESERVED.**

**36. RESERVED.**

**37. RESERVED.**

**38. Records Maintenance, Inspection, Examination, and Audit.** Pursuant to MCL 18.1470, the State or its designee may audit Contractor to verify compliance with this

Contract. Contractor must retain and provide to the State or its designee and the auditor general upon request, all records related to the Contract through the term of the Contract and for 4 years after the latter of termination, expiration, or final payment under this Contract or any extension (“**Audit Period**”). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, Contractor must retain the records until all issues are resolved.

Within 10 calendar days of providing notice, the State and its authorized representatives or designees have the right to enter and inspect Contractor's premises or any other places where Contract Activities are being performed, and examine, copy, and audit all records related to this Contract. Contractor must cooperate and provide reasonable assistance. If financial errors are revealed, the amount in error must be reflected as a credit or debit on subsequent invoices until the amount is paid or refunded. Any remaining balance at the end of the Contract must be paid or refunded within 45 calendar days.

This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.

- 39. Representations and Warranties.** Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes; (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading; and that (i) Contractor is neither currently engaged in nor will engage in the boycott of a person based in or doing business with a strategic partner as described in 22 USC 8601 to 8606. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section 24, Termination for Cause.
- 40. Conflicts and Ethics.** Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence

any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.

- 41. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
- 42. RESERVED.**
- 43. RESERVED.**
- 44. Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, and [Executive Directive 2019-09](#). Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex (as defined in Executive Directive 2019-09), height, weight, marital status, partisan considerations, any mental or physical disability, or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. Breach of this covenant is a material breach of this Contract.
- 45. Unfair Labor Practice.** Under MCL 423.324, the State may void this Contract if the name of the Contractor, or the name of a subcontractor, manufacturer, or supplier of the Contractor, subsequently appears on the Unfair Labor Practice register compiled under MCL 423.322.
- 46. Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in the Michigan Court of Claims. Contractor waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint an agent in Michigan to receive service of process.
- 47. Non-Exclusivity.** Nothing contained in this Contract is intended nor is to be construed as creating any requirements contract with Contractor, nor does it provide Contractor with a right of first refusal for any future work. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.
- 48. Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its

subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.

- 49. Dispute Resolution.** The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.

Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Contract.

- 50. Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without the prior written approval of the State, and then only in accordance with the explicit written instructions of the State.
- 51. Schedules.** All Schedules and Exhibits that are referenced herein and attached hereto are hereby incorporated by reference. The following Schedules are attached hereto and incorporated herein:

Document Title	Document Description
Schedule A	Statement of Work
Schedule B	Pricing Matrix

- 52. Entire Agreement and Order of Precedence.** This Contract, which includes Statement of Work, and schedules and exhibits, is the entire agreement of the parties related to the Contract Activities. This Contract supersedes and replaces all previous understandings and agreements between the parties for the Contract Activities. If there is a conflict between documents, the order of precedence is: (a) first, this Contract, excluding its schedules, exhibits, and Statement of Work; (b) second, Statement of Work as of the Effective Date; and (c) third, schedules expressly incorporated into this Contract as of the Effective Date. NO TERMS ON CONTRACTOR'S INVOICES, ORDERING DOCUMENTS, WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP, CLICK-THROUGH OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF THE

CONTRACT ACTIVITIES, OR DOCUMENTATION HEREUNDER, EVEN IF ATTACHED TO THE STATE'S DELIVERY OR PURCHASE ORDER, WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE OR ANY AUTHORIZED USER FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE STATE AND THE AUTHORIZED USER, EVEN IF ACCESS TO OR USE OF THE CONTRACT ACTIVITIES REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.

- 53. Severability.** If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.
- 54. Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
- 55. Survival.** Any right, obligation or condition that, by its express terms or nature and context is intended to survive, will survive the termination or expiration of this Contract; such rights, obligations, or conditions include, but are not limited to, those related to transition responsibilities; indemnification; disclaimer of damages and limitations of liability; State Data; non-disclosure of Confidential Information; representations and warranties; insurance and bankruptcy.
- 56. Contract Modification.** This Contract may not be amended except by signed agreement between the parties (a "**Contract Change Notice**"). Notwithstanding the foregoing, no subsequent Statement of Work or Contract Change Notice executed after the Effective Date will be construed to amend this Contract unless it specifically states its intent to do so and cites the section or sections amended.

# **SCHEDULE A - STATEMENT OF WORK**

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## **BACKGROUND**

More than 1 million adults and one in seven children in Michigan are food insecure, meaning they may not know when their next meal will be. There is an overpopulation of whitetail deer in southern Michigan, and harvesting these deer can help address food insecurity in our state. For the 2023 fiscal year, a 113,491 pounds of venison were donated to Michigan food banks, which equates to 453,964 nutritious, protein-rich servings. Our goal is to reach 300,000-plus pounds of donated venison by 2027, which equates to 1.2 million servings.

The purpose of this contract is for the Michigan Department of Natural Resources (hereinafter referred to as the DNR) the collection and disbursement of wild game and fish to Michigan’s food banks to meet the requirements of public acts 116 and 117 of 2005, referred to hereafter as the program. An overall majority of the wild game that will be donated to the program will be wild, free-ranging whitetail deer and occasionally elk; other species may be added later with a contract change notice. Most of the funding for this program comes from donations from customers when buying DNR licenses, applications and permits. Some additional, one-time DNR funding has been provided, but it is not considered recurring funding. Please note it is expected that the new contractor will work with the DNR to build a network to gain additional funding on an annual basis.

This contract is set up to allow the contractor to process payments to deer processors for the yearly, agreed-upon payment per pound of ground venison or a standard flat rate per deer, as directed by the DNR. The DNR will reimburse the contractor the exact amount with provided documentation. It is anticipated that the contractor also will be reimbursed an annual administrative fee for actual expenditures incurred (printing, mailing, staff time, transportation cost, various materials etc.) to run the program. Any billable administrative cost for the contractor to run the program must be preapproved.

### **Fiscal year budgets for previous years**

FY 2021 – \$213,000 (pounds donated: 99,676)

FY 2022 – \$225,000 (pounds donated: 107,012)

FY 2023 – \$240,000 (pounds donated: 113,491)

FY 2024 – \$250,000 (pounds donated to date: 90,000)

FY 2025 – \$250,000-plus

### **How are deer received into the program**

Over the past 10 years, the primary source of deer donations has been hunters during the various Michigan hunting seasons. The last five years have seen an increase in donations from deer harvested during the summer by farmers to prevent crop damage and through various deer culls around the state by local municipalities. In the spring of 2024, the DNR started a pilot program by placing refrigerated trailers at farms, allowing the farmers to store their harvested deer until the DNR moved the trailer to a processor weekly, with a subsequent donation to the food banks. This pilot has proved successful, with an average of about 30 deer donated per week per trailer. The DNR will increase the number of trailers dispatched to farms in the summer and will allow some processors with freezer space issues to use the trailers during hunting season as needed.

## **SCOPE**

The amount of meat that can be processed in any given year will depend upon donations, sponsorships and grants. It is imperative that the contractor understand that they will be given direction from the DNR project manager as to the budget for each year and that they are to stay within the budget for costs associated with administrative and processing fees. Any overruns in cost for a given fiscal year will be borne by the contractor unless the DNR grants a waiver.

### **1. Requirements**

#### **1.1. General Requirements**

- a) The contractor must be an eligible nonprofit organization and have demonstrated a commitment to the goals of the program and have at least five years of experience in providing wild game or other food to nonprofit food banks.
- b) The contractor must create a mechanism that will allow hunters to donate deer directly to a participating Michigan Department of Agriculture-inspected and licensed meat processor that holds a retail food establishment license ([MDARD - Licensing Portal System \(state.mi.us\)](https://www.michigan.gov/mdard-licensing-portal-system)). Annual cost for this license is \$186. The DNR is willing to work with the contractor and processors to potentially cover the initial cost for this permit, if not already permitted. The DNR will also work with contractor and processors through the permitting process. All venison to be ground using a 1/8-inch grinder wheel with no additional additives and packaged in 1-pound “chubs” tubes. The processor will be required to store the venison in frozen form until collected or distributed through the process established by the DNR and contractor. All venison provided to Michigan foodbanks will be provided at no cost.
- c) Communicate with sportsmen and sportswomen about the program, including the positive impacts on wild game management in Michigan and the benefits to Michigan food banks, how to make a financial donation and where to donate a deer. All printed, audio or digital communications generated by the contractor will

prominently identify the program as a property of the Michigan Department of Natural Resources and that the program’s primary funding is via donations from license buyers, either in the text or by incorporation of the DNR logo. All communications must be approved by the DNR.

- d) Ensure that any press releases to the media, emails, social media, printed letters, text messages or verbal conversations to the media are approved by the DNR.
- e) Make sure all processors are preapproved by the DNR prior to joining the program, ensuring processors are in key locations of the state that will provide the most venison for the program and make it economical to manage.
- f) Donate all venison to Feeding America Michigan via its seven distribution centers, which covers roughly 2,600 food banks in the state. Some processors like to donate to their local food banks to give back to their community; the DNR and contractor will work jointly to identify a solution on how to allow processors to donate a portion of venison locally after disease and metal testing has occurred.
- g) The DNR and contractor will work together to develop an expedited digital invoice procedure to manage processor invoices through payment from the DNR.
- h) Develop a process to verify that the pounds of venison invoiced from a processor is accurate to ensure the DNR is making proper payments.
- i) Signage at each processor location showing how to cut liberally around a wound channel to not pass metal fragments in processed meat.
- j) A basic training video on how to properly process a deer into ground venison.
- k) An in-person visit by the contractor and DNR to each processor at least once per year during processing to ensure standards are being met and, most importantly, build a rapport with them as processors are the key to the program.
- l) Contract must attend at least 5 outreach events around the state each fiscal year as deemed by the DNR to help promote the program.
- m) The only deer to be accepted into the program will be free-range, wild whitetail deer, harvested by hunters during a legal season in Michigan, harvested by farmers under DNR-issued crop damage permits or harvested by the U.S. Department of Agriculture or other deer culling groups under nuisance control permits, for a local municipality.
- n) The DNR and contractor will work together determine what regions of the state where processors are needed. The best course of action is to have processors in areas with the highest populations of deer; as funding increases, more processors can be added.
- o) A detailed plan to ensure any whitetail deer or elk donated from a known chronic wasting disease/bovine tuberculosis county is tested for disease prior to donation. The following links show the current CWD/TB counties that will not be accepted from unless tested; please note that these counties do change, and the DNR will advise when a new county is listed.

Bovine TB:

<https://www.michigan.gov/dnr/managing-resources/wildlife/wildlife-disease/disease-monitoring/bovine-tuberculosis/bovine-tuberculosis-locations>.

CWD:

<https://www.michigan.gov/dnr/managing-resources/wildlife/wildlife-disease/disease-monitoring/cwd/cwd-locations>.

The DNR and contractor will work together determine what regions of the state where processors are needed. The best course of action is to have processors in areas with the highest populations of deer; as funding increases, more processors can be added.

## **2. Service Requirements**

### **2.1. Processing, Delivery, and Costs**

Cost to procure boxes will be borne by the DNR initially, donation funds may be used in the future depending on funding. No more than 40lbs of frozen venison chubs are to be loaded into one box, for ease of loading. Contractor will be responsible for delivering boxes to processors and resupply as needed.

Cost to x-ray ground venison chubs will be borne by the DNR, donation funds may be used in the future depending upon funding. The DNR will work with the contractor to train processors on how to remove lymph nodes and fill out the appropriate forms, provide packaging and cover the shipping and testing cost. Processors will be reimbursed \$20 to remove a pair of lymph nodes. Processors must be able to store the processed frozen venison until the DNR has informed them of the test results. Any venison with a "Detected" result must be discarded by the processor; however, the processor will be reimbursed for the poundage discarded.

Cost for 1 pound chub bags will be paid for by the contractor using donated funds from the program, the DNR will design the bag graphics to include Feeding America labeling requirements and the contractors logo.

Contractor will be required to transport processed venison from processors to the x-ray facility in Holland, Michigan, when requested by the DNR. The amount of venison to transport could vary from 300 pounds to over 2,000 pounds and transported in a refrigerated vehicle or trailer capable of maintaining 32 degrees during transport. The DNR needs to understand the contractor's ability and potential cost to move frozen venison chubs, it's anticipated the contractor may be required to visit each processor twice per fiscal year or more. Please note the x-ray facility location may change in the future due to anticipated efficiency gains.

Ensure all packaging focuses on the State program. Contractor logo and/or name on packaging must be approved by the DNR.

The contractor will pay the processors directly with the LFPA funding, prior to using funds from the Hunters Feeding Michigan program funds. Once the LFPA funds have been exhausted, the contractor will bill the DNR for any additional processing.

### **3. Acceptance**

#### **3.1. Acceptance, Inspection, and Testing**

All venison prior to donation will be x-rayed for metal contaminants by a DNR subcontractor prior to donation. Any packages with detected metal will be discarded by the DNR. The contractor will work collaboratively with the DNR to inform each processor of the metal content found in the packages it produced. The contractor will institute a quality control program to ensure metal contaminants are reduced in subsequent scans. Please note exceptions for deer harvested with non-toxic ammunition or archery equipment may not be x-rayed at the discretion of the DNR.

#### **3.2. Final Acceptance**

Contract Activities are subject to inspection and testing by the State within 30 calendar days of the State’s receipt of them (“State Review Period”), unless otherwise provided in a Statement of Work. If the Contract Activities are not fully accepted by the State, the State will notify Contractor by the end of the State Review Period that either: (a) the Contract Activities are accepted but noted deficiencies must be corrected; or (b) the Contract Activities are rejected. If the State finds material deficiencies, it may: (i) reject the Contract Activities without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract in accordance with Section 24, Termination for Cause.

Within 10 business days from the date of Contractor’s receipt of notification of acceptance with deficiencies or rejection of any Contract Activities, Contractor must cure, at no additional cost, the deficiency and deliver unequivocally acceptable Contract Activities to the State. If acceptance with deficiencies or rejection of the Contract Activities impacts the content or delivery of other non-completed Contract Activities, the parties’ respective Program Managers must determine an agreed to number of days for re-submission that minimizes the overall impact to the Contract. However, nothing herein affects, alters, or relieves Contractor of its obligations to correct deficiencies in accordance with the time response standards set forth in this Contract.

If Contractor is unable or refuses to correct the deficiency within the time response standards set forth in this Contract, the State may cancel the order in whole or in part. The State, or a third party identified by the State, may perform the Contract Activities and recover the difference between the cost to cure and the Contract price plus an additional 10% administrative fee.

**4. Staffing**

**4.1. Contractor Representative**

The Contractor must appoint a contract representative specifically assigned to State of Michigan accounts, who will respond to State inquiries regarding the Contract Activities, answer questions related to ordering and delivery, etc. (the “Contractor Representative”).

The Contractor must notify the Contract Administrator at least 14 calendar days before removing or assigning a new Contractor Representative.

Contract Representative	Garret Zuver – 517-889-9588
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**4.2. Customer Service Number**

The Contractor must specify its customer service number for the State to contact the Contractor Representative. The Contractor Representative must be available for calls during the hours of 8:00 am to 5:00 pm EST.

Customer Service Number	517-485-1202
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**4.3. Work Hours**

The Contractor must provide Contract Activities during the State’s normal working hours Monday – Friday, 7:00 a.m. to 6:00 p.m. EST and possible night and weekend hours depending on the requirements of the project.

**4.4. Key Personnel**

The Contractor must appoint an individual(s) who will be directly responsible for the day-to-day operations of the Contract (“Key Personnel”). Key Personnel must be specifically assigned to the State account, be knowledgeable on the contractual requirements, and respond to State inquiries within 48 hours.

The State has the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, introduce the individual to the State’s Project Manager, and provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection. The State may require a 30-calendar day training period for replacement personnel.

Contractor will not remove any Key Personnel from their assigned roles on this Contract without the prior written consent of the State. The Contractor’s removal of Key Personnel without the prior written consent of the State is an unauthorized removal (“Unauthorized Removal”). An Unauthorized Removal does not include replacing Key

Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation, or for cause termination of the Key Personnel’s employment. Any Unauthorized Removal may be considered by the State to be a material breach of this Contract, in respect of which the State may elect to terminate this Contract for cause under the **Termination for Cause** section of the Standard Contract Terms. It is further acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of this Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under Termination for Cause, Contractor will issue to the State the corresponding credits set forth below (each, an “Unauthorized Removal Credit”):

- i. For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the credit amount will be \$1,000.00 per individual if Contractor identifies a replacement approved by the State and assigns the replacement to shadow the Key Personnel who is leaving for a period of at least 30-calendar days before the Key Personnel’s removal.
- ii. If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least 30-calendar days, in addition to the \$1,000.00 credit specified above, Contractor will credit the State \$50.00 per calendar day for each day of the 30-calendar day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to \$450.00 maximum per individual. The total Unauthorized Removal Credits that may be assessed per Unauthorized Removal and failure to provide 30-calendar days of shadowing will not exceed \$1,450.00 per individual.

Contractor acknowledges and agrees that each of the Unauthorized Removal Credits assessed above: (i) is a reasonable estimate of and compensation for the anticipated or actual harm to the State that may arise from the Unauthorized Removal, which would be impossible or very difficult to accurately estimate; and (ii) may, at the State’s option, be credited or set off against any fees or other charges payable to Contractor under this Contract.

The Contractor must identify the Key Personnel, indicate where they will be physically located, describe the functions they will perform, and provide current chronological résumés.

- A. The Contractor must identify all Key Personnel that will be assigned to this contract in the table below which includes the following:
  - 1. Name and title of staff that will be designated as Key Personnel.
  - 2. Key Personnel years of experience in the current classification.
  - 3. Identify which of the required key personnel positions they are fulfilling.

4. Key Personnel's roles and responsibilities, as they relate to this contract. Descriptions of roles should be functional and not just by title.
5. Identify if each Key Personnel is a direct, subcontract, or contract employee.
6. Identify if each Key Personnel staff member is employed full-time (FT), part-time (PT) or temporary (T), including consultants used for the purpose of providing information for the proposal.
7. List each Key Personnel staff member's length of employment or affiliation with the Contractor's organization.
8. Identify each Key Personnel's percentage of work time devoted to this Contract.
9. Identify where each Key Personnel staff member will be physically located (city and state) during the Contract performance.

<Add more rows below as needed>

1. Name	2. Years of Experience in Current Classification	3. Role(s) / Responsibilities	4. Direct / Subcontract / Contract	5. % of Work Time	6. Physical Location
Garrett Zuver	1 year	Key Personnel	Direct	50	Lansing
Patti VanHaaren	7 years	Key Personnel	Direct	50	Lansing

**B.** The Contractor must provide **detailed, chronological resumes** of all proposed Key Personnel, including a description of their work experience relevant to their purposed role as it relates to the contract.

**4.6. Disclosure of Subcontractors**

If the Contractor intends to utilize subcontractors, the Contractor must disclose the following:

- The legal business name; address; telephone number; a description of subcontractor's organization and the services it will provide; and information concerning subcontractor's ability to provide the Contract Activities.
- The relationship of the subcontractor to the Contractor.
- Whether the Contractor has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.
- A complete description of the Contract Activities that will be performed or provided by the subcontractor.

- All subcontractors must be pre-approved by the DNR.

Any funding needed or provided to the subcontractor will be at the sole cost of the contractor, and no DNR funds may be utilized unless a written waiver is granted by the DNR.

#### **4.7. Security**

The Contractor's staff may be required to make deliveries to or enter State facilities. The Contractor must: (a) explain how it intends to ensure the security of State facilities, (b) whether it uses uniforms and ID badges, etc., (c) identify the company that will perform background checks, and (d) the scope of the background checks.

### **5. Project Management**

#### **5.1. Project Plan**

The Contractor will carry out this project under the direction and control of the Program Manager. Within 30 calendar days of the Effective Date, the Contractor must submit a final project plan to the Program Manager for approval. The plan must include: (a) the Contractor's organizational chart with names and title of personnel assigned to the project, which must align with the staffing stated in accepted proposals; and (b) the project breakdown showing sub-projects, tasks, timeline, and resources required.

The plan must also include a plan for how the contractor will create expanded opportunities for hunters/farmers/deer cull coordinators to conveniently donate deer to the program. A detailed communications strategy to promote the program and encourage donations, either meat, cash or in-kind services. This strategy should include how the DNR and partnering outdoor organizations will be identified for their leadership and/or support of the program. It should also have a description of the standards and ethics meat processors will follow when processing deer for the program. This should include initial standards for the proper processing of venison and sanitary guidelines as outlined by the Michigan Department of Agriculture and Rural Development retail food establishment license.

#### **5.2. Meetings**

The Contractor must attend the following meetings:

- a) Kick-off meeting within 30 calendar days of the contract effective date.
- b) The State may request other meetings as it deems appropriate.
- c) The Contractor will attend monthly meetings; meetings will be in person at the DNR offices in Lansing, Michigan, or via the DNR Microsoft Teams video portal to review the progress of work being performed and any new issues.
- d) A meeting with the DNR in April of each year to discuss the amount of money available for the next fiscal year. This amount is subject to change as the year

progresses. The DNR and the contractor will also determine the reimbursable rate to be paid to the processors.

The State may request other meetings, as it deems appropriate.

### **5.3. Reporting**

The Contractor must submit to the Program Manager or Designee the following written reports:

- a) An annual report, provided by December 1 of each contract year, on the number of pounds of venison processed, deer received, number of participating processors and dollars spent reimbursing processors for the previous fiscal year.
- b) An independent financial audit of your non-profit, provided by July 1 of each contract year, as required to follow public acts 116 and 117 of 2005. The contractor will provide the DNR a copy of the final audit report.

By July 1 of each contract year, a report that details the activities of the previous year. This

report should include:

- c) Any major actions or decisions made the previous year.
- d) A summary of monetary donations made directly to the contractor for the program, outside of the DNR donation program, and how those funds were used toward the program.
- e) A detailed summary of pounds of meat processed by participating processors.
- f) A list of promotional activities undertaken during the previous year.
- g) The contractor may include one hard copy of the report created using tools that are compatible with the Microsoft Office standard desktop tools, without need for conversion. One copy of the report must be provided electronically.
- f) A monthly progress report that identifies the records maintained of all business transactions and of tasks performed. One hard copy of the report will be created using tools that are compatible with the Microsoft Office standard desktop tools, without need for conversion. One copy of the report will be provided electronically.
- g) The contractor will maintain all books, records, accounts and reports required under this contract for a period of not less than three years and will provide the DNR with access to any books, documents, papers and records that are directly pertinent to this contract for the purpose of making audits, examinations and transcriptions.

The contractor will not be responsible for the collection, accounting or record keeping of cash donations made to the program at the time or place a license is purchased, either over the internet, at a DNR facility or at any retail sales locations that sell licenses on

behalf of the DNR. The DNR will create pages on its website that provide hunters, participating meat processors and local charities information about the program along with the name of our current contractor.

Additionally, the contractor will provide a report of funds that are directly donated to the contractor for this program and how those funds were used. This report will be required to be submitted to the program manager or designee quarterly.

## **6. Pricing**

### **6.1. Price Term**

Pricing is firm for a 365-day period (“Pricing Period”). The first pricing period begins on the Effective Date. Adjustments may be requested in writing by either party and will take effect no earlier than the next Pricing Period.

### **6.2. Price Changes**

Adjustments will be based on changes in actual Contractor costs. Any request must be supported by written evidence documenting the change in costs. The State may consider sources, such as the Consumer Price Index; Producer Price Index; other pricing indices as needed; economic and industry data; manufacturer or supplier letters noting the increase in pricing; and any other data the State deems relevant.

Following the presentation of supporting documentation, both parties will have 30 days to review the information and prepare a written response. If the review reveals no need for modifications, pricing will remain unchanged unless mutually agreed to by the parties. If the review reveals that changes are needed, both parties will negotiate such changes, for no longer than 30 days, unless extended by mutual agreement.

The Contractor remains responsible for Contract Activities at the current price for all orders received before the mutual execution of a Change Notice indicating the start date of the new Pricing Period.

## **7. Ordering**

### **7.1. Authorizing Document**

The appropriate authorizing document for the Contract will be a Delivery Order (DO).

## **8. Invoicing and Payments**

### **8.1. Invoice Requirements**

All invoices submitted to the State must include date, purchase order number, pounds processed, number of deer, pounds of venison validated by contractor, price per pound, lymph node removal (if any), total price and any other approved expenses approved by the DNR.

### **8.2. Payment Methods**

The State will make payment for Contract Activities via EFT.

**8.3. Procedure**

Invoices will be sent to the Program Manager or Designee for review and final approval.

**9. Liquidated Damages**

Late or improper completion of the Contract Activities will cause loss and damage to the State and it would be impracticable and extremely difficult to fix the actual damage sustained by the State. Therefore, if there is late or improper completion of the Contract Activities the State is entitled to collect liquidated damages in the amount of \$1,000 and an additional \$100 per day for each day Contractor fails to remedy the late or improper completion of the Work.

## SCHEDULE B - PRICING

Price must include all costs, including but not limited to, any one-time or set-up charges, fees, and potential costs that Contractor may charge the State (e.g., shipping and handling, per piece pricing, and palletizing).

This Contract will be issued in the amount of \$900,000.00 with an annual budgeted amount for processing fees and reimbursement estimated at \$300,000.00 unless previously discussed and approved by the DNR Program Manager or designee per budget year.

This contract is completely cost reimbursable per the specifications listed in Schedule A. Administrative Costs to carry out the Program will be set at \$50,000.00 per year.

Processing fees for donated meat will be agreed upon by the Contractor and the DNR at an annual meeting held each June.

1. **Processor Pickups:** Food banks will pick up product from the processors, store it, and consolidate it to four hub food banks. Food banks will cover these costs.
2. **Freight to Food X:** A third-party freight carrier will pick up the product once a month from the four hub food banks and deliver it to Food X. This cost has been factored into the budget and will be paid by the DNR.
3. **Pickups from Food X:**
  - o Food banks or a third-party carrier (depending on the distance from Food X) will handle pickups from Food X for delivery back to the food banks.
    1. If the food bank picks up (South Michigan, Lansing, or Feeding America West MI), they will absorb the cost.
4. **Distribution to Local Pantries:** Food banks will handle this and cover the costs.