# CITY OF WEST DES MOINES
# CITY COUNCIL MEETING COMMUNICATION

**ITEM:** Approval of Memorandum of Agreement Between DMARC and WDM Human Services

**DATE:** May 6, 2019

**FINANCIAL IMPACT:** N/A

**BACKGROUND:**
DMARC is requesting all Food Pantry sites enter into the attached agreement. The memorandum sets for mutual understandings of the signatories to the Agreement regarding their respective obligations and responsibilities as set forth in the Agreement. The signatories to this agreement are the Des Moines Area Religious Council (DMARC) and WDM Human Services. WDM Human Services is a DMARC Food Pantry Site. DMARC seeks to provide food and other support to the WDM Food Pantry Site consistent with its operational guidelines and requirements for pantry sites participating in the DMARC Food Pantry Network.

**OUTSTANDING ISSUES** (if any):

**RECOMMENDATION:**

City Council approve the attached Memorandum of Agreement.

**Lead Staff Member:** Stephanie Corbett, Program Outreach Assistant

**STAFF REVIEWS**

| | |
|---|---|
| Department Director | Althea Holcomb |
| Appropriations/Finance | |
| Legal | |
| Agenda Acceptance | |

**PUBLICATION(S)** (if applicable)

| | |
|---|---|
| Published In | |
| Dates(s) Published | |

**SUBCOMMITTEE REVIEW** (if applicable)

| | | | |
|---|---|---|---|
| Committee | | | |
| Date Reviewed | | | |
| Recommendation | Yes | No | Split |

**Memorandum of Agreement between**
**DMARC Food Pantry Network**
**And**
**West Des Moines Human Services**

This Memorandum of Agreement ("Agreement") sets forth mutual understandings of the signatories to the Agreement regarding their respective obligations and responsibilities as set forth in the Agreement. The signatories to this Agreement are DMARC Food Pantry Network ("DMARC") and West Des Moines Human Services. West Des Moines Human Services seeks to become a DMARC Food Pantry site. DMARC seeks to provide food and other support to the West Des Moines Human Services consistent with its operational guidelines and requirements for pantry sites participating in the DMARC Food Pantry Network.

West Des Moines Human Services agrees with DMARC to provide and maintain the physical site and to meet DMARC's terms and obligations set forth in the Agreement with respect to serving as the site for the West Des Moines Human Services Food Pantry, receiving and distributing food, data entry, and other operational purposes.

"DHS" in this Agreement means the Iowa Department of Human Services.
"FBOI" in this Agreement means the Food Bank of Iowa.
"TEFAP" in this Agreement means The Emergency Food Assistance Program.
"USDA" in this Agreement means the United States Department of Agriculture.
"Your Pantry Site" in this Agreement means the West Des Moines Human Services Food Pantry

This agreement is effective once cosigned and its considered permanent. The agreement may be modified as necessary when mutually agreed to in writing, signed, and dated by each of the parties.

DMARC agrees to:

- Provide Food at no cost to Your Pantry Site and will schedule regular ordering, delivery, and pick-up times on a pre-determined weekly schedule

- Support Your Pantry Site in understanding its responsibilities under this Agreement
- Meet other obligations set forth in this Agreement

West Des Moines Human Services agrees to assure that the West Des Moines Human Services Food Pantry site meets the following Pantry Site Facility Requirements for a DMARC Food Pantry.

**Pantry Site Facility Requirements**

- Your Pantry Site shall be located near public transportation access points unless these are not available in your community/neighborhood.
- Your Pantry Site shall be located at least two miles from other existing DMARC Food Pantry sites, unless DMARC determines to waive this provision in its sole discretion.
- Your Pantry Site shall provide sufficient parking for both private and food delivery vehicles. The exact number of such spaces will depend on the volume of traffic to Your Pantry Site, but should be sufficient to provide parking for each two employees/volunteers plus one spacefor each two clients plus space for delivery vehicles.
- Your Pantry Site shall be handicapped-accessible, which may take the form of ramp access, an accessible elevator, or special accommodations as approved by DMARC.
- Your Pantry Site shall provide a clean, safe, inviting, and welcoming appearance. DMARC shall have the right, but not the obligation, to inspect, determine, and approve whether Your Pantry site satisfies this requirement.
- Your Pantry Site shall provide restroom facilities for client use.
- Your Pantry Site shall have adequately separated areas for food storage, work space, client waiting, and private client interviews.
- Your Pantry Site shall keep all food 6" off the floors and away from walls.
- Your Pantry Site shall provide internet access for purposes of communication, food ordering, and database management.
- Your Organization will be expected to purchase at least one signature pad for use in data entry, with the make and model to be specified by DMARC. The sole risk and responsibility of servicing, replacing or repairing signature pads is with Your Organization. If Your Organization has issues with a signature pad, you may contact DMARC which will connect you to the supplier of the signature pads; but DMARC is under no obligation to service, repair or replace the signature pad.
- Your Pantry Site shall be open a minimum of three days each week for a total of at least ten hours per week.
- Your Pantry Site shall serve at least 20 households or 50 individuals/week within one year of opening in order to remain a DMARC pantry site.
- Your Pantry Site shall provide a freezer and a refrigerator solely for pantry use.

| Individuals Served per week | 0-100 | 101-200 | 201-300 | 301-400 | 401-500 | 501+ |
|---|---|---|---|---|---|---|
| Minimum Refrigeration Required | 18 CF.-22 CF. | 38 CF.-42 CF. | 58 CF.-62 CF. | 78 CF.-82 CF. | 98. CF.-102 CF. | 108 CF.-112 CF. |
| Minimum Freezer Space Required | 18 CF.-22 CF. | 38 CF.-42 CF. | 58 CF.-62 CF. | 78 CF.-82 CF. | 98. CF.-102 CF. | 108 CF.-112 CF. |

DMARC agrees to certify by letter other writing an initial determination that the Food Pantry meets these requirements as soon as possible after signing this Agreement and prior to operation of the West Des Moines Human Services Food Pantry.

Your Pantry Site agrees to a three-month probationary period at the beginning of its relationship with the DMARC Food Pantry Network. If, at the end of this probationary period, Your Pantry Site has continued to meet all the requirements outlined in this MOU, DMARC agrees to certify by letter or other writing that the Food Pantry meets all requirements for ongoing certification as a part of the Pantry Network. This certification does not limit DMARC's termination rights as otherwise set forth in this document.

West Des Moines Human Services agrees to assure that the West Des Moines Human Services Food Pantry site meets the following Pantry Site Distribution Requirements for a DMARC Food Pantry.

**Pantry Site Food Distribution Requirements**

- All food products received from DMARC will be duly inspected by Your Pantry Site upon delivery and will be determined to be fit for human consumption.
- Your Pantry Site shall be responsible for picking up its orders from the DMARC warehouse or making prior arrangements with DMARC. DMARC will deliver on an EMERGENCY basis for a fee per delivery based on $15/hour prorated plus $.89/mile, which Your Pantry Site agrees to pay on a timely basis. DMARC will be responsible for delivery of fresh produce.
- All products received from DMARC will be distributed to consumers by Your Pantry Site prior to expiration dates and shall be stored in such a way as to safeguard quality. Additionally, Your Pantry Site shall only order the quantities of fresh produce that Your Pantry Site is able to distribute without waste. Further, no USDA food items may be distributed to consumers after such food item's "best if used by date". In the event that any USDA food items are within 21 days of the "best if used by date", Your Pantry Site shall notify DMARC of such USDA food items and DMARC will then notify the FBOI. USDA food items may not be disposed of by Your Pantry Site without the written consent of DHS, to be requested by

contacting the Food Bank of Iowa. Recently expired non-USDA shelf-stable food may be distributed to consumers as long as consumers are alerted to this in some way (e.g. being distributed under a sign that says "as is or out of date.")

- All staff and volunteers of Your Pantry Site that interact with clients or have access to client related data must complete Civil Rights training and be registered on the pantries training log with the Food Bank of Iowa. Additionally, the "And Justice for All" poster must be prominently displayed at Your Pantry Site, and the USDA nondiscrimination statement must be included on all material used to inform the public about Your Pantry Site.
- All products received from DMARC will be distributed to consumers by Your Pantry Site in such a way that all clients are treated with respect and in a manner in compliance with the Civil Rights training.
- All products received from DMARC will be distributed by Your Pantry Site solely to those in need and without regard to race, gender, gender identity, gender expression, sexual orientation, color, national origin, creed, age, religion, marital status, physical or mental handicap, political affiliation, or any other basis prohibited by local, state, or federal law. With respect to USDA food items, the term "those in need" means only those persons who have signed the required TEFAP form.
- **NO** products received from DMARC are to be distributed to pantry employees or pantry volunteers unless they have completed intake as pantry clients and receive no preferential treatment including reserving food or disrupting the process of first come, first served, based on their employee or volunteer status. This also applies to affiliated programs who distribute products through food pantry sites. Volunteers or staff needing food assistance must complete the intake process while not on duty.
- Your Pantry Site will maintain an AnyTime food shelf or location that clients will be able to access without being processed through the intake system. Distribution quantities maybe controlled by Your Pantry Site. AnyTime food items may consist, but not limited to bread and bakery items, donated produce, slightly out of date items, Meals From the Heartland and Outreach meals, pinto beans, food rescue items and other safely consumable items that do not meet DMARC food package criteria. AnyTime food items may not consist of any USDA food items under any circumstances.
- Clients may make arrangements to have their food picked up by proxy, but all NIFCAP intake requirements must be met. Clients may also make arrangements to have their USDA food items picked up by proxy, but only the TEFAP form is required.
- Your Pantry Site has the right to ban individuals who are violent or a threat to staff, volunteers, or other clients. The individual and DMARC must be notified by Your Pantry Site if you ban an individual. Clients have the right to appeal this decision to DMARC. DMARC has the right to ban an individual network wide. Your Pantry Site agrees to honor whenever possible network-wide bans on service to particular clients because of egregious behavior. Pantries who do not wish to honor such bans must inform DMARC in writing that they will not honor the ban in each individual case. Clients under a network-wide ban may make other arrangements to receive DMARC assistance with a third party. Written copies

of DMARC rules, confidentiality notice and privacy policy may be distributed upon request, such documents to be provided to Your Pantry Site by DMARC.

- Valid identification shall be required for **each household member each time** they receive service; provided that, with respect to USDA food items only, TEFAP participants who are unable or unwilling to provide a valid ID (and are therefore not eligible to receive the DMARC monthly box) must still be offered USDA food items at the same rate as an individual who provides verification. Proof of residence may be required by Your Pantry Site for non DMARC services. Valid ID can include picture ID, school ID, Title 19 card, medical card, health insurance card, birth certificate, court document, or document from the State of Iowa or Polk County Human Services. It may also include passport or other valid identification from other countries.
- All designated DMARC monthly food package items received from DMARC shall be distributed to any household or individual only once in any calendar month. If a dispute arises over whether an individual has received food within the calendar month, pantry staff are allowed
  to use their discretion in providing a "Repeat Service" as needed. It should be made clear to the client that "Repeat Service" is typically a one-time offer in order to provide the individual adequate time to resolve any issues that led to the confusion. The "Repeat Service" is not to be used for individuals seeking a second DMARC food box allotment.
- All designated DMARC monthly food package items received from DMARC shall be distributed in accordance with DMARC-designated nutritional categories and amounts. Any USDA food items received by Your Pantry Site may not be re-packaged in any way.
- All products received from DMARC shall be distributed to clients free of charge and without fees. No products received from DMARC shall be transferred to other parties in exchange for money, property, or services, and Your Pantry Site may not redistribute TEFAP food products to another food pantry or third-party distributor without the written consent of DMARC and the FBOI. Your Pantry Site shall be responsible for any improper distribution, use or damage caused by the negligence or fault of Your Pantry Site or its owners, employees, agents, independent contractors or volunteers.
- Faith-Based or religious organizations that receive USDA Foods through DMARC must post written notice to all beneficiaries and prospective beneficiaries of the right to be referred to an alternate provider. In addition to the posted written notice, you must have referral forms available upon request for participants.

West Des Moines Human Services and DMARC agree to meet their respective obligations for Pantry Site Organizational Requirements as set forth below:

**Pantry Site Organizational Requirements**

- Your Pantry Site shall provide its own liability insurance, including Comprehensive General Liability Insurance that includes Products and Competed Operations Coverage to a limit of

at least $1,000,000, Automobile Liability including Owned, Hired, and Non-Owned Autos to a limit of at least $1,000,000, and Statutory Workers Compensation Coverage. A Certificate of Insurance indicating such coverage is required.

- Your Pantry Site shall collect client and service information and shall participate in and record such information in the DMARC/NIFCAP database in real time unless back-dating has been previously approved by DMARC or in cases of extreme emergency such as loss of connection to the internet. DMARC staff must be notified of the circumstances if Your Pantry Site is unable to complete real time data entry.
- DMARC shall assure that its DMARC/NIFCAP database is in compliance with DMARC data collection guidelines. Your Pantry Site shall ensure that its director or one or more other individual pantry personnel attends all bi-monthly meetings of the DMARC Food Pantry Network directors. If Your Pantry Site does not have a representative attending the bi-monthly meeting, DMARC reserves the right to withhold food orders for Your Pantry Site until a pantry representative meets with DMARC staff.
- DMARC strongly encourages each site to have at least one paid employee who will be responsible for managing all aspects of food pantry operations and for maintenance of the Food Pantry Network relationship.
- Your Pantry Site shall provide by the 3rd of each month any monthly reports required by DMARC, including but not limited to the total amount of food distributed by Your Pantry Site, whether received from DMARC or any other sources. In addition, Your Pantry Site shall provide reports that are deemed necessary by DMARC, by a deadline to be designated per report.
- Your Pantry Site shall regularly communicate to DMARC any changes in location, phone number, email address, and other operational information in order to ensure that such information is accurate and available to DMARC for promotional, marketing, and other purposes.
- Your Pantry Site shall immediately communicate to DMARC any temporary planned or emergency closings of the site so that clients may be routed to other sites. Your Pantry Site shall report any planned closings at least 5 business days in advance and post all closings in advance for client notification.
- Your Pantry Site is required to operate under the "Choice Pantry" model or other DMARC approved pantry model. The "Choice Pantry" model requires Your Pantry to allow clients to make their own food choices within the different food categories Your Pantry Site agrees to the monitoring and review of its food distribution by DMARC, FBOI and/or DHS representatives.
- Your Pantry Site agrees to support DMARC's efforts to provide food for DMARC's Food Pantry Network.

  This shall include adherence to the following:

  1. **Working cooperatively in fundraising efforts** by supporting DMARC efforts to solicit funds or in-kind contributions that support the Network as a whole. This can include, but is not limited to, providing a list of contributors (individuals, grantors, and organizations)

that support your Pantry via special appeals, or events.

2. **Consistently including DMARC logo and impact statement on community communications or appeals that request support.** Your Pantry Site shall clearly state any DMARC support (food or technical assistance) within any submitted funding applications.
3. **Support consistent DMARC Food Pantry Network branding** by including approved network logo at pantry entrances, literature, press releases and intake stations by using DMARC approved logo and promotional materials. DMARC will assist your efforts by providing any necessary information and reviewing final copy for branding accuracy. DMARC logos may be used upon request, and you may link to the DMARC website.
4. **Adherence to DMARC's healthy food guidelines** by highlighting in all applicable or community promotions of preference for food that meets DMARC healthy food guidelines. In addition, all food meeting DMARC healthy criteria will be used for the monthly food box provided to clientele.

- Any food obtained from DMARC shall be distributed to client households through monthly food packages or AnyTime items and not used by Your Pantry Site or any other agency to cook and distribute meals unless permission has been received in writing from DMARC staff. This prohibition does not apply to cooking demonstrations intended for educational purposes.
- Your Pantry Site shall strictly comply with all applicable federal, state, and local laws, and Food Bank of Iowa rules and regulations related to the care and provision of food for human consumption.
- Your Pantry Site shall operate TEFAP in accordance with all applicable federal, state, and local laws, rules and regulations, including, the regulations set forth in Title 7 Parts 251 and, as applicable, 250 of the Code of Federal regulations.

Your Pantry Site agrees to indemnify, defend and hold DMARC, and its directors, members, employees, agents, volunteers, and independent contractors harmless from and against any suit, action, proceeding, claim, counterclaim, loss, liability, damage, cost or expense (including court costs and attorneys' fees) in any way arising in connection with or resulting from (i) any breach or nonfulfillment of or default under any term or condition of this Agreement by Your Pantry Site, or from (ii) the negligence or misconduct of Your Pantry Site its owners, employees, agents, independent contractors or volunteers, in executing their respective obligations under this Agreement.

DMARC agrees to indemnify, defend, and hold West Des Moines Human Services, its respective directors, members, employees, agents, volunteers, and independent contractors harmless from and against any suit, action, proceeding, claim, counterclaim, loss, liability, damage, cost or expense (including court costs and attorneys' fees) in any way arising in connection with or resulting from (i) any breach or nonfulfillment of or default under any term or condition of the Agreement by DMARC, or from (ii) the negligence or misconduct of DMARC, or its owners, employees, agents, independent contractors

or volunteers, in executing its obligations to this Agreement. The provisions of this paragraph shall survive the termination of this Agreement

**West Des Moines Human Services acknowledges and agrees that the food and other products provided hereunder are provide "as is". DMARC hereby disclaims any and all express or implied representations and warranties with respect to the food and other products provided hereunder, including, without limitation, any express or implied warranty of merchantability, fitness for a particular purpose, or non-infringement. The provisions of this paragraph shall survive the termination of the Agreement.**

**Except with respect to a party's indemnification obligations hereunder, in no event shall any of the parties hereto be liable to the other parties hereto for consequential, special, indirect, incidental, punitive, or exemplary losses, damages, or expenses (including, without limitation, lost profits).**

**The provisions of this paragraph shall survive the termination of this Agreement.**

Nothing contained in this Agreement and no action taken or omitted to be taken by the parties hereto pursuant to this Agreement shall be deemed to constitute the parties a partnership, an association, a joint venture, or other entity whatsoever. No one party has any authority whatsoever to enter into any agreements or commitments on behalf of the other parties or to otherwise obligate the other parties in any way on any matter whatsoever.

**Each party hereby unconditionally waives any right to a jury trial with respect to and in any action, proceeding, suit, claim, counterclaim, demand, or other matter whatsoever arising out of this Agreement. The provisions of this paragraph shall survive the termination of this Agreement.**

This Agreement may be terminated by any of the parties upon 30 days written notice. In the event that West Des Moines Human Services seeks to terminate its role under this Agreement, West Des Moines Human Services shall provide written notice of termination to DMARC

Changes to this Agreement may be made if agreed to in writing, signed, and dated by each of the parties.

Any violation of this Agreement may result in the termination of the relationship between Your Pantry Site and the DMARC Food Pantry Network.

(Signature of Authorized Party) (Date)

West Des Moines Human Services

(Organization Name)

139 – 6th Street, P. O. Box 65320, West Des Moines, IA 50265

(Address)

515/222-3660

(Telephone Number)

(Signature of DMARC Representative) (Date)