



**CHAMPAIGN COUNTY BOARD
COMMITTEE OF THE WHOLE – Finance/Policy/Justice Addendum**
County of Champaign, Urbana, Illinois
Tuesday, September 13, 2011 – 6:00 p.m.

*Lyle Shields Meeting Room, Brookens Administrative Center
1776 East Washington Street, Urbana, Illinois*

Page Number

VIII. Finance:

B. Sheriff

2. Approval of Inmate Commissary Services Agreement

*1

INMATE COMMISSARY SERVICES AGREEMENT

Now comes Aramark Correctional Services, LLC, and a Delaware limited liability company, hereinafter referred to as "Aramark" or "Contractor" and also comes the County of Champaign, Illinois, and the Champaign County Sheriff's Office, hereinafter collectively referred to as "the County." The Champaign County Sheriff's Office or Sheriff may simply be referred to (when acting separate from the collective entity of "the County") as the "Sheriff." The County and Aramark do hereby enter into this Agreement to provide Inmate Commissary goods and services this _____ day of _____, 2011 (the "Agreement"). Contractor shall provide commissary goods and services adult inmates at the Champaign County Jail upon the terms and conditions as set forth herein.

1. **GRANT**: The County hereby grants to ARAMARK the exclusive right to provide commissary goods and services for the county's adult inmates at the Champaign County Jail in accordance with this Agreement.
2. **TERM**: The initial term of this Agreement shall be from the 1st day of October, 2011 through and including the 30th day of September, 2014 and the Contractor and the Sheriff (on behalf of both the County Board and the Office of Sheriff) may upon mutual agreement renew this Agreement for up to two one-year additional time periods (10/1/2014 through 9/30/2015 and possibly 10/1/2015 through 9/30/2016). At the final conclusion of this agreement, the Sheriff may extend it up to 120 days for purposes of getting a replacement contract in place. Either party may terminate this Agreement earlier as allowed later herein.
3. **COMMISSION**: Contractor shall pay a commission to the Inmate Trust (Commissary) Fund in the amount of forty percent (40%) of net sales of all products, except indigent kits, postage stamps, pre-stamped envelopes, or any other item sold at cost, all of which will have no commission. This commission is expressly contingent upon ARAMARK being the exclusive inmate food service provider to the Sheriff's Office. In the event that the food services contract being entered into by the parties contemporaneously herewith is terminated or expires without renewal, the commission rate set forth herein shall be decreased to thirty-three percent (33%).
4. **TERMINATION**: Contractor may terminate this contract by providing one hundred and eighty (180) days written notification. The County reserves the right to terminate this contract, or any part of this contract, upon thirty (30) days written notice. In case of such termination, the Contractor shall be entitled to receive payment from the County for work

completed prior to the termination date in accordance with the terms and conditions of this contract. In the event that this Contract is terminated due to Contractor's default, the County shall be entitled to purchase substitute items and/or services elsewhere and charge the Contractor with any or all losses incurred, including attorney's fees and expenses.

5. **PROMPT PAYMENT:** Payment to contractor will be made in accordance with the Local Government Prompt Payment Act. (50 ILCS 505/1) including the late payment penalties as provided by statute. Payment shall be made by check payable to ARAMARK Correctional Services, LLC. Such payment such by sent to:

ARAMARK Correctional Services, LLC
P.O. Box 406019
Atlanta, Georgia 30384-6019

6. **DRUG-FREE WORKPLACE:** The Contractor agrees to provide a drug free workplace as provided for in the Drug-Free Workplace Act (30 ILCS580/et.seq).
7. **INDEMNIFICATION:** The Contractor shall indemnify the County, agents, servants, employees and all elected officials of the County, and shall defend, save and hold the Indemnities harmless from and against any claim, suit, legal proceeding, judgment, decree, loss, cost, damage or expense (including, but not limited to, reasonable attorney's and other costs and expenses incident to the investigation or the defense of any claim, suit or legal proceeding) arising from or growing out of the injury to or death of any person or the damage to any property (including, but not limited to, property of the Contractor) caused by the grossly negligent training or supervision of trusty inmates working in the kitchen or by the negligent acts or omissions of the Contractor, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be responsible or liable, except to the extent caused by the sole negligence of the County, its elected officials, officers, employees and agents. The obligations of the Contractor described in this Paragraph shall not be construed to negate, abridge or otherwise reduce any right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph. In any and all claims against the County or any of their servants, agents or employees, and elected officials by any employee of the Contractor, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the work or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount of type of damages, compensation or benefits payable by or for Contractor or any such Subcontractor or other person or organization under workers' or workmen's compensation acts, disability benefit acts or other employee

benefit acts.

8. **INSURANCE:** The Contractor hereby agrees to provide insurance through an insurance provider that has at a minimum a "Best A" rating. The Contractor shall maintain insurance in the minimum amount of three million dollars (\$3,000,000.00) per occurrence for bodily injury, (including, but not in any way limited to disease, illness or injury caused in whole or in part by a food product) personal injury and property damage. Contractual liability, broad form property damage, product and completed operations liability insurance is to be carried in sufficient aggregate value so as to sufficiently cover this Agreement.

The Contractor's insurance coverage shall be primary insurance as respects Champaign County, its servants, employees and all elected officials of the County. Any insurance issued to Champaign County, its servants, employees and all elected officials of the County shall be in excess of the Contractor's insurance and shall not contribute to it.

Champaign County, its servants, employees and all elected officials of the County shall be covered as Additional Insured's in the following respects: liability arising out of activities performed by the Contractor, products and completed operations of the Contractor, or all automobiles used by the Contractor. The coverage shall include no special limitations on the scope of the protection afforded to Champaign County, its servants, employees and all elected officials of the County.

The Contractor's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Notice of cancellation of any insurance policies required herein shall be subject to ACORD 25 Certificate of Liability standards, and will be delivered, as applicable, in accordance with policy provisions.

The Contractor shall maintain worker's compensation insurance for its employees.

9. CHANGE IN OWNERSHIP/FINANCIAL VIABILITY STATUS: The Contractor shall notify Champaign County immediately of any change in its status resulting from any of the following: (a) contracts are acquired by a non-affiliated party; (b) contractor becomes insolvent; (c) contractor, voluntary or by operation law, becomes subject to the provisions of any chapter of the Bankruptcy Act; (d) contractor ceases to conduct its operations in normal course of business. Champaign County shall have the option to terminate its contract with the vendor immediately on written notice based on any such

change in status. For the purposes of this Agreement, a non-affiliated party shall mean any corporation, limited liability company or any other person that is not controlling, controlled by or under common control with ARAMARK.

10. **SUBCONTRACTING/ASSIGNMENT:** Contractor may use disclosed sub-contractor; however, contractor shall not transfer the resulting contract or performance of contract to a non-affiliated party; nor shall the contractor change or sub contract any portion of the awarded contract, during the contract period without consent of the Sheriff.

11. **SUCCESSORS:** The terms and conditions of this contract shall be binding upon and shall insure to the benefit of the parties hereto and their respective successors and assigns.

12. **EQUAL OPPORTUNITY:** Contractor shall comply with the Equal Opportunity Affirmative Action and Fair Employment Practices regulations of the State of Illinois and federal government.

13. **MSDS:** Contractors shall supply Safety Data Sheets on all applicable items. Change to Safety Data sheets will be provided to Champaign County for a period of three (3) years after conclusion of the contract.

14. **TAXES:** Contractor acknowledges that Champaign County is exempt from federal excise and transportation taxes. Champaign County is also exempt from payment of Illinois Sales Tax. **CHAMPAIGN COUNTY TAX EXEMPTION IDENTIFICATION NUMBER: E9998-5942-06.** The County agrees to notify ARAMARK promptly in the event of a change in its tax-exempt status. In the event that a final determination is made by a government authority that any sales, purchase, payments or use of property made to or by ARAMARK under this Agreement, either in whole or in part, is subject to any sales, use, gross receipts, property or any similar tax which tax was not contemplated by the parties at the commencement of operations hereunder, the full amount of any such tax liability, together with any interest paid by ARAMARK, shall be invoiced by ARAMARK and shall be reimbursed by the County, notwithstanding the fact that this Agreement may have expired or been terminated for any reason by either party prior to the date of such determination. Contractor shall be responsible to obtain and maintain any certificates or licenses as may be required for this operation.

15. **OPERATIONAL RESPONSIBILITIES:**

A. **Grant:** The County hereby grants to ARAMARK the exclusive right to provide commissary services for its inmates at the Champaign County Sheriff's Office (the "Facility"). ARAMARK shall provide a large selection of food, candy and gun,

non-alcoholic beverages, health and drug items, and general merchandise, including quality brand name products (collectively, the "Products"), all of which shall be subject to the approval of the County. In addition, ARAMARK shall also provide the products set forth on Exhibit B attached hereto indigent inmates (the "Indigent Products") at cost.

The contractor shall provide commissary items one time per week to adult inmates at the Champaign County Jails. Contractor may also implement its Fresh Favorites and I-Care programs with the same 40% commission.

Commissary items are to be individually packaged snack, food, drink, candy, fruit and personal hygiene products and very limited over-the counter type products. All items are subject to approval and removal by the Sheriff.

No items shall be distributed that have exceeded their "use by," sell by or similar expiration date. It is the parties' intent that items be fresh and wholesome.

Contractor may temporarily remove items. Contractor may temporarily remove items from the current list of items available to and to be chosen by the inmate for that particular week - this must be done on the order sheets before distribution to the inmates.

- B. Delivery: Items will be delivered to inmates by the Contractor's employees in an individual bag or container with a receipt to include a list of the items, inmate funds charged and fund balance after delivery. This receipt is to be signed by the inmate with a copy given to the inmate and a copy retained by the contractor. (To be produced upon request of the Sheriff.) All such deliveries are to be coordinated with and supervised by Correction Officers. Should Correctional Officers determine that special circumstances exist, they may distribute the inmate Commissary.
- C. Personnel: Contractors' employees who will be entering the jail shall be subject to prior approval by the Sheriff's Office and subject to security restrictions and search. Contractor shall provide, in advance, (normally at least a week before they would enter a jail) the full name, date of birth, and address for all prospective employees who may enter the jails. No convicted felons, persons with criminal cases then pending against them or persons convicted of a crime involving an assault or battery upon a law enforcement, court security or correctional officer will be allowed to enter the jails. ARAMARK shall provide a part-time on-site

supervisor, and from ARAMARK's headquarters location, expert administrative and purchasing advice related to the commissary operation.

- D. Fill Rate: Contractor will maintain sufficient supplies and quality control of its delivery system so that consistently, fully, and correctly delivers orders on the first attempt at least 95% of the time. This percentage is based upon inmate orders and no an overall item count. Contractor's employees will correct any error or missed item and deliver the same within one business day.
- E. Facilities and Equipment: County will supply office space and staging areas at the facility.
- F. I-Care and Fresh Favorites: ARAMARK may implement its I-Care and Fresh Favorites programs at the Facility. ARAMARK shall determine the prices at which I-Care and Fresh Favorites items shall be sold. If ARAMARK sustains increases in its costs, including but not limited to, increases in its product, labor or equipment costs, ARAMARK may increase its I-Care and Fresh Favorites prices to recover such increased costs. No returns shall be accepted unless the inmate, who ordered a product, is released prior to such delivery. All sales shall be deemed made when an i-Care item purchased is delivered to the inmate. The County shall earn a commission in an amount equal to forty percent (40%) of net sales of all i-Care sales, less sales or use taxes and authorized returns. Within fifteen (15) days after the end of each month, ARAMARK shall deliver to the County a check covering commissions on net sales made during the prior month. For purposes of this paragraph "Net Sales" means total Fresh Favorite and i-Care sales, less sales or use taxes and authorized returns.
- G. Fund Transfer and Technology: ARAMARK shall install such computer hardware and related equipment and software (collectively "Computer Equipment"), including but not limited to ARAMARK's ACTFAS commissary management information systems (the "ACTFAS System") as necessary to support ARAMARK's commissary operations. ARAMARK shall remove all computer equipment upon the expiration or termination of this Agreement. The ACTFAS System is and shall at all times be owned by ARAMARK, which shall hold all rights relative thereto except as may be expressly granted hereunder and then only to the extent of such express grant. All use of the ACTFAS System at the Facility shall immediately cease upon the expiration or termination of this Agreement. ARAMARK shall be responsible to support and maintain all Computer Equipment during the term of this Agreement, but any and all such obligations

shall cease upon the termination or expiration of this Agreement. The County shall run such cable and wiring, and shall perform such systems integration, as necessary to enable the ACTFAS System to support ARAMARK's commissary operations. In addition, the County shall be responsible for development and other costs incurred by ARAMARK that are associated with the County's third party agreements, such as the agreement covering the County's telephone system.

Contractor will cause the ACTFAS System to integrate (this may be accomplished by periodic data transfer) with the Sheriff's Office jail records management system (currently New World) and will debit an inmate's fund for purchases and maintain real time records. Items not actually received by the inmate will be promptly credited to his/her account within three business days of the first delivery date. Contractor will also provide a system for off-site deposits to the inmate account if requested by the Sheriff.

H. Phone Service Provider: Contractor will coordinate its processes as requested by the Sheriff for inmate phone services. (These services are provided by another vendor - for example if the Sheriff requests phone cards be issued as part of commissary.) In the event that there is a change in the phone service provider used at the Facility or in the process by which the phone service provider used at the Facility or in the process by which phone cards or the phone service provider will be responsible for the cost of the following: (1) any software development required by the change; (2) system integration; (3) use of ARAMARK hardware and software to sell phone service; and (4) any other cost incurred by ARAMARK, including but not limited to increased costs for labor, handling, and reporting.

16. Billing and Prices: ARAMARK shall determine the prices at which products shall be sold, however, the prices shall not exceed the general prices at which similar products are sold in the retail outlets in the surrounding local community. If ARAMARK sustains in its costs, including but not limited to, increases in its product, labor or equipment or software-related costs, ARAMARK may, with Sheriff's approval, increase its prices to recover such increased costs. Additionally, ARAMARK may, at its discretion perform a price audit to compare the prices at which it sells the products contemplated by this Agreement with the prices at which similar products are being sold in retail outlets in the surrounding community, including but not limited to, Schnucks and County Market stores in Urbana, Illinois ("Comparable Retail Values"). In the event that any of ARAMARK'S prices are below the Comparable Retail Values, the parties shall agree to increase such prices under this Agreement to reflect the Comparable Retail Values. Once approved, a price should

remain fixed for at least six months. Contractor may make approved additions to the available products, but suggested additions should not be offered more than once every four (4) months.

Contractor shall supply hygiene kits to indigents as requested by the Sheriff's Office at the cost set forth in Exhibit B.

The Sheriff may place dollar limitations on inmates' purchases, which the Sheriff may periodically adjust.

Contractor will electronically provide monthly statements to the Sheriff's Office to include:

- a. Items purchased and prices, listed by item
- b. Fresh Favorite and I-Care Program itemizations
- c. Inmate purchase (items and prices), listed alphabetically inmate
- d. Total price of items sold and commission

Contractor shall pay commission monthly and shall furnish the above reports not later than fifteen (15) days after the end of a calendar month. Cost of indigent kits will be itemized and deducted from monthly commissions.

17. **CONFIDENTIAL INFORMATION:** All financial, operating and personnel materials and information, including, but not limited to, software, technical manuals, recipes, policy and procedure manuals and computer programs relative to or utilized in ARAMARK's business (collectively, the "ARAMARK Proprietary Information") are and shall remain confidential and sole property of ARAMARK and constitute trade secrets of ARAMARK. The County shall keep all ARAMARK Proprietary Information confidential and shall use the ARAMARK Proprietary Information only for the purpose of fulfilling the terms of this Agreement. The County shall not photocopy or otherwise duplicate any materials containing any ARAMARK Proprietary Information without the prior written consent of ARAMARK. Upon the expiration or any termination of this Agreement, all material containing any ARAMARK Proprietary Information shall be returned to ARAMARK.

18. **EMERGENCY PLAN:** ARAMARK shall submit a contingency plan to provide for meal service in the event of a Force Majeure (hereinafter defined) within 60 days after the commencement of operations. In the event of a Force Majeure, the County shall assist ARAMARK by permitting reasonable variations in ARAMARK'S menu cycle and service methods. However, ARAMARK shall not be relieved of its

responsibility to provide meal service under the terms of this Agreement. Additional costs, if any, incurred in providing service in the event of a Force Majeure shall be borne by the County. The term "Force Majeure" means any war, riot or other disorder, strike or other work stoppage, act of terrorism, fire, flood, or any other act not within the control of the party whose performance is significantly interfered with, and which, by reasonable diligence, such party is unable to prevent.

IN WITNESS HEREOF, the parties hereto have caused this Agreement to be signed by their duly authorized representatives the day and year first above written.

ARAMARK Correctional Services, LLC

Champaign County

Date: _____

C. Pius Weibel
Chair, County Board

Date: _____

Attest

Attest

Date: _____

Gordy Hulten
Champaign County Clerk

Date: _____

9/9/2011

Sheriff Dan Walsh
Champaign County Sheriff's Office

Date: _____