

FOR SERVICES OF INDEPENDENT CONTRACTOR

This Agreement (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter County) and Aramark Correctional Services, LLC having its principal place of business at 1101 Market Street, Philadelphia, PA (hereafter Contractor) wherein Contractor agrees to provide and County agrees to accept the services specified herein.

THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. **DESIGNATED REPRESENTATIVE:** Mark Mahurin, Lieutenant– Custody Administration (telephone 805-681-5334) is the representative of County and will administer this Agreement for and on behalf of County. Aramark Correctional Services, David Kimmel, Vice President, Finance (telephone 215-238-3000) is the authorized representative for Contractor. Changes in designated representatives shall be made only after advance written notice to the other party.
2. **NOTICES.** Whenever it shall become necessary for either party to serve notice on the other respecting the Agreement, such notice shall be in writing and shall be served by Registered or Certified Mail, Return Receipt Requested, addressed as follows:

A. To County: Don Patterson, Chief Deputy
 Sheriff's Office, Santa Barbara County
 4436 Calle Real
 Santa Barbara, CA 93110

To Contractor: Aramark Correctional Services
 1101 Market Street
 Philadelphia, PA 19107
 Attn: Vice President, Finance

- B. Any such notice so mailed shall be deemed to have been served upon and received by the addressee five (5) days after deposit in the mail. Either party shall have the right to change the place or person to whom notice is to be sent by giving written notice to the other party of the change.

3. **SCOPE OF SERVICES.** Contractor agrees to provide services to County in accordance with Exhibit A attached hereto and incorporated herein by reference.
4. **DEFINITION.** The terms "County" and "Sheriff's Office", as may be referenced throughout this contract and its Exhibits are defined as having the same meaning as the County of Santa Barbara.

The terms "Contractor" and "Vendor", as may be referenced throughout this contract and its Exhibits, are defined as having the same meaning as Aramark Correctional Services, LLC.

5. **TERM.** Contractor shall commence performance within 30 days after this contract is signed and approved by the Board of Supervisors, with full transition to be complete within 60 days of contract start date. The County awards an Agreement for a period of seven (7) years. This Agreement shall remain in force for an initial term of seven (7) years and shall not bind, nor purport to bind the County for any contractual commitment in excess of the initial term. However, the Sheriff's Office shall have the right to renew the Agreement upon mutual agreement of the Contractor for three (3) additional one (1) year terms, with thirty (30) days written notice to Contractor prior to the expiration of the initial term or renewal term of the Agreement. In the event the parties agree to such extension, all terms and conditions, requirements and specifications of the Agreement shall remain the same and apply during the renewal terms. This Agreement will not automatically renew. The initial term of this contract shall be for a period of seven (7) years, unless this Agreement is otherwise terminated at an earlier date pursuant to Section 20 and Exhibit B.
6. **COMPENSATION OF CONTRACTOR.** Contractor shall be paid for performance under this Agreement in accordance with the terms of Exhibit B, attached hereto and incorporated herein by reference. Contractor shall bill County by invoice, which shall include the Contract number assigned by County. Contractor shall direct the invoice to the Sheriff's Business Office at the address specified under Exhibit B, Section VI, after completing the increments identified in Exhibit B.
7. **INDEPENDENT CONTRACTOR.** Contractor shall perform all of its services under this Agreement as an Independent Contractor and not as an employee of County. Contractor understands and acknowledges that it shall not be entitled to any of the benefits of a County employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, Workers' Compensation insurance, and protection of tenure.
8. **STANDARD OF PERFORMANCE.** Contractor represents that it has the skills, expertise, and licenses and/or permits necessary to perform the services required under this Agreement. Accordingly, Contractor shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which Contractor is engaged. All products of whatsoever nature which Contractor delivers to County pursuant to this Agreement shall be prepared in a manner which will conform to high standards of quality and shall conform to the standards of quality normally observed by a person practicing in Contractor's profession. Contractor shall correct or revise any errors or omissions, at County's request, without additional compensation. Contractor shall obtain and maintain all permits and/or licenses required for performance under this Agreement without additional compensation, at Contractor's own expense.
9. **NON-DISCRIMINATION.** County hereby notifies Contractor that Santa Barbara County's Unlawful Discrimination Ordinance (Santa Barbara County Code, Chapter 2, Article XIII) applies to this Agreement and is incorporated herein by reference with the same force and effect as if the ordinance were specifically set out herein. Contractor hereby agrees to comply with said ordinance.
10. **CONFLICT OF INTEREST.** Contractor covenants that Contractor presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Contractor further

covenants that in the performance of this Agreement, no person having any such interest shall be employed by Contractor.

11. **RESPONSIBILITIES OF COUNTY.** County shall provide all information reasonably necessary to allow Contractor to perform the services contemplated by this Agreement.

12. **RECORDS, AUDIT, AND REVIEW.** Contractor shall keep those business records or documents created pursuant to this Agreement that would be kept by a reasonably prudent practitioner of Contractor's profession and shall maintain such records in a manner consistent with applicable Federal and State laws. All account records shall be kept in accordance with generally accepted accounting practices.

County shall have the right to audit and review all such documents and records upon reasonable notice to Contractor at any time during Contractor's regular business hours. Contractor agrees to retain such records and documents for a period of not less than three (3) years, following the termination of this Agreement.

Contractor will be subject to audits that cover all fiscal and programmatic terms and conditions of the contract and/or reasonably prescribed by the County. CONTRACTOR will be responsible for reimbursement to COUNTY for all disallowed costs.

13. **INDEMNIFICATION AND INSURANCE.** Contractor shall defend, indemnify and save harmless the County, its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities arising out of Contractor's sole negligence in its performance of this Agreement; including, but not limited to, any solely negligent act or omission to act on the part of the Contractor or his agents or employees or other independent contractors directly responsible to him; except those claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities resulting from the sole negligence or willful misconduct of the County. Contractor shall notify the County immediately in the event of any accident or injury arising out of or in connection with the Agreement.

Contractor agrees to procure and maintain insurance in accordance with the provisions of Exhibit C attached hereto and incorporated herein by reference.

In no event will either party be liable to the other party for any loss of business, business interruption, consequential, special, indirect or punitive damages.

14. **TAXES.** County shall not be responsible for paying any taxes on Contractor's behalf, and should County be required to do so by State, Federal, or local taxing agencies, Contractor agrees to reimburse County within one (1) week for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but are not limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and Workers' Compensation insurance.

Except as set forth herein, Contractor shall not be responsible for paying any taxes on County's behalf, and should Contractor be required to do so by State, Federal or local taxing agencies, County agrees to reimburse Contractor within one (1) week for the full value of such paid taxes plus interest and penalty, if any.

Notwithstanding the foregoing, because the County is not a tax-exempt entity, Contractor shall collect and remit taxes on services provided to the County under this Agreement and shall invoice the County for the same on each weekly invoice. County shall promptly remit payment to Contractor in accordance with the payment provisions set forth in this Agreement.

15. **PRECEDENCE** - In the event of contradictions or conflicts between the provisions of the documents comprising this Contract, they will be resolved by giving precedence in the following order:
- A. The provisions of the Contract (as it may be amended);
 - B. The provisions of the Contractor's Reply (as it may be clarified);
 - C. The provisions of the Invitation (as it may be supplemented).
16. **DISPUTE RESOLUTION.** Any dispute or disagreement arising out of this Agreement shall first be addressed and resolved at the lowest possible staff level between the appropriate representatives of the Contractor and of the County. If the dispute or disagreement cannot be resolved at this level, it is to be elevated to the Contractor's Program Manager and County's relevant Program Manager. If the Managers cannot resolve the dispute, they are to take the following actions:
- A. Decision – Each party shall reduce the dispute to writing and submit to the Chief Deputy of Custody Operations. The Chief Deputy shall assemble a team to investigate the dispute and to prepare a written decision. This decision shall be furnished to the Contractor within thirty (30) days of receipt of the dispute documentation. This decision shall be final unless appealed within ten (10) days of receipt.
 - B. Appeal – The Contractor may appeal the decision to the Santa Barbara County Sheriff or designee. The decision shall be put in writing within twenty (20) days and a copy thereof mailed to the Contractor's address for notice. The decision shall be final.
 - C. Continued Performance - Pending final decision of the dispute hereunder, Contractor shall proceed diligently with the performance of this Agreement.
 - D. Dispute Resolution - The finality of appeal described herein is meant to imply only that recourse to resolution of disputes through this particular dispute resolution mechanism has been concluded. This is in no way meant to imply that the parties have agreed that this mechanism replaces either party's rights to have its disputes with the other party heard and adjudicated in a court of competent jurisdiction.
17. **PERFORMANCE BOND.** The Contractor must furnish a Surety Bond in the form of either a bond issued by a Surety Company authorized to do business in the State of California, a Cashier's Check, or Irrevocable Letter of Credit payable to the Sheriff's Office within fifteen (15) calendar days after signing this Agreement and prior to beginning any work. The Surety Bond must be made payable to the Sheriff's Office in the amount of 100% of the total first year contract amount after award and will be retained during the full period of the Agreement and/or subsequent renewal terms. No personal or company checks are acceptable. The Board Contract number and the dates of performance must be specified on the Surety Bond. In the event that the Sheriff's Office exercises its option to extend the Agreement for an additional

period, the Contractor shall be required to maintain the validity and enforcement of the Surety Bond for the said period, pursuant to the provisions of this paragraph, in an amount stipulated at the time of the Agreement renewal.

A. The County may, at its sole option, elect to remove or modify the required length of the Surety Bond at any time, should it be determined to be in the best interest of the County.

18. **MEANINGFUL CONSEQUENCES** - In lieu of our terminating the contract as may be provided elsewhere in the contract, the County at our sole discretion may invite you to negotiate with us to establish alternative or additional consequences, beyond any specified herein, for failure to fulfill any requirement of this Bid. Contractor agrees to engage in such negotiations, if invited, in good faith. Any agreed consequences must be significant enough to 1) incent your future compliance and 2) mitigate satisfactorily for us for any loss or inconvenience occasioned by your failure. The consequences would be reasonable, fitting to the breach, and mutually established prior to being invoked.

19. **TERMINATION.** In the event that the Contractor shall fail to perform, keep and observe any of the terms, covenants and conditions of the Agreement, the Sheriff's Office shall give the Contractor written notice of such default and in the event said default is not remedied by the Contractor to the satisfaction and approval of the Sheriff's Office within sixty (60) calendar days of receipt of such notice, the Sheriff's Office, in its sole discretion, may terminate this Agreement.

Should the Contractor for any reason become unable to complete the work called for in the Agreement for Jail Food Services, the County may, at its sole discretion, call for the Surety Bond due, in full for such non-performance, and/or as liquidated damages.

Santa Barbara County shall be obligated to reimburse the Contractor only for those services rendered prior to the date of notice of termination, less any liquidated damages that may be assessed for non-performance.

Notwithstanding any other provisions of the contract, either party upon receipt of not less than ninety (90) days written notice may terminate the contract prior to the end of the contract period without penalty to either party.

Notwithstanding any other provisions of the contract, if the funds anticipated for the continued fulfillment of this contract are at any time not forthcoming, through the failure of County government to appropriate such funds, discontinuance or material alteration of the program under which funds were provided, Santa Barbara County shall have the right to terminate the contract without penalty by giving not less than ninety (90) days written notice documenting the lack of funding. The County shall pay Contractor any amounts due and owing for services provided up to and including the date of termination.

Upon the expiration or any termination of the contract, in cooperation with the County, Contractor must complete a full inventory of all existing consumable supplies and food products in possession of the Contractor on the agreed upon termination date. County agrees, if requested by the Contractor, to reimburse Contractor an amount, based on actual invoice cost, for usable consumable supplies and food products, and the agreed upon inventory of existing consumable supplies and food products shall become the property of the County.

- 20. ENTIRE AGREEMENT, AMENDMENTS, AND MODIFICATIONS.** In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties. There have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be amended or modified only by the written mutual consent of the parties hereto. All requests for changes shall be in writing. Changes shall be made by an amendment pursuant to this Section. Any amendments or modifications that do not materially change the terms of this Agreement (such as changes to the Designated Representative or Contractor's address for purposes of Notice) may be approved by the director of Alcohol, Drug & Mental Health Services. The Board of Supervisors of the County of Santa Barbara must approve all other amendments and modifications. Each party waives its future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral Agreements, course of conduct, waiver or estoppel.
- 21. NON-EXCLUSIVE AGREEMENT.** Contractor understands that this contract is specific to providing food and other related services to the County Jail and is not an exclusive Agreement pertaining to other County Departments or operations. The County shall have the right to negotiate and enter into contracts with others providing the same or similar services as those provided by Contractor as the County desires.
- 22. SUCCESSORS AND ASSIGNS.** All representations, covenants and warranties set forth in this Agreement, by or on behalf of or for the benefit of any or all parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.
- 23. ASSIGNMENT.** Contractor shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of County. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.
- Notwithstanding the foregoing, Contractor may assign this Agreement without the consent of the County to any affiliate of Contractor. For purposes of this paragraph "affiliate" shall mean any entity or person, controlled by, controlling or under common control of Contractor.
- Should the County object to any such Assignment, it may at its sole discretion exercise termination of this contract as specified under the termination section of the contract.
- 24. REMEDIES NOT EXCLUSIVE.** No remedy herein conferred upon or reserved to the parties is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder, now or hereafter existing at law or in equity or otherwise.
- 25. NO WAIVER OF DEFAULT.** No delay or omission of the parties to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to the parties shall be exercised from time-to-time and as often as may be deemed expedient in the sole discretion of either party.
- 26. CALIFORNIA LAW.** This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in State Court, or in the Federal District Court nearest to Santa Barbara County, if in Federal Court.

27. **COMPLIANCE WITH LAW.** Contractor shall, at his sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of Contractor in any action or proceeding against Contractor, whether County be a party thereto or not, that Contractor has violated any such ordinance or statute, shall be conclusive of that fact as between Contractor and County.
28. **SECTION HEADINGS.** The headings of the several sections, and any table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.
29. **SEVERABILITY.** If any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof. Such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
30. **EXECUTION OF COUNTERPARTS.** This Agreement may be executed in any number of counterparts. Each counterpart shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.
31. **TIME IS OF THE ESSENCE.** Time is of the essence in this Agreement, and each covenant and term is a condition herein.
32. **AUTHORITY.** All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and have complied with all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement. Furthermore, by entering into this Agreement, Contractor hereby warrants that it shall not have breached the terms or conditions of any other Agreement or Agreement to which Contractor is obligated, which breach would have a material effect hereon.
33. **COMMUNICATION.** Contractor shall acknowledge in any public announcement regarding the program that is the subject of this Agreement that Santa Barbara County provides all or some of the funding for the program.
34. **PRIOR AGREEMENTS.** Upon execution, this Agreement supersedes all prior agreements between County and Contractor.
35. **COURT APPEARANCES.** Upon request, Contractor shall cooperate with County in making available necessary witnesses for court hearings and trials related to food services provided by Contractor's staff. County shall issue Subpoenas for the required witnesses upon request of Contractor.

THIS AGREEMENT INCLUDES:

- A. EXHIBIT A – Statement of Work (including Attachments 1-3)
- B. EXHIBIT B – Financial Provisions
- C. EXHIBIT C – Standard Indemnification and Insurance Provisions

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by County.

COUNTY OF SANTA BARBARA

By: _____
DOREEN FARR, CHAIR
BOARD OF SUPERVISORS

Date: _____

ATTEST:
CHANDRA L. WALLAR
CLERK OF THE BOARD

CONTRACTOR

By: _____
Deputy Clerk

By: Scott Parrill
Scott Parrill, President
Tax Id No. F-0317886 Fed ID No. 23-2778485

Date: _____

Date: 6-12-12

APPROVED AS TO FORM:
DENNIS MARSHALL
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:
ROBERT W. GEIS, CPA
AUDITOR-CONTROLLER

By: [Signature]
Deputy County Counsel

By: [Signature]
Deputy

Date: 6/13/12

Date: 6/13/12

APPROVED AS TO FORM :
SHERIFF'S OFFICE
JAMES PETERSON
UNDERSHERIFF

APPROVED AS TO INSURANCE FORM:
RAY AROMATORIO
RISK MANAGER

By: [Signature]
UNDERSHERIFF

By: [Signature]

Date: 6-13-12

Date: 6/13/12