

September 30, 2021 and is renewable annually for two (2) years each October 1 (through September 30, 2023) under the terms and conditions if mutually agreeable to both parties.

Either party for any reason may terminate this contract by giving sixty (60) days written notice of the intent to terminate. ARAMARK shall not be entitled to lost or anticipated profits should SHERIFF choose to exercise its option to terminate.

- 2.2 Notwithstanding anything contained in this Agreement to the contrary, either party may terminate this agreement immediately upon written notice to the other party in the event of such other party's breach of a material provision of this Agreement which remains uncured for a period of thirty (30) days following receipt of written notice specifying the complained of breach.

SECTION III DESIGNATION OF REPRESENTATIVES

- 3.1 The Fort Bend County Sheriff, Troy Nehls, designates the Jail Division Captain (currently Captain Daniel Quam) and Jail Division Lieutenant (currently Jeff Kovar) as its Designated Representatives of SHERIFF with regard to the services performed under this Agreement. SHERIFF will notify ARAMARK in writing of any changes in Designated Representatives.
- 3.2 ARAMARK hereby appoints Kristel Tross as its Designated Representatives for SHERIFF with regard to the services to be performed under this Agreement. ARAMARK will notify SHERIFF in writing of any changes in Designated Representatives.

SECTION IV SERVICES PERFORMED BY ARAMARK

- 4.1 ARAMARK shall be allotted a period of not more than ninety (90) calendar days after SHERIFF's execution of this Agreement to provide commissary services as provided herein. On the ninety-first day (91st) day, all services required of ARAMARK as set forth in this Agreement and Exhibits A&B shall be fully operational. Commissions shall be paid as detailed in Article VII below.
- 4.2 ARAMARK shall be responsible for conducting its activities so as to achieve the objectives/deliverables set forth in Exhibits A&B.
- 4.3 ARAMARK shall meet regularly with SHERIFF's Designated Representatives to effect adjustments in operations and shall cooperate at all times with SHERIFF, and other contractors providing services to SHERIFF as requested by SHERIFF to maintain maximum security, efficiency and good public relations.
- 4.4 ARAMARK shall provide necessary staff and/or equipment to facilitate the processing of commissary orders which involves direct data-entry systems and computer systems in use by SHERIFF. Any costs associated with implementation of this Agreement shall be the responsibility of ARAMARK.
- 4.5 ARAMARK shall provide commissary services on an as-needed pre-order basis at least twice per week on a delivery schedule acceptable to both parties. ARAMARK employees shall deliver products directly to the inmate on-site at the housing unit. ARAMARK will assure that at least one delivery employee will be able to communicate effectively in Spanish to resolve questions and issues with the inmate at the time of delivery.
- 4.6 ARAMARK acknowledges and agrees that Inmate Commissary Services and Food Service Operations activities are distinct and separate activities, subject to separate contracts and that consequently, there is no exclusive right to provide services to inmates contemplated

- or created by this Agreement. ARAMARK agrees that the only compensation under the terms of this Agreement is as provided in Exhibits A&B.
- 4.7 ARAMARK understands and agrees that ARAMARK will not charge a fee of any kind to any third party vendor or inmate (i.e. inmate telephone vendor) for any service or connectivity associated with this Agreement.
- 4.8 ARAMARK shall install such computer hardware and related equipment and software (collectively "Computer Equipment"), including but not limited to ARAMARK's CORE[®] commissary management information systems (the "CORE[®] System") as necessary to support ARAMARK's commissary operations. ARAMARK shall remove all Computer Equipment upon the expiration or termination of this Agreement. The CORE[®] 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 CORE[®] 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. To the extent that it is necessary for ARAMARK's or the SHERIFF's employees to be trained to use the CORE[®] System, ARAMARK shall provide such training, provided that ARAMARK shall have no other training obligations hereunder.
- 4.9 ARAMARK shall process orders for Products from inmates in accordance with ARAMARK's standard procedures as approved by SHERIFF. SHERIFF shall be responsible to collect, record and make disbursements from inmate commissary accounts for purchases of such Products; provided, however, that ARAMARK shall have access to each inmate account solely for the purpose of verifying that there are sufficient funds in such account to cover a Product order placed by such inmate, including but not limited to, any sales, use or other taxes related thereto. Within thirty (30) days of the expiration or any termination of this Agreement, any and all data related to purchases and communications made by inmates and customers under this Agreement shall be provided by ARAMARK to SHERIFF in an off-line version and in a format as reasonably requested by SHERIFF.
- 4.10 The financial arrangements in this Agreement are based on conditions existing as of the Effective Date including any representations regarding existing and future conditions made by County in connection with the negotiation and execution of this Agreement. If such conditions change due to causes beyond ARAMARK's control, including, but not limited to, a change in the scope of ARAMARK's services; menu changes; a decrease in the Facility's inmate population or the availability of inmate labor; efforts to organize labor; increases in food, fuel, equipment, utilities and supply costs; Federal, State and local sales, and other taxes and other operation costs; a change in Federal, State and local standards, requirements recommendations, and regulations including any applicable Child Nutrition Programs; changes in phone service providers or a change in the way phone service is sold to inmates; or other unforeseen external market conditions outside ARAMARK's control, then ARAMARK shall give County written notice of such increase or change, and within thirty (30) calendar days after such notice, ARAMARK and County shall mutually agree upon modification(s) to offset the impact of the increase or change, which modifications may include any or a combination of the following: an adjustment to ARAMARK's price per meal or commission, modifications to the menu or Product offerings, changes to Product pricing or modifications to ARAMARK's scope of services.

SECTION V
ARAMARK PERSONNEL AND SUBSTITUTION OF PERSONNEL

- 5.1 ARAMARK covenants and agrees that the personnel assigned by ARAMARK to SHERIFF, hereinafter referred to as "Key Personnel," shall perform the services and work contemplated under this Agreement and no personnel shall be substituted without prior written approval and consent of SHERIFF Designated Representatives. SHERIFF understands and recognizes that extraordinary circumstances may arise that necessitate the replacement of an employee during the term of this Agreement. In such event, ARAMARK shall replace its Key Personnel with personnel approved by SHERIFF's security procedures as may be detailed herein or by SHERIFF's policies. ARAMARK shall notify SHERIFF Designated Representatives of any substitution and obtain prior review and written approval by SHERIFF before institution any substitution. ARAMARK warrants that it knows no conflicting assignments for Key Personnel for which they are currently obligated that would conflict with this Agreement. All Key Personnel must meet the requirements of a certified jailer under Texas law and upon approval of the SHERIFF, will be appointed as certified jailers, subject to revocation at any time by the SHERIFF.
- 5.2 ARAMARK covenants and agrees that, in addition to its Key Personnel, ARAMARK will at all times employ, maintain and assign a sufficient number of additional competent and qualified professionals and other personnel to provide the services required in this Agreement in a matter satisfactory to SHERIFF.
- 5.3 ARAMARK further agrees that it will replace Key Personnel of ARAMARK, if so directed by SHERIFF Designated Representatives in writing, should SHERIFF make a good-faith determination that any individual is incompetent, careless, unsuitable or otherwise objectionable, or that the continued use of any individual is contrary to the best interests of SHERIFF
- 5.4 ARAMARK agrees that its personnel will comply with any and all security measures and identification required by SHERIFF in writing prior to the beginning performance of the services set forth herein and shall not access SHERIFF's network functions or other County information technology services prior to obtaining clearance for those personnel. All persons (whether ARAMARK employees or ARAMARK contractors) providing services under this Agreement shall submit to a background investigation conducted by the SHERIFF or Designated Representative(s). ARAMARK shall provide information to SHERIFF for all of ARAMARK's prospective personnel at the Facility using the form attached as Exhibit D.
- 5.5 ARAMARK agrees that its personnel will comply with the requirements contained in the Sheriff's Code of Ethics, Core Standards of Conduct and Personal Appearance Uniforms, attached as Exhibit One, "General Order Requirements" and incorporated by reference as if set forth herein verbatim for all purposes.

SECTION VI
COORDINATION & RESPONSIBILITIES OF SHERIFF

- 6.1 SHERIFF's Designated Representatives shall act on behalf of SHERIFF and the Fort Bend County Sheriff's Office with respect to the services to be provided under this Agreement.

- 6.2 SHERIFF agrees to furnish ARAMARK personnel with access during regular business hours, as determined by SHERIFF Designated Representatives, to the Facility. ARAMARK shall give SHERIFF reasonable notice of its need to access facilities in order that SHERIFF may make the necessary arrangements to provide services.
- 6.3 ARAMARK will adopt written institutional procedures relating to custody and security provided by SHERIFF and work closely with SHERIFF's personnel to maintain a uniform approach to custody and security issues as they arise.
- 6.4 SHERIFF will provide ARAMARK with network accessibility so that appropriate information can be obtained for each inmate order to manage the commissary services program. Said accessibility will include providing phone lines, internet lines, network ports and electricity for each requested workstation.
- 6.5 ARAMARK shall submit to the County on the first day of every week, for the preceding week, an invoice for total Gross Sales of Products made during such week, and other goods or services provided by ARAMARK during such week, if any. The term "Gross Sales" shall mean total commissary sales (including, but not limited to, sales of tobacco products, stamps and pre-stamped envelopes, pre-paid telephone calling cards or any other telephone sales, debit cards, and Indigent Product sales) plus any sales or use taxes. For purposes of this Agreement, a sale shall be deemed made when a Product ordered by an inmate is delivered to the County for subsequent delivery to the inmate, and the Product is not returned. For purposes of this Agreement, all sales are final and no returns will be honored unless the inmate who ordered a Product refuses delivery of such Product at the time such Product is delivered, or unless the product "freshness date" or "best if used by date" has expired as of the delivery date. If an inmate is released prior to Product delivery the order will be canceled and a credit issued to the inmate's Commissary account. The County Auditor shall remit payment of received invoices to ARAMARK Correctional Services, P.O. Box 406019, Atlanta, Georgia 30384-6019. (Payments only shall be sent to this address, all other correspondence shall be sent to the address set forth in Section 10 hereof.)
- 6.6 In the event the parties agree that ARAMARK will sell phone cards, phone time or other phone related products through its commissary operation, ARAMARK shall be entitled to a service fee of eight percent (8 %) of all phone-related sales (phone card, debit phone time or otherwise) sold by ARAMARK through the commissary operation at the Facility. For the avoidance of doubt, this fee shall be added to the cost of the phone-related product and shall be collected from the inmate's account in accordance with ARAMARK's standard billing procedures.
- 6.8 ARAMARK agrees to sell earbuds through its commissary operation only as supplied to ARAMARK by the Sheriff. Earbuds shall not be subject to commissions and will be sold only at the price determined by the Sheriff.
- 6.9 All financial, statistical, operating and personnel materials and information, including, but not limited to, software, technical manuals, recipes, menus and meal plans, 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 the 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 manuals, software, computers, diskettes,

disks and disk drives, and other materials or documents containing any ARAMARK Proprietary Information, shall be returned to ARAMARK.

**SECTION VII
COMMISSION TO SHERIFF**

7.1 Commissions to SHERIFF from product sales services shall be paid as follows:

- A. **Net Sales.** Net sales is defined as total product sales (excluding all sales of tobacco products, stamps and pre-stamped envelopes, pre-paid telephone calling cards or any other telephone sales, debit cards, and Indigent Products) less sales or use taxes, authorized returns and handling charges. The parties agree that SHERIFF shall receive a 48% commission on Net Sales based on actual weekly sales at the Facility.
- B. Subject to Paragraph 4.10, ARAMARK guarantees a minimum of Six Hundred Thousand and No/100 Dollars (\$ 625,000.00) in commissions each year during the term of this Agreement as long as ARAMARK provides the commissary services subject to this Agreement ("Minimum Annual Guaranteed Commission"). The parties agree that a review of commissions each one year term, on or about August 15 of each term year, and any deficit to the guaranteed minimum due to SHERIFF will be identified and remitted within ten (10) calendar days of the end of the annual review meeting and no later than September 1 of each term year.
- C. At the end of the contract year the SHERIFF shall conduct an audit of the commissions actually paid during the preceding contract year. The parties shall reconcile the amount of commission actually paid to the SHERIFF during the immediately preceding contract year with the Minimum Annual Guaranteed Commission owed to the SHERIFF. In the event that the aggregate amount of commissions paid to the SHERIFF during the immediately preceding contract year was less than the Minimum Annual Guaranteed Commission, ARAMARK shall, within thirty (30) days after the conclusion of the contract year, deliver to the SHERIFF payment equal to the difference between the Minimum Annual Guaranteed Commission and the actual commissions received by the SHERIFF during the immediately preceding contract year.
- D. The Minimum Annual Guaranteed Commission is contingent upon (a) ARAMARK being the exclusive commissary service provider to the Facilities and (b) the installation, activation and implementation of ARAMARK's iCare, GO-Cart, Retail Promotions and TouchPay programs as agreed. "Retail Promotion" includes, certain discounts, promotional items, holiday promotions, and new item introductions to inmates. In the event that such ARAMARK programs have not been fully activated and implemented until after the commencement of the initial contract term, the Minimum Annual Guaranteed Commission will be prorated at a rate as agreed by SHERIFF and ARAMARK to account for any periods during which such ARAMARK programs were not fully activated and implemented. In the event that there is a change in the scope of the services to be provided by ARAMARK, including, without limitation, the average daily population materially changing, a decrease in inmate spending limits, the imposition of fees on spending (including, but not limited to, event charges such

as restitution and subsistence fees), the removal of certain facilities from the scope of services, the commission rate and/or Minimum Annual Guaranteed Commission shall be renegotiated by the parties.

- E. **Payment Remittance:** All period commission payments shall be sent to the Fort Bend County Treasurer, Fund: Sheriff's Commissary Fund, 301 Jackson, Richmond, Texas 77469.
- F. In the event the total inmate count is less than 750 for a period of two consecutive months or more, or a material adverse change affects the terms of this Agreement that is not within ARAMARK's control, ARAMARK shall provide written notice to SHERIFF of such change. SHERIFF and ARAMARK shall enter into contract negotiations within thirty (30) days of notice to SHERIFF to offset the impact of the change.

SECTION VIII PAYMENT FOR SERVICES

- 8.1 SHERIFF shall not be obligated to make any payment to ARAMARK hereunder if any one or more of the following conditions exist prior to payment:
 - A. ARAMARK is in material breach or default under this Agreement;
 - B. Any part of such payment is attributable to services which are not performed in accordance with this Agreement; provided however, such payment shall be made as to that portion of the services which were performed in accordance with this Agreement;
 - C. Material errors or mistakes exist in services provided by ARAMARK that are the basis for the payment request.
- 8.2 No payment by SHERIFF to ARAMARK shall be construed to release any of ARAMARK's obligations hereunder or liabilities with respect to such services.
- 8.3 ARAMARK shall timely pay all bills for services performed by any third parties in connection with the performance of the services under this Agreement.
- 8.4 For all services rendered, payment by SHERIFF is due within thirty (30) days after receipt of the invoice detailing the services provided. All invoices shall be prepared in duplicate and forwarded to SHERIFF's Designated Representative, Attn: Jail Division Major (currently Major James W. Hines).
- 8.5 Acceptance of payment for submitted invoices under this Agreement by ARAMARK shall constitute full and complete release of SHERIFF from any and all claims, demands, and causes of action whatsoever which ARAMARK has or may have against SHERIFF under the provisions of this Agreement for the submitted invoices, except those previously made in writing and identified by ARAMARK as unsettled at the time of the request for final payment.
- 8.6 Fort Bend County, as a public entity, has a duty to document the expenditure of inmate funds. ARAMARK acknowledges this duty on the part of Fort Bend County and the Fort Bend County Sheriff's Office. To this end, ARAMARK understands that failure of ARAMARK to substantially comply with the submittal of statements and documents as required herein shall constitute a waiver by ARAMARK of any portion of the fee for which ARAMARK did not supply necessary statements and/or documents, it being understood that the requirements hereof are intended to emphasize the necessity of providing proper documentation for payment because of the SHERIFF's accountability to the public, and not as a means to withhold payments from ARAMARK for inconsequential errors in the submission of documentation. Should SHERIFF notice a deficiency in the statement or

document submitted by ARAMARK, SHERIFF shall notify ARAMARK, and shall require ARAMARK to correct the deficiency and resubmit the affected statement or document.

SECTION IX TERMINATION

This Agreement may be terminated by either Party for substantial failure by the other party to perform (through no fault of the terminating party) in accordance with the terms of this Agreement. The terminating party must issue a written, signed notice of termination (citing this Section) to the other party. Upon receipt of such written notice of termination, the Party in receipt shall have a period of thirty (30) calendar days to cure any failure to perform under this Agreement. Upon the completion of such thirty (30) calendar day period, commencing upon receipt of notice of termination, if such party has not cured any failure to perform, such termination may become effective immediately.

SECTION X INMATE COMMISSARY SERVICES RECORDS

- 10.1 All of ARAMARK'S books, records, documents and papers pertaining to the services performed under this Agreement, including plans and specifications as well as accounting documentation of costs, expense and under this Agreement shall be available for SHERIFF or SHERIFF'S Designated Representatives at mutually convenient times for a minimum period of five (5) years after the end of the year to which they pertain and any other pending matters concerning this Agreement.
- 10.2 SHERIFF shall have the right to verify the details set forth in ARAMARK'S billings, certificates, and statements, either before or after payment by, upon giving reasonable notice to ARAMARK: (1) inspecting the relevant books and records of ARAMARK during normal business hours upon reasonable notice; (2) examining any reports or documentation with respect to the services to be performed; and (3) interviewing ARAMARK'S employees. Any inspection, review or interviews conducted hereunder by SHERIFF shall be at SHERIFF'S sole cost and expense. ARAMARK'S records shall be made available for a minimum period of five (5) years after the end of the year to which they pertain.

SECTION XI WARRANTIES & REPRESENTATIONS

- 11.1 ARAMARK warrants and represents that it has not employed or retained any company or person, other than bona fide employees working solely for ARAMARK, to solicit or secure this Agreement. In addition, ARAMARK warrants and represents that it has not for the purpose of soliciting or securing this Agreement paid, or agreed to pay, to any company or person, other than a bona fide employee working solely for ARAMARK, a commission, percentage, brokerage fee, gift or any other consideration, contingent upon, or resulting from the award or making of this Agreement.
- 11.2 ARAMARK warrants and represents that it is aware of no lawsuits or administrative actions pending or contemplated in any court or before any administrative body against ARAMARK that would have an adverse impact on ARAMARK'S ability to perform the services defined in this Agreement. ARAMARK further warrants and represents that it has

no knowledge of any threatened or unasserted claims or assessments of any nature against ARAMARK that would have an adverse impact on its ability to objectively perform the services under this Agreement.

- 11.3 ARAMARK warrants and represents that it is not aware of any conflicts of interest that will, or could, affect in any manner, its ability to objectively perform the services under this Agreement.
- 11.4 ARAMARK warrants and represents that the information provided in the response to RFP 18-094 is true and correct in all material respects. In addition, ARAMARK warrants and represents that any and all oral representations made by ARAMARK to SHERIFF or the Fort Bend County Sheriff's Office, or SHERIFF's Designated Representatives are true and correct.
- 11.5 ARAMARK warrants and represents that it is a Delaware limited liability company duly organized, validly existing, and in good standing under the laws of the State of Texas and authorized to conduct business in the State of Texas; it is qualified in all other states in which it conducts business; it is in good standing in such states; and it has all power and authority to conduct its business as presently conducted.
- 11.6 ARAMARK warrants and represent that ARAMARK has the power and authority to enter into and perform all of the activities and obligations that are the subject of this Agreement. When executed and delivered, this Agreement will be a valid and binding obligation of ARAMARK and the County and enforceable in accordance with its terms; and ARAMARK shall, at all times during the term of this Agreement, assign qualified, professionally competent, and if required, duly licensed personnel to perform the services as stated herein.
- 11.7 ARAMARK warrants and represents that the services to be performed by ARAMARK hereunder will meet the requirements set forth in this Agreement, and all exhibits hereto.

SECTION XII INDEPENDENT CONTRACTOR STATUS

- 12.1 In performing the services under this Agreement, ARAMARK and its employees are independent contractors and no provision of this Agreement will be construed as making ARAMARK, or its employees, employees of SHERIFF in any form or type.
- 12.2 The parties agree that nothing contained in the original RFP 18-094 (and any amendments), ARAMARK's response to RFP 18-094 or this Agreement shall be deemed to construed as creating a partnership or joint venture between SHERIFF and ARAMARK and any other party, or cause either party to be responsible in any way for the debts or obligations of the other party.

SECTION XIII OWNERSHIP OF DOCUMENTS

All materials containing any ARAMARK proprietary information shall be returned to ARAMARK upon completion or termination or conclusion of the services provided under this Agreement. ARAMARK expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 et seq., as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the

Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to County by ARAMARK shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.

SECTION XIV INSURANCE REQUIREMENTS

- 14.1 **Insurance.** ARAMARK shall obtain and maintain, throughout the term of the Agreement, insurance of the types and in the amounts set forth below.
- 14.2 ARAMARK shall furnish certificates of insurance to SHERIFF evidencing compliance with the insurance requirements hereof. Certificates shall indicate name of ARAMARK, name of insurance company, policy number, and term of coverage and limits of coverage. 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. ARAMARK shall obtain such insurance from such companies having Bests rating of A- or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:
- A. Workers Compensation in accordance with the laws of the State of Texas. Substitutes to genuine Workers' Compensation Insurance will not be allowed.
 - B. Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.
 - C. Business Automobile Liability insurance with a combined Bodily Injury/Property Damage limit of not less than aggregate \$1,000,000 combined single limit. The policy shall cover liability arising from the operation of licensed vehicles by policyholder.
 - D. Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.
- 14.3 If required coverage is written on a claims-made basis, ARAMARK warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this Agreement and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning from the time the work under this Agreement is completed.
- 14.4 ARAMARK shall not provide any services under this Agreement until it has obtained the insurance required herein and certificates of such insurance have been filed with and approved by Fort Bend County.
- 14.5 Approval of the insurance by Fort Bend County shall not relieve or decrease the liability of ARAMARK.

**SECTION XV
INDEMNIFICATION**

- 15.1 ARAMARK COVENANTS AND AGREES TO FULLY INDEMNIFY AND HOLD HARMLESS THE SHERIFF'S OFFICE AND THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, VOLUNTEERS AND REPRESENTATIVES OF THE SHERIFF'S OFFICE AND OF FORT BEND COUNTY, TEXAS, INDIVIDUALLY OR COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING BUT NOT LIMITED TO PERSONAL AND BODILY INJURY, DEATH AND PROPERTY DAMAGE, MADE UPON THE SHERIFF'S OFFICE DIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO ARAMARK'S WILLFUL MISCONDUCT OR NEGLIGENCE, INCLUDING ANY ACTS OR OMISSIONS OF ARAMARK, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUBCONTRACTOR OF ARAMARK AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS, AND REPRESENTATIVES WHILE IN THE EXERCISE OR PERFORMANCE OF THEIR RIGHTS OR DUTIES UNDER THIS AGREEMENT, ALL WITHOUT HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE SHERIFF'S OFFICE AND FORT BEND COUNTY, TEXAS, UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. IF THE DAMAGES, INJURY, LOSS OR CLAIM IS CAUSED BY THE NEGLIGENCE OF BOTH PARTIES, THE APPORTIONMENT OF SAID DAMAGE, INJURY, LOSS OR CLAIM SHALL BE SHARED BETWEEN BOTH PARTIES BASED UPON THE COMPARATIVE DEGREE OF EACH PARTY'S NEGLIGENCE AND EACH PARTY SHALL BE RESPONSIBLE FOR ITS OWN DEFENSE AND ITS OWN COSTS, INCLUDING BUT NOT LIMITED TO THE COST OF THE DEFENSE, ATTORNEY'S FEES AND WITNESSES' FEES AND EXPENSES INCIDENT THERETO. IT IS EXPRESSLY UNDERSTOOD THAT ARAMARK SHALL NOT BE RESPONSIBLE FOR DAMAGES, INJURIES, LOSSES OR CLAIMS CAUSED BY INMATES OR THE COUNTY, ITS OFFICERS, EMPLOYEES, AGENTS, SERVANTS OR OTHER INDEPENDENT CONTRACTORS. NEITHER ANY OF COUNTY'S OFFICERS, EMPLOYEES, AGENTS, SERVANTS OR CONTRACTORS, NOR ANY INMATES, ARE OR WILL BE DEEMED TO BE AGENTS OR EMPLOYEES OF ARAMARK AND NO LIABILITY IS OR WILL BE INCURRED BY ARAMARK TO SUCH PERSONS, EXCEPT FOR BODILY INJURY TO SUCH PERSONS CAUSED BY ARAMARK'S NEGLIGENCE.
- 15.2 IT IS THE EXPRESS INTENT OF THE PARTIES TO THIS AGREEMENT THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION, IS AN INDEMNITY EXTENDED BY ARAMARK TO INDEMNIFY, PROTECT AND HOLD HARMLESS THE SHERIFF'S OFFICE FROM CONSEQUENCES OF THE SHERIFF'S OFFICE OWN NEGLIGENCE, PROVIDED HOWEVER, THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION SHALL APPLY ONLY WHEN THE NEGLIGENT ACT OF THE SHERIFF'S OFFICE IS A CONTRIBUTORY CAUSE OF THE RESULTANT INJURY, DEATH, OR DAMAGE, AND SHALL HAVE NO APPLICATION WHEN THE

NEGLIGENT ACT OF THE SHERIFF'S OFFICE IS THE SOLE CAUSE OF THE RESULTANT INJURY, DEATH OR DAMAGE. ARAMARK FURTHER AGREES TO DEFEND, AT ITS OWN EXPENSE, AND ON BEHALF OF THE SHERIFF'S OFFICE AND ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, VOLUNTEERS AND REPRESENTATIVES, IN CONNECTION WITH ANY SUCH INJURY, DEATH OR DAMAGE FOR WHICH THIS INDEMNITY SHALL APPLY, AS SET FORTH ABOVE.

- 15.3 The provisions of this INDEMNITY are solely for the benefit of the parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Either party shall advise the other party in writing within 24 hours of receiving any claim or demand that would be impacted by the requirements of this Indemnification section.

**SECTION XVI
ARAMARK'S LIABILITY AND DUTIES**

SHERIFF and Fort Bend County is entitled to recover from ARAMARK any direct and general damages and special damages (but not consequential or incidental damages) SHERIFF may incur arising out of or resulting from the negligent acts or omissions of ARAMARK while in the exercise of or performance of the obligations or duties under this Agreement.

**SECTION XVII
NOTICE**

- 17.1 Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to SHERIFF or ARAMARK at the addresses set forth below.
- 17.2 If mailed, any notice or communication shall be deemed to be received three days after the date of deposit in the United States Mail.
- 17.3 Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

A. If to ARAMARK: ARAMARK Correctional Services, LLC
Mark Adams, Vice President
2400 Market Street
Philadelphia, PA 19103

B. If to Sheriff: Sheriff Troy E. Nehls
1410 Williams Way Blvd.
Richmond, Texas 77469

With copy to: Fort Bend County Purchasing Department
Debbie Kaminski
301 Jackson
Richmond, Texas 77469

17.03 Either party may designate a different address by giving the other party ten (10) days written notice.

SECTION XVIII PUBLIC CONTACT

Under no circumstances, whatsoever, shall ARAMARK release any material or information developed or received in the performance of its services hereunder without the express written permission of SHERIFF, except where required to do so by law.

SECTION XIX MISCELLANEOUS

- 19.1 Assignments and Subcontracting. ARAMARK shall not assign this Agreement or any of its rights or obligations under this Agreement to any other entity without the express written consent of SHERIFF
- 19.2 Governing Law. This Agreement and the rights and obligations of the parties hereto shall be governed by and construed according to the laws of the State of Texas.
- 19.3 Waiver of Breach. The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach of the same or other provision hereof.
- 19.4 Other Contracts and Third Party Beneficiaries. The parties agree that they have not entered into this Agreement for the benefit of any third person or persons, and that it is their express intention that the Agreement is intended to be for their respective benefit only and not for the benefit of any non-party who might otherwise claim to be deemed to constitute third party beneficiaries hereof.
- 19.5 Severability. In the event any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement, which shall remain in full force and effect.
- 19.6 Force Majeure. Neither party shall be held responsible for any delay or failure in performance, other than payment obligations, to the extent that such delay or failure is caused by fire, riot, flood, explosion, war, strike, embargo, government regulation, civil or military authority, act of God, acts or omissions of carriers or other similar causes beyond the party's control.
- 19.7 Effect of this Agreement. This Agreement, including all attachments and exhibits, constitutes the complete understanding between the parties with respect to the terms and conditions set forth herein and supersede all previous written or oral agreements and representations, if any. This Agreement may only be modified in a writing that expressly references this Agreement and is executed by both parties hereto.
- 19.8 Survival. The provisions of this Agreement pertaining to obligations to pay for services rendered pursuant to this Agreement, including, but not limited to, the SHERIFF's obligation to pay ARAMARK for services, ARAMARK's obligation to refund and/or credit SHERIFF, shall survive termination of this Agreement.
- 19.9 This Agreement contains the entire Agreement among the parties and supersedes all other negotiations and agreements, whether written or oral. Attached hereto is Exhibit A – Products and Price Index, Exhibit B - ARAMARK'S Response to RFP 18-094 and Exhibit

C: RFP 18-094, all of which are incorporate by reference as if set forth herein verbatim for all purposes. In the event of a conflict between the documents the order of precedence shall be as follows: (1) this contract and any amendment thereto; (2) Exhibit B - ARAMARK'S Response to RFP 18-094 and (3) Exhibit C: RFP 18-094.

**SECTION XX
CERTAIN STATE LAW REQUIREMENTS FOR CONTRACTS:**

The contents of this Section are required by Texas Law and are included by County regardless of content.

- A. Agreement to Not Boycott Israel Chapter 2270 Texas Government Code: By signature below, Contractor verifies Contractor does not boycott Israel and will not boycott Israel during the term of this Agreement.

- B. Texas Government Code Section 2251.152 Acknowledgment: By signature below, Contractor represents pursuant to Section 2252.152 of the Texas Government Code, that Contractor is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153

**SECTION XXI
EXECUTION**

IN TESTIMONY AND WITNESS OF WHICH this Agreement has been executed in duplicate originals as follows:

FORT BEND COUNTY SHERIFF:



Troy E. Nehls

01/30/19

Date

ARAMARK Correctional Services, LLC



Signature

1/24/2019

Date

Printed Name & Title: MARK R. ADAMS, VP FINANCE

Attachments:

- Exhibit A: Products and Price Index**
- Exhibit B: Aramark's Response to RFP 18-094**
- Exhibit C: RFP 18-094**

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