**SHELBY COUNTY BOARD OF COMMISSIONERS**
**AGENDA ROUTE SHEET**

Referred to Commission Committee 4- Law Enforcement, Fire, Corrections & Courts

For Commission Action on _____ OAC08685-4 ~~CAC13325~~

DESCRIPTION OF ITEM:

RESOLUTION APPROVING A CONTRACT WITH ARAMARK CORRECTIONAL SERVICES INC., IN THE AMOUNT OF $3,358,579.00 FOR THE PROVISION OF FOOD SERVICES FOR INMATES, STAFF AND VISITORS AT THE SHELBY COUNTY JAIL LOCATED AT 201 POPLAR AVE, MEMPHIS TN 38103 AND JAIL EAST LOCATED AT 6201 HALEY RD, MEMPHIS, TN 38134 AND THIS ITEM REQUIRES EXPENDITURE OF COUNTY GENERAL FUNDS IN THE AMOUNT OF $3,358,579.00. SPONSORED BY COMMISSIONER SIDNEY CHISM.

**CHECK ALL THAT APPLY BELOW:**

_____ This Action does NOT require expenditure of funds.

___X___ This Item requires/approves expenditure of funds as follows (complete all that apply):

County General Funds: $3,358,579.00; County CIP Funds- $_____

State Grant Funds: $_____; State Gas Tax Funds: $_____

Federal Grant Funds: $_____

Other funds (Specify source and amount): $_____

Other pass-thru funds (Specify source and amount): $ _____

**Originating Department:** _____

**APPROVAL:**

| | (Print your name & phone #.) | (Initials) | (Date) |
|---|---|---|---|
| Dept. Head: | Soheila Kail 545-2280 | | 11/20/08 |
| Elected Official: | for Sheriff Mark Luttrell 545-5500 | HK | ~~11/20/08~~ 12-3-08 |
| Division Director: | Harvey Kennedy 545- 4510 | HK | ~~11/20/08~~ 12-3-08 |
| CIP – A&F Director: | | | |
| Finance Dept. | Mike Swift | MAS | 12/8/08 |
| County Attorney: | | KW | 12/8/08 |
| CAO/Mayor: | James F. Huntzicker 545-4514 | | 12/10/08 |

## SUMMARY SHEET

**I. Description of Item**

This resolution approves a food services contract for the Main Jail and Jail East that covers the balance of Fiscal Year 2008-2009. The Sheriff's Office previously executed an extension of the prior year's contract for a period of two months while negotiations were ongoing between the County Corrections Center and ARAMARK, Inc. for providing service to that facility. When those negotiations stalled, the Sheriff's Office negotiated the current agreement.

**II. Source and Amount of Funding**

$3,358,579.00 from FY 08-09 Jail Division Operating Budget Account Number 031-630101-6635, Food Service Contracts

**III. Contract Items**

A. Type Of Contract -- Firm, fixed price
B. Terms – One (1)-year with two (2) additional renewals thereafter

**IV. Additional Information Relevant to Approval of this Item**

Since 2002, ARAMARK has provided an efficient and cost effective means to provide food services for the inmates and employees in the Shelby County Jail located at 201 Poplar and for the past one year at Jail East located at 6201 Haley rd. Memphis, TN 38134.

The Sheriff's Office recommends approval of this resolution.

ITEM NO: _____

PREPARED BY: Soheila Kail

APPROVED BY: _____

RESOLUTION APPROVING A CONTRACT WITH ARAMARK CORRECTIONAL SERVICES INC., IN THE AMOUNT OF $3,358,579.00 FOR THE PROVISION OF FOOD SERVICES FOR INMATES, STAFF AND VISITORS AT THE SHELBY COUNTY JAIL LOCATED AT 201 POPLAR AVE, MEMPHIS TN 38103 AND JAIL EAST LOCATED AT 6201 HALEY RD, MEMPHIS, TN 38134 AND THIS ITEM REQUIRES EXPENDITURE OF COUNTY GENERAL FUNDS IN THE AMOUNT OF $3,358,579.00. SPONSORED BY COMMISSIONER SIDNEY CHISM.

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**WHEREAS**, The Shelby County Sheriff's Office has a continuing need to provide food services for the Shelby County Jail and Shelby County Jail East; and

**WHEREAS**, The Shelby County Purchasing Department issued a Request For Proposals on behalf of the Sheriff's Office, and responses were received with the only response being submitted by ARAMARK Correctional Services in the amount of $3,358,579.00; and

**WHEREAS,** This contract is based upon a one (1)-year agreement with two (2) renewals thereafter, with the annual cost for year one at $4,041,912.00, for year two at $4,203,588.48, and the annual fee for year three $4,371,732.02.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE,** That the expenditure of funds for the provision of food services in an amount of $3,358,579.00 to ARAMARK Correctional Services Inc. for the Shelby County Jail and Jail East is hereby approved.

**BE IT FURTHER RESOLVED**, That said contract is based upon a one-year agreement with two renewals thereafter. Said renewals are hereby approved subject to adoption of each fiscal year's operating budget by the Board of County Commissioners

**BE IT FURTHER RESOLVED**, That the County Mayor is hereby authorized to execute said contract amendment on behalf of Shelby County Government for the purposes herein contained, an executed copy of which shall be placed on file in the Contract Administration department.

**BE IT FURTHER RESOLVED**, That funds in the amount of $3,358,579.00 are hereby appropriated from Fiscal Year 2008/2009 Operating Budget Account Number 031-630101-6635, Food Service Contracts.

**BE IT FURTHER RESOLVED**, That the Purchasing Department is authorized to issue a purchase order(s) to ARAMARK Correctional Services Inc in the amount of $3,358,579.00 for the purpose of the provision of food services for the Shelby County Jail and Jail East.

**BE IT FURTHER RESOLVED**, That the County Mayor and the Director of Administration and Finance are authorized to issue their warrant or warrants in an amount not to exceed $3,358,579.00 to ARAMARK Correctional Services Inc and to take proper credit in their accounting therefor.

_____
A C Wharton, Jr. County Mayor

Date: _____

Attest:

_____
Clerk of County Commission

ADOPTED_____

CONTRACT NO. CA 086854

CONTRACT AND ENCUMBRANCE INFORMATION SHEET

*** AN ORIGINAL AND 1 COPY OF THIS FORM MUST BE SUBMITTED ***

THIS SHEET MUST BE COMPLETED, SIGNED BY THE DEPARTMENT HEAD AND DIVISION DIRECTOR AND ATTACHED TO ALL CONTRACT AND RESOLUTION PACKETS BEFORE ANY ACTIONS WILL BE TAKEN.

1. Department Requesting Services: SHERIFF'S OFFICE

2. Preparer's Name, Telephone #, and E-Mail Address:
Soheila Kail 545-2280 soheila.kail@shelby-sheriff.org

3. DESCRIPTION OF ITEM TO BE PURCHASED,BUILT,OR SERVICE TO BE PROVIDED:
Food service for Inmates and Employees of Shelby County Jail at 201 Poplar Ave, and Jail East located at 6201 Haley Rd. Memphis, TN

4. NAME,ADDRESS,VENDOR NUMBER,AND EOC NUMBER OF VENDOR/CONSULTANT/AGENCY WITH WHICH SHELBY COUNTY WILL BE CONTRACTING:
ARAMARK CORRECTIONAL SERVICES
1801 SOUTH MEYERS RD. SUITE 300, OAKBROOK TERRACE, IL 60181
630-568-2500
VENDOR NO. 05418
EOC NO.

5. COST OF ITEM OR SERVICE REQUESTED: $tt3,358,579.00

6. TERM OF PROPOSED CONTRACT/AGREEMENT: Sept. 1, 2008 TO JUNE 30, 2009

7. FUND,ORG,AND ACCOUNT NUMBER(13 DIGITS) ** FOR MULTIPLE ACCOUNTS, PLEASE SPECIFY DOLLAR AMOUNT FOR EACH **
031-630101-66~~37~~ 66035 Food Service Contract

8. COMMODITY CODE: ENC/00

9. VENDOR/CONSULTANT AGENCY SELECTED BY (CHECK ONE):
** PLEASE ATTRACH APPROVAL DOCUMENTS**

a. ☒ Bid/RFP Process - # & Date RFP#08-003-57 4/9/2008

b. ☐ Emergency/Sole Source

10. LOSE/MBE INFORMATION: Please check the appropriate description

☐ MBE (MINORITY OWNED BUSINESS ENTERPRISE)
☐ MALE ☐ FEMALE

☐ WBE (WOMEN OWNED SMALL BUSINESS)

☐ LOSB (LOCALLY OWNED SMALL BUSINESS)
ANNUAL SALES DOES NOT EXCEED $3 MILLION

☒ N/A

11. SPECIAL INSTRUCTIONS (ROUTING, FUNDING, BUDGET TRANSFER IN PROCESS)
**PLEASE SEND PURCHASE ORDER TO SHERIFF'S OFFICE PURCHASING**

REVIEWED AND APPROVED BY:

Soheila N. Kail 11/24/08
DEPARTMENT HEAD DATE

H Kennedy 12-2-08
DIVISION DIRECTOR DATE

ELECTED OFFICIAL

# OPERATING AGREEMENT - FOOD SERVICE

This **OPERATING AGREEMENT** (the "Agreement") is made as of June _____, 2008 (the "Effective Date") by and between the **Shelby County Government**, with offices at 160 North Main Street, Room 550, Memphis, Tennessee 38103 (the "County"), and **ARAMARK Correctional Services, LLC**, a Delaware limited liability company, having a place of business at the ARAMARK Tower, 1101 Market Street, Philadelphia, Pennsylvania 19107 ("ARAMARK").

## WITNESSETH:

1. **GRANT:** The County hereby grants to ARAMARK the exclusive right to provide food service (excluding vending machine operation) for the County's inmates, staff and visitors at the Shelby County Main Jail located at 201 Poplar Avenue and at the Jail East facility located at 6201 Haley Road, both in Memphis, TN (individually, the "Facility", collectively, the "Facilities"). ARAMARK hereby agrees to furnish nutritious, wholesome, and palatable food to such inmates, staff and visitors in accordance with this Agreement. The food service shall meet all current standards as established by:

WHEREAS, the COUNTY has the need for professional services to provide management and the provision of food services for the Shelby County Sherriff's Department; and

WHEREAS, the COUNTY issued a Request for Proposals ("RFP") Number 08-003-57 for Jail Food Services on March 3, 2008, and ARAMARK responded to said RFP on April 9, 2008; and

WHEREAS, the ARAMARK has the knowledge and expertise to provide such services; and

WHEREAS, the parties are desirous of entering into a contract setting forth the terms and conditions under which the ARAMARK will provide said services.

NOW THEREFORE, for and in consideration of mutual promises and covenants herein contained, the parties hereto agree as follows:

**A.** The American Correctional Association.

**B.** The Food and Nutritional Board of the National Academy Science as prescribed for inmates.

**C.** The State of Tennessee.

2. **OPERATIONAL RESPONSIBILITIES:**

**A. Facilities And Equipment:** The County shall, at its expense, provide ARAMARK with adequate preparation kitchen, office and storage facilities at each Facility, completely equipped and ready to operate, together with such heat, refrigeration and utilities

services (including local telephone service and high-speed internet access) as may be reasonably required for the efficient performance of the Agreement. ARAMARK shall be responsible for the cost of long distance telephone service.

The County shall furnish building maintenance services for each Facility. The County shall furnish and maintain an adequate inventory of serviceware, thermal tray and delivery equipment, pots, pans, beverage containers and utensils at each Facility. ARAMARK shall provide preventive maintenance and food service equipment repairs; provided, however, that the aggregate cost of such maintenance and repairs shall not exceed Seventy-Five Thousand Dollars ($75,000) per full contract year. Should any contract year be less than twelve months, the annual maintenance obligation will be prorated accordingly. In the event food service equipment preventive maintenance and repair costs exceed $75,000 for any year, the County shall be responsible for the excess maintenance and repair costs including the cost of parts and supplies. Notwithstanding ARAMARK's general obligation to repair the County's food service equipment, ARAMARK shall not be required to repair any equipment whose cumulative repair costs over a rolling period of one year exceed the value of the equipment. Such equipment shall be replaced by the County at the County's expense.

Should the County fail to provide the equipment, repair, maintenance and replacement services or supplies described in this Section, within a reasonable time after notice from ARAMARK to do so, ARAMARK may, in its discretion and at its option, choose to provide, and bill the County for, such equipment, repair, maintenance and replacement services or supplies. In that event, the County shall pay for such equipment, repair, maintenance and replacement services or supplies at the prices billed by ARAMARK. Such prices shall be competitive with the cost of obtaining such products or services from an independent source in the open market.

**B. Emergency Plan:** ARAMARK shall submit a contingency emergency 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 interfered with, and which, by reasonable diligence, such party is unable to prevent.

**C. Meal Delivery:** Facility personnel shall receive meals at each Facility's kitchen, shall transport such meals to appropriate areas, and shall return all trays and delivery equipment to ARAMARK at the Facility's kitchen, in a timely manner.

**D. Food Products And Cleaning Supplies:** ARAMARK shall purchase and pay for all food products and kitchen cleaning supplies. Products purchased for use in the food service operation shall be the property of ARAMARK.

**E. Sanitation:** ARAMARK shall be responsible for daily cleaning and housekeeping in the food preparation, service, receiving and storage areas, and shall, on a continuing basis, maintain high standards for sanitation. The County shall provide janitorial services outside the kitchen facilities provided to ARAMARK. The County shall clean the vents and ductwork leading to the roof from food preparation areas. The County shall be responsible for extermination services and the provision of dumpsters for trash and garbage from the designated food service areas and for the servicing of the dumpsters and other waste containers.

**F. Personnel:** ARAMARK shall provide on-site management and supervisory personnel, and from its regional and headquarters locations, administrative, dietetic, purchasing, equipment consulting and personnel advice and supervision. The County shall provide inmate workers at each Facility kitchen. The number of inmates required shall be determined by the County liaison and ARAMARK's district manager prior to the commencement of operations. Such inmates shall be assigned duties in the food service operation that may include sanitation, food preparation and production, and storeroom functions.

The County acknowledges that ARAMARK has invested considerable amounts of time and money in training its management and supervisory employees in systems, procedures, methods, forms, reports, formulas, computer programs, recipes, menus, plans, techniques and other valuable information which is proprietary and unique to ARAMARK's manner of conducting its business and that such information is available, on a confidential basis, to ARAMARK's management and supervisory employees. Therefore, the County agrees that management and supervisory employees of ARAMARK shall neither be hired by the County for the term of this Agreement and twelve (12) months thereafter, nor shall the County permit management and supervisory employees of ARAMARK to be employed on the County's premises for a period of twelve (12) months subsequent to the termination of this Agreement (unless such employees were formerly employees of the County). For the purpose of this prohibition, "management and supervisory employees" shall be defined as those persons who have directly or indirectly performed management or professional services on the County's premises at any time during the twelve (12) month period immediately preceding termination of this Agreement.

The County retains the right to thoroughly investigate any current or prospective employees assigned to each Facility, subject to applicable Federal, state and local laws and regulations, including but not limited to, the Federal Polygraph Protection Act, as amended. If ARAMARK incurs any costs, including legal fees, retroactive wages and damages, as a result of any personnel action taken by the County or by ARAMARK at the direction of the County, which ARAMARK would not have taken but for the County's direction, the County shall reimburse ARAMARK for such costs.

**G. Equal Employment Opportunity:** ARAMARK and the County mutually agree that they shall not discriminate against any employee or applicant for employment or on any matter directly or indirectly related to employment, because of race, color, religion, sex, sexual preference, national origin, physical or mental handicap where not relevant to the job, height, weight, age, marital status, or other criteria made illegal by state or federal law or the County policy. In addition, ARAMARK agrees to take affirmative steps to ensure that applicants are employed, and that employees are treated, during employment, without regard to the criteria

listed above.

**H. Health Examinations:** ARAMARK shall cause its employees assigned to duty at either Facility to submit to periodic health examinations as required by law, and to submit satisfactory evidence of compliance with all health regulations to the County upon written request.

**I. Insurance And Indemnification:** ARAMARK shall provide and maintain the following insurance coverage:

Worker's Compensation insurance as required by Tennessee statute with employers liability of $1,000,000.

Commercial General Liability Insurance in a minimum of $1,000,000 limit per occurrence bodily injury and property damage/$1,000,000 personal and advertising injury/$2,000,000 Products-Completed Operations . The insurance shall include coverage for the following:

a) Premises/Operations
b) Products/Completed Operations
c) Contractual
d) Independent Contractors
e) Broad Form Property Damage
f) Personal Injury

Umbrella or excess Liability in a minimum limit of $2,000,000.

ARAMARK may satisfy these requirements through a combination of primary and excess coverage

Business Automobile Liability Insurance - minimum limit of $1,000,000 each accident for bodily injury and property damage . Coverage is to be provided on all:

a) Owned/Leased Autos
b) Non-owned Autos
c) Hired Autos

Employee Dishonesty – minimum of $25,000 per claim.

All Risk or equivalent coverage on Contractor's Business Personal Property, inventory and equipment and any improvements or betterments to facility as needed for the execution of the services.

Shelby County shall be an additional insured on Commercial General Liability coverage. All policies will provide for 30 days written notice to Shelby County of cancellation in coverage provided. ARAMARK will be responsible for any deductibles applicable to its coverage.

The County and ARAMARK waive any and all right of recovery from each other for property damage or loss of use thereof, howsoever occurring. This waiver shall include, but not be limited to, losses covered by policies of fire, extended coverage, boiler explosion and sprinkler leakage. This waiver shall not apply to claims for breach of contract, negligence in the performance of this contract, personal injury or death, or for workers compensation claims involving employees of ARAMARK.

ARAMARK agrees to defend, indemnify and hold harmless the County, its officers, employees, agents and servants for claims for death, bodily injury and damage to tangible property caused by the sole negligence or a wrongful act of ARAMARK in its performance of the services defined in this Agreement, and to pay all claims, damages, judgments, legal costs, adjuster fees and attorney fees related thereto. However, it is expressly understood that ARAMARK shall not be responsible for damages caused by inmates nor for damage or injury caused by the County, its employees, officers, agents or servants. Neither any of the 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 sole negligence. To the extent permitted by applicable law, County agrees to defend, indemnify and hold ARAMARK harmless from any liability claim made by or through such persons against ARAMARK (except for claims for death, bodily injury or property damage caused by ARAMARK's sole negligence or a wrongful act of ARAMARK in its performance of this Agreement). Each party shall promptly notify the other of any claim for which indemnity is sought, and shall cooperate fully with the other party in the investigation, defense, and settlement of such claim. The indemnifying party shall have the sole discretion to defend and settle such claim. Notwithstanding the foregoing, ARAMARK understands and agrees that Shelby County Government is a governmental entity, as defined by Tennessee Code Annotated Section 29-20-101 et seq., and is self-insured for acts of negligence of its officers and employees. The County's liability shall be limited to the provisions of the Tennessee Governmental Tort Liability Act, Tennessee Code Annotated, sections 29-20-101 et seq., for causes sounding in tort.

**J. Compliance With Laws:** Each party hereto shall comply with all statutes, lawful ordinances, regulations and requirements, federal, state, and local applicable to their activities hereunder. The County shall provide reasonable and adequate physical security at all times for ARAMARK employees, suppliers, management and other authorized visitors.

**K. License, Fees, Permits, And Taxes:** ARAMARK shall secure and pay for all federal, state and local licenses, permits and fees required for the food service operations. Except that ARAMARK understands and agrees that the County is a governmental entity that is exempt from taxation. In the event a newly enacted tax is assessed to ARAMARK under the terms of this agreement, or the County's exemption from taxation changes, the County shall reimburse ARAMARK for such tax.

**L. Independent Contractor:** The County's employees, affiliates, and/or inmates are not employees of ARAMARK. Accordingly, County shall be solely responsible for, and ARAMARK shall have no obligation with respect to (1) withholding of income taxes, FICA, or any other taxes or fees; (2) participation in any group insurance plans available to employees of