

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.
202509022

Originating Department:	Sheriff's Office								
Division/Program: (i.e. Dept. Division and Program)	Corrections Bureau/In Custody								
Contract or Grant Administrator:	Caleb Erickson								
Contractor's / Agency Name:	Summit Food Service								
Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input type="radio"/> No <input checked="" type="radio"/>									
Yes <input checked="" type="radio"/> No <input type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____									
Does contract require Council Approval? Yes <input checked="" type="radio"/> No <input type="radio"/> If No, include WCC: _____									
Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)									
Is this a grant agreement? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, grantor agency contract number(s): _____ CFDA#: _____									
Is this contract grant funded? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, Whatcom County grant contract number(s): _____									
Is this contract the result of a RFP or Bid process? Yes <input checked="" type="radio"/> No <input type="radio"/> If yes, RFP and Bid number(s): 25-16 Contract Cost Center: 13501000									
Is this agreement excluded from E-Verify? No <input type="radio"/> Yes <input checked="" type="radio"/> If no, include Attachment D Contractor Declaration form.									
If YES, indicate exclusion(s) below: <table border="0"> <tr> <td><input checked="" type="checkbox"/> Professional services agreement for certified/licensed professional.</td> <td><input type="checkbox"/> Goods and services provided due to an emergency</td> </tr> <tr> <td><input type="checkbox"/> Contract work is for less than \$100,000.</td> <td><input type="checkbox"/> Contract for Commercial off the shelf items (COTS).</td> </tr> <tr> <td><input type="checkbox"/> Contract work is for less than 120 days.</td> <td><input type="checkbox"/> Work related subcontract less than \$25,000.</td> </tr> <tr> <td><input type="checkbox"/> Interlocal Agreement (between Governments).</td> <td><input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.</td> </tr> </table>		<input checked="" type="checkbox"/> Professional services agreement for certified/licensed professional.	<input type="checkbox"/> Goods and services provided due to an emergency	<input type="checkbox"/> Contract work is for less than \$100,000.	<input type="checkbox"/> Contract for Commercial off the shelf items (COTS).	<input type="checkbox"/> Contract work is for less than 120 days.	<input type="checkbox"/> Work related subcontract less than \$25,000.	<input type="checkbox"/> Interlocal Agreement (between Governments).	<input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.
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Contract Amount:(sum of original contract amount and any prior amendments): \$ 10% commission This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	Council approval required for; all property leases, all Interlocal agreements, contracts or bid awards exceeding \$75,000 , and grants exceeding \$40,000 and and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County. 								
Summary of Scope:									
Summit Food Service will provide a selection of commissary items for sale to inmates. The County will receive a 10% commission on these items and this will offset the fees for items provided to indigent inmates.									
Term of Contract: 1 year and 3 months	Expiration Date: 12/31/26								

Contract Routing:	1. Prepared by: Laurie Reid	Date: 09/11/25
	2. Attorney signoff: Brandon Waldron	Date: 09/11/25
	3. AS Finance reviewed:	Date: _____
	4. IT reviewed (if IT related):	Date: _____
	5. Contractor signed:	Date: _____
	6. Executive contract review:	Date: _____
	7. Council approved, if necessary:	Date: _____
	8. Executive signed:	Date: _____
	9. Original to Council:	Date: _____

Whatcom County Contract No.

CONTRACT FOR COMMISSARY SERVICES
Between Whatcom County and Summit Food Service, LLC

Summit Food Service, hereinafter called **Contractor** and Whatcom County, hereinafter referred to as **County or Whatcom County**, agree and contract as set forth in this Agreement, including:

- General Conditions, pp. 3-12,
- Exhibit A (Scope of Work), pp. 13-15,
- Exhibit B (Compensation), pp. 16-17,
- Exhibit C (Certificate of Insurance) pp. 18.

Copies of these items are attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 1st day of October, 2025, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2026.

The general purpose or objective of this Agreement is for: Jail Commissary Services, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The County will receive a monthly commission in the amount of 10% from Commissary Sales as more fully and definitively described in Exhibit B hereto. The language of Exhibit B controls in case of any conflict between it and that provided here. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Contractor acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 31.2, 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 20 ____.

CONTRACTOR:

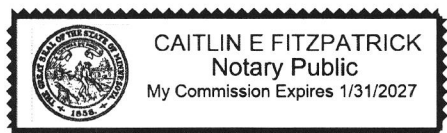
Summit Food Service, LLC

Signed by:

Roshon Cody
8E41E2538053408
 Roshon Cody, President

STATE OF Minnesota)
) ss.
 COUNTY OF Washington)

On this 12th day of September, 2025, before me personally appeared Roshon Cody to me known to be the President of Summit Food Service, LLC and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.



Caitlin FitzPatrick

DocuSigned by:

Caitlin FitzPatrick

NOTARY PUBLIC in and for the State of Minnesota, residing at
 _____ My commission expires 1/31/2027

8507 Jeffery Ave S, Cottage Grove, MN 55016

WHATCOM COUNTY:

Recommended for Approval:

Seb H For 9/12/25
Donnell "Tank" Tanksley, Sheriff Date

Approved as to form:

Approved via email BW/DD 9/11/25
Brandon Waldron, Prosecuting Attorney Date

Approved:

Accepted for Whatcom County:

By: _____
Satpal Singh Sidhu, Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this ____ day of _____, 20 __, before me personally appeared Satpal Singh Sidhu, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of Washington, residing at
_____. My commission expires _____.

CONTRACTOR INFORMATION:

Summit Food Service
April Lee, Business Development Director
500 East 52nd St.
Sioux Falls, SD 57104
206-966-1084
april.lee@summitfoodservice.com

GENERAL CONDITIONS

Series 00-09: Provisions Related to Scope and Nature of Services

0.1 Scope of Services:

The Contractor agrees to provide to the County services and any materials as set forth in the project narrative identified as Exhibit "A", during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

Series 10-19: Provisions Related to Term and Termination

10.1 Term:

Services provided by Contractor prior to or after the term of this contract shall be performed at the expense of Contractor and are not compensable under this contract unless both parties hereto agree to such provision in writing. The term of this Agreement may be extended by mutual agreement of the parties; provided, however, that the Agreement is in writing and signed by both parties.

10.2 Extension:

The duration of this Agreement may be extended by mutual written consent of the parties, for up to four additional one-year periods, provided that the final expiration date shall not be later than December 31, 2030.

11.1 Termination for Default:

If either party (i) fails, refuses or is unable to perform any of the obligations of the Agreement or (ii) becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, then the non-breaching party shall provide the allegedly breaching party written notice of such breach via U.S. mail, first class postage prepaid and provide the allegedly breaching party one hundred and twenty (120) days to cure ("Cure Period"). If the breaching party remedies such breach within the Cure Period, then the notice is null and void. If the breaching party fails to remedy the breach within the Cure Period, then the Agreement will terminate at the end of the Cure Period, and in the case of the County, the County at its option, may obtain performance of the work elsewhere. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed.

11.2 Termination for Reduction in Funding:

In the event that funding from State, Federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement, and prior to its normal completion, the County may summarily terminate this Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the County deems that the continuation of the programs covered by this Agreement is no longer in the best interest of the County, the County may summarily terminate this Agreement in whole, notwithstanding any other termination provisions of this Agreement. Termination under this section shall be effective upon receipt of written notice as specified herein, or within three days of the mailing of the notice, whichever occurs first.

11.3 Termination for Public Convenience:

Either Party may terminate the Agreement in whole or in part with or without cause by written notice to the other party given not less than one hundred and twenty (120) days prior to the effective date of termination. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by either Party at any time during the term, whether for default or convenience, shall not constitute breach of contract by the terminating party.

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:

Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.

Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Contractor for any costs or expenses

incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, in accordance with the County's customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

21.1 Taxes:

The Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to withhold for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor's performance of this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes, including, but not limited to, Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

22.1 Withholding Payment:

In the event the County's Administrative Officer determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The County may act in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the County under this clause.

23.1 Labor Standards:

The Contractor agrees to comply with all applicable state and federal requirements, including but not limited to those pertaining to payment of wages and working conditions, in accordance with RCW 39.12.040, the Prevailing Wage Act; the Americans with Disabilities Act of 1990; the Davis-Bacon Act; and the Contract Work Hours and Safety Standards Act providing for weekly payment of prevailing wages, minimum overtime pay, and providing that no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health and safety as determined by regulations promulgated by the Federal Secretary of Labor and the State of Washington.

24.1 Force Majeure.

If performance of any terms or provisions hereof (other than the payment of monies) shall be delayed or prevented because of compliance with any law, regulation, decree or order by any federal, state, or local court, governmental agency or governmental authority, or because of riot, war, public disturbance, strike, lockout, differences with workmen, fire, flood, Act of God or any other reason whatsoever, which is not within the control of the party whose performance is interfered with, and which, by the exercise of reasonable diligence said party is unable to prevent, the party so suffering may at its option, suspend, without liability, the performance of its obligations hereunder (other than the payment of monies) during the period such cause continues.

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor:

In providing services under this Contract, the Contractor is an independent contractor, and neither it nor its officers, agents, or employees are employees of the County for any purpose. The Contractor shall be responsible for all federal and/or state tax, industrial insurance, and Social Security liability that may result from the performance of and compensation for these services and shall make no claim of career service or civil service rights which may accrue to a County employee under state or local law.

The County assumes no responsibility for the payment of any compensation, wages, benefits, or taxes, by, or on behalf of the Contractor, its employees, and/or others by reason of this Contract.

30.2 Assignment and Subcontracting:

approval of the County. Neither party may assign or transfer this Agreement, or any part thereof, without written consent of the other party. Such consent shall not be unreasonably withheld. Provided, however, that this shall not apply to Company's transfer to a parent, sister, or successor company where Company provides Client at least thirty (30) days written notice.

30.3 No Guarantee of Employment:

The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

31.1 Ownership of Items Produced and Public Records Act:

All writings, programs, data, public records or other materials prepared by the Contractor and/or its consultants or subcontractors, in connection with performance of this Agreement, shall be the sole and absolute property of the County. If the Contractor creates any copyrightable materials or invents any patentable property, the Contractor may copyright or patent the same, but the County retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover, or otherwise use the materials or property and to authorize other governments to use the same for state or local governmental purposes. Contractor further agrees to make research, notes, and other work products produced in the performance of this Agreement available to the County upon request.

Ownership. Nothing in this Agreement is intended to grant any rights to County under any patent, copyright, trademark, trade name, trade secret or other proprietary right of Contractor (whether now owned or hereafter developed or acquired), all of which are reserved to Contractor.

Public Records Act. This Contract and all records associated with this Contract shall be available for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the Contractor are needed for the County to respond to a request under the Act, as determined by the County, the Contractor agrees to make them promptly available to the County at no cost to the County. If the Contractor considers any portion of any record provided to the County under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the Contractor shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information so identified by the Contractor and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify the Contractor (a) of the request and (b) of the date that such information will be released to the requester unless the Contractor obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

The County has, and by this section assumes, no obligation on behalf of the Contractor to claim any exemption from disclosure under the Act. The County shall not be liable to the Contractor for releasing records not clearly identified by the Contractor as confidential or proprietary. The County shall not be liable to the Contractor for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

The Contractor shall be liable to the requester for any and all fees, costs, penalties or damages imposed or alleged as a result of the Contractor's failure to provide adequate or timely records.

This provision, and the obligations it establishes, shall remain in effect after the expiration of this contract.

31.2 Patent/Copyright Infringement:

Contractor will defend and indemnify the County from any claimed action, cause or demand brought against the County, to the extent such action is based on the claim that information supplied by the Contractor infringes any patent or copyright of a third party. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County in any action. Such defense and payments are conditioned upon the following:

A. The Contractor shall be notified promptly in writing by the County of any notice of such claim.

B. Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

32.1 Confidentiality:

Each Party, the Party's employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the disclosing party or acquired by the receiving party in performance of this Agreement, except upon the prior written consent of the disclosing party or an order entered by a court after having acquired jurisdiction over the disclosing party. The receiving party shall promptly give to the disclosing party notice of any judicial proceeding seeking disclosure of such information. Confidential Information excludes any information that: (a) is or becomes publicly known or generally available in the public domain without the receiving party or its representatives' breach of this Agreement; (b) the receiving party or its representatives receives from a third party that, to the receiving

party's knowledge, did not breach any confidential obligations by disclosing such information; or (c) the receiving party can document: (1) was in the receiving party's or its representatives' possession before being disclosed by the disclosing party; or (2) was developed independently by receiving party or its representatives without using any of the disclosing party's Confidential Information.

33.1 Right to Review:

This contract is subject to review by any Federal, State or County auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request provided that the Contractor receives at least five (5) business days' written notice. Contractor also agrees to notify the Administrative Officer in advance of any inspections, audits, or program review by any individual, agency, or governmental unit whose purpose is to review the services provided within the terms of this Agreement. If no advance notice is given to the Contractor, then the Contractor agrees to notify the Administrative Officer as soon as it is practical.

34.1 Insurance:

The Contractor shall, at its own expense, obtain and continuously maintain the following insurance coverage for the duration of this contract, which shall include insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, subcontractors or employees. All insurers providing such insurance shall have an A.M. Best Rating of not less than A- (or otherwise be acceptable to the County) and be licensed to do business in the State of Washington and admitted by the Washington State Insurance Commissioner. Coverage limits shall be the minimum limits identified in this Contract or the coverage limits provided or available under the policies maintained by the Contractor without regard to this Contract, whichever are greater.

1. Commercial General Liability

Property Damage	\$500,000.00, per occurrence
General Liability & bodily injury	\$1,000,000.00, per occurrence
Annual Aggregate	\$2,000,000.00

At least as broad as ISO form CG 00 01 or the equivalent, which coverage shall include personal injury, bodily injury and property damage for Premises Operations, Products and Completed Operations, Personal/Advertising Injury, Contractual Liability, Independent Contractor Liability, medical payments and Stop Gap/Employer's Liability. Coverage shall not exclude or contain sub-limits less than the minimum limits required, unless approved in writing by the County.

2. Business Automobile Liability

\$1,000,000.00	Minimum, per occurrence
\$2,000,000.00	Minimum, Annual Aggregate

Contractor shall provide auto liability coverage for owned, non-owned and hired autos using ISO Business Auto Coverage form CA 00 01 or the exact equivalent with a limit of no less than \$1,000,000 per accident. If Contractor owns no vehicles this requirement may be met through a non-owned auto Endorsement to the CGL policy.

4. Additional Insurance Requirements and Provisions

- a. All insurance policies shall provide coverage on an occurrence basis.
- b. Additional Insureds. Whatcom County, its departments, elected and appointed officials, employees, agents and volunteers shall be included as additional insureds on Contractor's and Contractor's subcontractors' insurance policies by way of endorsement for the full available limits of insurance required in this contract or maintained by the Contractor and subcontractor, whichever is greater.
- c. Primary and Non-contributory Insurance. Contractor shall provide primary insurance coverage and the County's insurance shall be non-contributory. Any insurance, self-insured retention, deductible, risk retention or insurance pooling maintained or participated in by the County shall be excess and non-contributory to Contractor's insurance.

- d. **Waiver of Subrogation.** The insurance policy shall provide a waiver of subrogation with respect to each insurance policy maintained under this Contract. When required by an insurer, or if a policy condition does not permit Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then Contractor agrees to notify the insurer and obtain such endorsement. This requirement shall not apply to any policy which includes a condition expressly prohibiting waiver of subrogation by the insured or which voids coverage should the Contractor enter into such a waiver of subrogation on a pre-loss basis.
- e. **Review of and Revision of Policy Provisions.** Upon request, the Contractor shall provide a full and complete certified copy of all requested insurance policies to the County. The County reserves the right, but not the obligation, to revise any insurance requirement, including but not limited to limits, coverages and endorsements, or to reject any insurance policies which fail to meet the requirements of this Contract. Additionally, the County reserves the right, but not the obligation, to review and reject any proposed insurer providing coverage based upon the insurer's financial condition or licensing status in Washington. If the County revises its insurance requirements to include limits, coverages or endorsements that Contractor does not have and if the County requires the Contractor to obtain such limits, coverages or endorsements, the County acknowledges that such costs will be passed through to the County.
- f. **Verification of Coverage/Certificates and Endorsements.** The Contractor shall furnish the County with a certificate of insurance and endorsements required by this contract. The certificates and endorsements for each policy shall be signed by a person authorized by the insurer to bind coverage on its behalf. The certificate and endorsements for each insurance policy are to be on forms approved by the County prior to commencement of activities associated with the contract. The certificate and endorsements, and renewals thereof, shall be attached hereto as Exhibit "C". If Exhibit C is not attached, the Contractor must submit the certificate and endorsements required in this contract to the County prior to the commencement of any work on the contracted project. A certificate alone is insufficient proof of the required insurance; endorsements must be included with the certificate. The certificate of insurance must reflect the insurance required in this contract, including appropriate limits, insurance coverage dates, per occurrence, and in the description of operations, include the County project, Whatcom County, its departments, officials, employees, agents and volunteers as additional insureds, primary, non-contributory, and waiver of subrogation.
- g. The County must be notified promptly in writing of any cancellation of the policy, exhaustion of aggregate limits, or notice of intent not to renew insurance coverage. Contractor shall always provide the County with a current copy of the certificate and endorsements throughout the duration of the contract.
- h. **Payment Conditioned on Insurance and Failure to Maintain Insurance.** Compensation and/or payments due to the Contractor under this Contract are expressly conditioned upon the Contractor's compliance with all insurance requirements. Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract. Payment to the Contractor may be suspended in the event of non-compliance, upon which the County may, after giving five business days' notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the County on demand or offset against funds due the Contractor. Upon receipt of evidence of Contractor's compliance, payments not otherwise subject to withholding or set-off will be released to the Contractor.
- j. **Workers' Compensation.** The Contractor shall maintain Workers' Compensation coverage as required under the Washington State Industrial Insurance Act, RCW Title 51, for all Contractors' employees, agents and volunteers eligible for such coverage under the Industrial Insurance Act.
- k. **Failure of the Contractor to take out and/or maintain required insurance shall not relieve the Contractor or subcontractors from any liability under the contract, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations concerning indemnification.** The County does not waive any insurance requirements even in the event the certificate or endorsements provided by the Contractor were insufficient or inadequate proof of coverage but not objected to by the County. The County's failure to confirm adequate proof of insurance requirements does not constitute a waiver of the Contractor's insurance requirements under this Contract.

- l. Availability of Contractor Limits. If the Contractor maintains higher insurance limits than the minimums shown above, the County shall be insured for the full available limits, including Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this contract or whether any certificate furnished to the County evidences limits of liability lower than those maintained by the Contractor.
- m. Insurance for Subcontractors. If the Contractor subcontracts (if permitted in the contract) any portion of this Contract, the Contractor shall include all subcontractors as insureds under its policies or shall require separate certificates of insurance and policy endorsements from each subcontractor. Insurance coverages by subcontractors must comply with the insurance requirements of the Contractor in this contract and shall be subject to all of the requirements stated herein, including naming the County as additional insured.
- n. The Contractor agrees Contractor's insurance obligation shall survive the completion or termination of this Contract for a minimum period of three years.

34.4 Limitation of Liability.

Contractor's entire liability and the County's exclusive remedy for damages arising out of or related to this Agreement or the Commissary Services shall not exceed the amount of insurance coverage required by Contractor in this Agreement. Contractor shall not be liable for loss of business, business interruption, consequential, incidental, special or punitive damages, or for loss of revenue or profit in connections with the performance or failure to perform this Agreement, regardless of whether such liability arises from breach of contract, tort, or any other theory of liability. Contractor shall only be liable for County's actual damages for liability and costs, including attorney's fees, arising from breach of contract, tort, or any other theory of liability.

35.1 Non-Discrimination in Employment:

The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, political affiliation, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Whatcom County Services:

The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status; or deny an individual or business any service or benefits under this Agreement unless otherwise allowed by applicable law; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement unless otherwise allowed by applicable law; or deny an individual or business an opportunity to participate in any program provided by this Agreement unless otherwise allowed by applicable law.

36.1 Non-Hire:

The County acknowledges that Contractor has invested considerable amounts of time and money in training its Supervisory Employees, in the systems, procedures, methods, forms, reports, formulas, computer programs, recipes, menus, plans, techniques and other valuable information, all of which is proprietary and unique to Contractor. Therefore, the County agrees that during the Supervisory Employee's employment with Contractor and for a period of twelve (12) months thereafter no Supervisory Employees of Contractor will be hired by the County nor any facility affiliated with the County, nor will the County permit employment of Contractor Supervisory Employees on the County's premises or the premises of any facility affiliated with the County, whether as an individual or as owner, partner, majority

stockholder, director, officer or employee of a food/Commissary service provider. The County agrees that if it violates this contract provision, the County shall pay to Contractor, and Contractor shall accept as liquidated damages and not as a penalty, an amount equal to the annual salary (including costs of all benefits) of the Supervisory Employee(s) hired by or allowed to work with the County in violation of the terms of this Agreement. Contractor shall be entitled to pursue all other remedies available under federal, state, or local law. "Supervisory Employees" shall be defined as those persons who have directly or indirectly performed management or professional services on behalf of Contractor on behalf of the County at any time during this Agreement. Nothing in this section shall be construed to prohibit the County from complying with state law or local procurement ordinances and policies.

36.2 Conflict of Interest:

If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Contractor shall promptly notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:

This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, Whatcom County Executive, and his or her designee, as the County's representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County's right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Chief Corrections Deputy Caleb Erickson

37.2 Notice:

Any notices or communications required or permitted to be given by this Contract must be (i) given in writing and (ii) personally delivered or mailed, by prepaid, certified mail or overnight courier, or transmitted by electronic mail transmission (including PDF), to the party to whom such notice or communication is directed, to the mailing address or regularly-monitored electronic mail address of such party as follows:

Whatcom County Sheriff's Office/Corrections Bureau
Caleb Erickson, Chief Corrections Deputy
311 Grand Ave.
Bellingham, WA 98225

Summit Food Service
Rashon Cody, President
500 East 52nd St.
Sioux Falls, ID 57104

With a Copy that Does Not Constitute Notice to:
Attn: Legal Department
4920 Westway Park Blvd Ste 150
Houston, TX 77041

Any such notice or communication shall be deemed to have been given on (i) the day such notice or communication is personally delivered, (ii) three (3) days after such notice or communication is mailed by prepaid certified or registered mail, (iii) one (1) working day after such notice or communication is sent by overnight courier, or (iv) the day such notice or communication is sent electronically, provided that the sender has received a confirmation of such electronic transmission. A party may, for purposes of this Agreement, change his, her or its address, email address or the person to whom a notice or other communication is marked to the attention of, by giving notice of such change to the other party pursuant to this Section.

37.3 This Agreement may be executed in multiple counterparts, each of which shall be effective upon delivery and, thereafter, shall be deemed to be an original, and all of which shall be taken as one and the same instrument with the same effect as if each party had signed on the same signature page. This Agreement may be transmitted by fax or by electronic mail in portable document format ("PDF") and signatures appearing on faxed instruments and/or electronic mail instruments shall be treated as original signatures.

38.1 Certification of Public Works Contractor's Status under State Law:

If applicable, Contractor certifies that it has fully met the responsibility criteria required of public works contractors under RCW 39.04.350 (1), which include: (a) having a certificate of registration in compliance with RCW 18.27; (b) having a current state unified business

identifier number; (c) if applicable, having industrial insurance coverage for its employees working in Washington as required in Title 51 RCW, an employment security department number as required in Title 50 RCW, and a state excise tax registration number as required in Title 82 RCW; and (d) not being disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:

If applicable, the Contractor further certifies, by executing this contract, that neither it nor its principles is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or Agency.

The Contractor also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Contractor and any other person) with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and the Contractor agrees to include this clause titled "Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The "Excluded Parties List System in the System for Award Management (SAM) website is available to research this information at WWW.SAM.GOV. Contractor shall immediately notify Whatcom County if, during the term of this Contract, Contractor becomes debarred.

38.3 E-Verify:

The E-Verify contractor program for Whatcom County applies to contracts of \$100,000 or more and sub contracts for \$25,000 or more if the primary contract is for \$100,000 or more. If applicable, Contractor represents and warrants that it will, for at least the duration of this contract, register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work for Whatcom County. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor/Seller agrees to maintain records of such compliance and, upon request of the County, to provide a copy of each such verification to the County. Contractor/Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Washington. Contractor/Seller understands and agrees that any breach of these warranties may subject Contractor/Seller to the following: (a) termination of this Agreement and ineligibility for any Whatcom County contract for up to three (3) years, with notice of such cancellation/termination being made public. In the event of such termination/cancellation, Contractor/Seller would also be liable for any additional costs incurred by the County due to contract cancellation or loss of license or permit." Contractor will review and enroll in the E-Verify program through this website: www.uscis.gov

Series 40-49: Provisions Related to Interpretation of Agreement and Resolution of Disputes

40.1 Modifications:

Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.

41.1 Severability:

If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

41.2 Waiver:

Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

42.1 Disputes:

a. General:

Differences between the Contractor and the County, arising under and by virtue of the Contract Documents, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken.

Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

b. Notice of Potential Claims:

The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

c. Detailed Claim:

The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

d. Arbitration:

Other than claims for injunctive relief, temporary restraining order, or other provisional remedy to preserve the status quo or prevent irreparable harm, brought by a party hereto (which may be brought either in court or pursuant to this arbitration provision), and consistent with the provisions hereinabove, any claim, dispute or controversy between the parties under, arising out of, or related to this Contract or otherwise, including issues of specific performance, shall be determined by arbitration in Bellingham, Washington, under the applicable American Arbitration Association (AAA) rules in effect on the date hereof, as modified by this Agreement. There shall be one arbitrator selected by the parties within ten (10) days of the arbitration demand, or if not, by the AAA or any other group having similar credentials. Any issue about whether a claim is covered by this Contract shall be determined by the arbitrator. The arbitrator shall apply substantive law and may award injunctive relief, equitable relief (including specific performance), or any other remedy available from a judge but shall not have the power to award punitive damages. Each Party shall pay all their own costs, attorney fees and expenses of arbitration and the parties shall share equally in the Arbitrator's fees and costs. The decision of the arbitrator shall be final and binding and an order confirming the award or judgment upon the award may be entered in any court having jurisdiction. The parties agree that the decision of the arbitrator shall be the sole and exclusive remedy between them regarding any dispute presented or pled before the arbitrator. At the request of either party made not later than forty-five (45) days after the arbitration demand, the parties agree to submit the dispute to nonbinding mediation, which shall not delay the arbitration hearing date; provided, that either party may decline to mediate and proceed with arbitration.

Any arbitration proceeding commenced to enforce or interpret this Contract shall be brought within six years after the initial occurrence giving rise to the claim, dispute, or issue for which arbitration is commenced, regardless of the date of discovery or whether the claim, dispute, or issue was continuing in nature. Claims, disputes, or issues arising more than six years prior to a written request or demand for arbitration issued under this Contract are not subject to arbitration.

- e. The parties may agree in writing signed by both parties that a claim or dispute may be brought in Whatcom County Superior Court rather than mediation or arbitration.

Unless otherwise specified herein, this Contract shall be governed by the laws of Whatcom County and the State of Washington.

43.1 Venue and Choice of Law:

In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Whatcom. This Agreement shall be governed by the laws of the State of Washington.

44.1 Survival:

The provisions of paragraphs 11.1, 11.2, 11.3, 21.1, 22.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.2, 34.3, 36.1, 40.2, 41.2, 42.1, and 43.1, if utilized, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

45.1 Entire Agreement:

This written Agreement, comprised of the writings signed or otherwise identified and attached hereto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.

EXHIBIT "A"
(SCOPE OF WORK)

Contractor Responsibilities. Contractor agrees to perform the following responsibilities:

- A. Contractor shall operate and manage Commissary services hereunder in a professional manner and supply with merchandise of good quality.
 - i. Substitutions to commissary menu shall be made at the sole discretion of the Contractor.
 - ii. Should Whatcom County desire to offer a fresh food program that is paid out of the inmates' trust, Contractor shall have the opportunity to provide such a program at Whatcom County's facility.
- B. Contractor shall provide commissary food and related products as it deems necessary for operations.
- C. Contractor agrees to supply Whatcom County, at no cost, a commissary system as required to perform the tasks required, provided the commissary system will remain Contractor property after termination of the Agreement.
- D. As part of the commissary system, Contractor shall provide the following equipment:
 - i. Two (2) lobby kiosks
 - ii. Two (2) booking kiosks
 - iii. Two (2) debit release scanners
- E. Contractor will also provide software updates as they become available. Any training required by the installation of software enhancements will be provided by Contractor at no cost to the County.
- F. Contractor's employees will be responsible for accepting delivery of, sorting, transporting, and delivering commissary items to the Premises. Short- and long-term storage for commissary items will be primarily at the Work Center, but Contractor may elect to use dry storage areas currently used for Jail Food Service, if available.
- G. Contractor's employees will follow the process outlined in its bid to obtain signatures of the correct offender on all commissary receipts and forward the signed receipts to Whatcom County's Finance Department. Contractor will verify the offender's identity by checking the offender's wristband prior to delivery of the items.
- H. Contractor will provide indigent items for offenders. They will be listed individually so that offenders can order only what they need. Proof of the offender receiving the items will also be forwarded to Whatcom County's Finance Department so that costs can be posted to the offender's account. The manner in which that information is memorialized will be mutually agreed upon. Whatcom County will pay for indigent items delivered and signed for.
- I. Under no conditions will tobacco or vaping products or items containing Ethanol be included on the commissary lists.
- J. Contractor shall hire employees necessary for its performance of this Agreement. Persons employed by Contractor will be the employees of Contractor and not of Whatcom County. Contractor's employees and agents shall comply with applicable rules and regulations concerning conduct on Whatcom County's premises which Whatcom County imposes upon its employees and agents provided such rules and/or regulations are not in violation of any federal, state, and/or local laws. Whatcom County agrees to provide Contractor notice of any proposed changes in rules, at least thirty (30) days prior to implementation. Contractor will consider Whatcom County's written requests to remove Commissary Service employees, provided such requests are non-discriminatory and comply with all laws and regulations governing employment. Contractor shall conduct necessary background checks as required by law.

Whatcom County's Responsibilities. Whatcom County agrees to perform the following responsibilities:

Contract for Commissary Services
2025-26 Summit Food Services, LLC

- A. Whatcom County shall, without cost to Contractor, provide Contractor with the necessary space for the operation of Services, and shall furnish, without cost to Contractor, all utilities, facilities, equipment and security for Contractor personnel for the efficient performance of this Agreement including, but not limited to, the following: lights, electric current, heat, refrigeration (if required), garbage removal services, exterminator services. Whatcom County shall also be responsible for the costs of wiring or rewiring and hooking up kiosks, computers or software systems or local area networks used in the operation of the Commissary program or its connection to Whatcom County's accounting system.
- B. At its own expense, Whatcom County will maintain, repair, replace, and keep in safe operating condition said utilities, facilities, and equipment, such that no Contractor employee is exposed to or subjected to any unsafe situation that would violate the Occupational Safety and Health Act ("OSHA") or any other similar federal, state or local law or regulation. Contractor shall have the right to effect equipment repairs or replacements at Whatcom County's expense if, within a reasonable amount of time after receiving notice, Whatcom County fails to make necessary repairs or replacement to essential equipment that becomes inoperative, hazardous, or inefficient to operate or interferes with Contractor's ability to provide Services in a safe and sanitary manner. Contractor shall be entitled to assert a security interest in any equipment that it purchases or repairs under this section and shall retain title to equipment purchased hereunder. Once the cost of the purchased equipment or equipment repair has been recovered, Contractor shall release the security interest and title for any such purchased equipment to Whatcom County. Provided that, Contractor will utilize Whatcom County's purchasing system and submit written requests for additional or replacement items and/or Whatcom County's work order system for the repair/replacement of equipment. Replacement or additional supplies are subject to Whatcom County's approved budget restrictions. Failure to utilize these systems prior to Contractor purchasing or arranging for repairs to the item(s) will void the obligation of Whatcom County to reimburse Contractor for costs associated with purchase or repair.
- C. Any change or addition requested by Whatcom County to modify the commissary software that is specific to this location shall be paid for by Whatcom County. After the initial training period, any costs incurred by Contractor for travel for training for Whatcom County specific modifications shall be paid for by Whatcom County. All Whatcom County instigated changes must be approved by the Chief Corrections Deputy or their designee prior to implementing the change(s). When necessary, Contractor will provide alternative ordering processes for offenders who are on phone restrictions. This will include providing hard copy menus of the commissary items at Contractor's expense and handing out, collecting and transferring the order to the warehouse by Contractor personnel.
- D. The County represents and warrants that it has and will maintain all required licenses and permits, necessary to operate the Premises. The County represents and warrants that the Premises complies and will remain in compliance with local, state, and federal laws and regulations as it relates to these commissary services. The County agrees to notify Contractor immediately upon receiving notice of loss of any such permit or license.
- E. Whatcom County agrees that it will, at its own expense, provide personnel necessary to operate commissary technology equipment and manage and reconcile the funds in the Inmate Trust Accounts.
- F. Whatcom County's Premises shall be in good condition and maintained by Whatcom County to ensure compliance with applicable Governmental Rules and to enable Contractor to perform its obligations hereunder. Whatcom County shall be responsible for any modifications or alterations to the workplace or the Premises necessary to comply with any applicable Governmental Rules. Contractor shall have no obligation to maintain or repair the Premises.
- G. At its own expense, Whatcom County shall maintain, repair, replace, and keep in safe operating condition said Facilities and Utilities, to permit the performance of the Commissary Service and to ensure compliance with Governmental Rules.
- H. Whatcom County shall complete background checks for Contractor personnel within ten (10) days of receiving a request.
- I. Internet Access. Whatcom County shall allow Contractor to use Whatcom County's internet access. Whatcom County shall provide electrical outlets and wireless IP network connectivity terminating in necessary cabling connection between the tablets, kiosks, and Contractor's router.

Software. Contractor will license products, software, and maintenance for use in providing services in accordance with this Agreement. Upon termination of this Agreement, Whatcom County shall have no right to access or retain any Contractor software or Confidential Information produced by that software. Whatcom County agrees not to attempt to utilize Contractor's work product by directly contract with the licensee of the software at use at the Facility.

Credit Card Processing. If requested by Whatcom County, Contractor's software/technology partner will accept and process credit card payments for sales of food, beverage, goods, merchandise, and services in the Commissary Service operation using

software/technology partner provided equipment. Contractor software/technology partner shall be responsible for compliance of their equipment in accordance with PCI Standards.

EXHIBIT "B"
(COMPENSATION)

Payment Arrangement.

- A. Contractor shall retain amounts paid in conjunction with services provided to the Commissary. In exchange, Contractor will pay Whatcom County a monthly Commission in the amount of ten percent (10%) of Net Sales. Net Sales shall be defined as Gross Sales minus Sales Tax, minus indigent kits, postage, stamps, pre-stamped envelopes, any other item sold at cost, and applicable processing, mail, and administrative fees.
- B. Within forty-five (45) days after the end of each month Contractor shall issue a check to Whatcom County covering commissions on Net Sales made during the prior month. Cost of excluded items such as indigent kits shall be itemized and deducted from the monthly commissions.
- C. Care Packs/Gift Bags: Commission will be paid at ten percent (10%) on care packs/gift bag online orders.
- D. Snack Cart: Commission will be paid at ten percent (10%) on snack cart orders.
- E. Contractor reserves the right to adjust administrative fees upon 30-day written notice to Whatcom County. Contractor shall charge the following administrative fees to inmates/depositors:

Fee Type	Fee Amount
Debit Time Fee	\$1.00
Cash Deposit	\$4.00
Credit/Debit Card	Greater of \$4.00 or 10%
Care Pack Shipping & Handling	\$7.95

- F. Contractor shall provide Whatcom County monthly an operating statement which shall detail the revenue based on the operation of the commissary.
- G. Contractor and Whatcom County shall review the costs for service on no less than an annual basis to determine adjustments in operating costs. Contractor reserves the right to periodically adjust the retail prices on the commissary price list to reflect any increase in cost, and to ensure the financial objectives of this Agreement.
- H. In the event of a change to Whatcom County policy or law governing inmate commissary spending, Contractor shall review and adjust commission to Whatcom County accordingly.
- I. Any equipment purchases necessary for the operation shall be billed back to Whatcom County. Except as otherwise provided in this Agreement, all such requests must be submitted in writing and shall require prior authorization from the County. The County shall respond to such request within five (5) days. If Contractor does not receive a response, such request shall be deemed approved.
- J. Contractor shall issue an invoice at the end of each week (which shall run Saturday through Friday) showing any amounts due. Whatcom County shall pay the full invoice amount within thirty (30) days from the issuance of the invoice. Payment Method shall be electronic via AFT/ACH transfer, or another acceptable electronic method agreed upon between the parties. In the event payment is not made within thirty (30) days of the due date, the invoice will be subject to a finance charge of eighteen percent (18%) per annum or, if less, the maximum amount permitted under applicable law. The right of Contractor to charge the finance charge shall not be construed as a waiver of Contractor's normal entitlement to receive timely payment as set forth herein. Any change of banking information or change in the method of monies being transmitted or received shall be documented in hard copy (printed on paper) and delivered by hand, via certified or registered mail return receipt requested, or by overnight delivery service with a receipt of delivery, provided that such delivery is to the parties per Notice. In the alternative, the Contractor, at its discretion, may request verification by phone of any change of banking information or change in the method of monies being transmitted or received.
- K. Future Pricing: Pricing adjustments shall be made on an annual basis beginning on January 1, 2027 at a rate no less than the greater of five percent (5%), the most recently released U.S. Department of Labor Consumer Price Index, All Urban Consumers, National Average Unadjusted, Food Away from Home, or the changes in the Market Basket of Products. Up to ninety (90) days prior to the anniversary of the Commencement Date, Company shall provide Client notification of the adjustment to the Fee(s). On the anniversary of the Commencement Date, Company's proposed adjustments shall go into effect, unless the Parties have entered into a written agreement with an alternative cost adjustment.

- L. In the event the County does not permit the change in pricing of commissary products or reduces spend limits, Contractor shall have the right to offset, from commission or any other sums owed by Contractor to the County, all or any portion of such outstanding receivables. The estimated amount shall be adjusted and reconciled to the actual amount in the next prebiling invoice, or if the County is no longer past due on its obligations to Contractor, with the next invoice due hereunder. Further, Contractor shall have the right to immediately adjust hours, prices, labor, and menu offerings to further off-set any losses.

The financial terms set forth in this Agreement, and all other obligations assumed by Contractor hereunder, are based on conditions in existence on the date Contractor commences operations including, without limitation, population; labor costs; tariffs; inmate labor; applicable Governmental Rules; food and supply costs; provision of equipment and utilities; state of the Premises; and federal, state and local sales, use and excise taxes (the "Conditions"). Further, the County acknowledges that in connection with the negotiation and execution of this Agreement, Contractor has relied upon the County's representations regarding existing and future conditions (the "Representations"). In the event of change in the Conditions, inaccuracy of the Representations, or if the County requests any significant change in the Food Services as provided under this Agreement, the financial terms and other obligations assumed by Contractor shall be renegotiated to reflect a proportionate increase in Contractor's charges to the County. Contractor will provide a thirty (30) day notice of such increased charges. In the case that the County provides inmate labor to assist with duties under the Agreement, the County acknowledges that the County is solely responsible for any pay, compensation, benefits or other remuneration (if any) payable to the inmate. If Contractor sustains increases in its operational costs (e.g. product or labor costs), Contractor, with written notification to the County, may increase its prices for items to recover such increased costs.

- M. The County shall pay all costs of collecting any amount due Contractor, including attorney's fees and all costs and other expenses incurred by Contractor in collecting an indebtedness of the County. This provision shall survive the termination of the Agreement.

EXHIBIT "C"
(CERTIFICATE OF INSURANCE)

