

AUDITOR'S ACCOUNT WITH THE COUNTY TREASURER

TO THE HONORABLE BOARD OF FALL RIVER COUNTY COMMISSIONERS:
I hereby submit the following report of my examination of the cash and cash items in the hands of the County Treasurer of this County on this 28th day of February 2021.

Total Amount of Deposit in First Interstate Bank, HS:	\$	1,226,055.10
Total Amount of Deposit in First National Bank, Lead:	\$	1,000.00
Total Amount of Cash:	\$	1,544.99
Total Amount of Treasurer's Change Fund:	\$	900.00
Total Amount of Checks in Treasurer's Possession Not Exceeding Three Days:	\$	41,886.18

SAVINGS:

First Interstate Bank, HS:	\$	309,900.73
First National Bank of Lead: ICS Acct	\$	1,044,321.89

CERTIFICATES OF DEPOSIT:

First Interstate, HS:	\$	772,669.12
Black Hills Federal Credit Union, HS:	\$	250,000.00
Bank of the West, HS:	\$	537,405.57
Schwab Treasury:	\$	273,871.98
First National Bank, Lead:	\$	306,046.60
Black Hills Community, Rapid City:	\$	805,786.21
Liberty National, Sioux Falls:	\$	4,000,000.00

Itemized list of all items, checks and drafts that have been in the Treasurer's possession over three days:

Register of Deeds Change Fund:	\$	500.00
Highway Petty Cash:	\$	20.00
Election Petty Cash:	\$	15.00

RETURNED CHECKS:

Brun, Cyril	9/2/2020	\$	806.60
Rhew, Todd & Janet	9/9/2020	\$	276.80
Schmit, Troy	10/20/2020	\$	85.60
Caveye, Russell	10/26/2020	\$	64.77

TOTAL \$ 9,573,157.14

Dated This 31st Day of January 2021.

Sue Ganje, County Auditor of Fall River County

Teresa Pullen, County Treasurer of Fall River County

County Monies	\$	9,039,763.17
Held for other Entities	\$	365,516.66
Held in Trust	\$	167,877.31
TOTAL	\$	9,573,157.14 ✓

The Above Balance Reflects County Monies, Monies Held in Trust, and Monies Collected for and to be remitted to Other ENTITIES: SCHOOLS, TOWNS, AND STATE.

SDACO 2021 Spring Workshop

May 4 - 5

Pierre Ramkota - Schedule

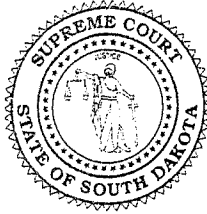
Tuesday, May 4

Time	Auditors Amphitheatre II	Treasurers Gallery DE	Registers of Deeds Gallery FG
8:00 am	Registration Desk Opens <i>Oahe Lobby</i>	Registration Desk Opens <i>Oahe Lobby</i>	Registration Desk Opens <i>Oahe Lobby</i>
9:00 – 9:30 am	SDACO Committees <i>By-Laws-Restaurant</i> <i>Nominating-Gallery DE</i> <i>Resolutions-Gallery FG</i>	SDACO Committees <i>By-Laws-Restaurant</i> <i>Nominating-Gallery DE</i> <i>Resolutions-Gallery FG</i>	SDACO Committees <i>By-Laws-Restaurant</i> <i>Nominating-Gallery DE</i> <i>Resolutions-Gallery FG</i>
9:30 – 10:00 am	SDACO Committees <i>Cont. Ed.-Gallery DE</i> <i>Pub. Relations-Gallery FG</i> <i>Scholarship-Restaurant</i>	SDACO Committees <i>Cont. Ed.-Gallery DE</i> <i>Pub. Relations-Gallery FG</i> <i>Scholarship-Restaurant</i>	SDACO Committees <i>Cont. Ed.-Gallery DE</i> <i>Pub. Relations-Gallery FG</i> <i>Scholarship-Restaurant</i>
10:15 – 11:00 am	Drivers Licensing <i>Amphitheatre II</i> <i>Jeannelle Yitagesu, Dpty Dir</i>	Drivers Licensing <i>Amphitheatre II</i> <i>Jeannelle Yitagesu, Dpty Dir</i>	Drivers Licensing <i>Amphitheatre II</i> <i>Jeannelle Yitagesu, Dpty Dir</i>
11:15 to 12:00 noon	SD Dept of Revenue <i>Wendy Semmler, Property Tax</i>		
12:00 noon – 1:00 pm	Luncheon - <i>Gallery A</i>	Luncheon - <i>Gallery A</i>	Luncheon - <i>Gallery A</i>
1:00 to 1:45 pm		SD Dept of Revenue <i>Wendy Semmler, Property Tax</i>	
2:00 to 2:45 pm			SD Dept of Revenue <i>Wendy Semmler, Property Tax</i>
2:45 to 3:15 pm	<i>Break</i>	Break	Break
3:15 to 4:00 pm	Redistricting Information <i>Harry Redman, Planning Dist III</i>	Bankruptcy <i>LeeAnn Pierce, Brookings County Commissioner</i>	
4:00 to 4:45 pm	Email Etiquette & Basic Cyber Security for the Workplace <i>Tracie Everson, Safety Benefits</i>	Email Etiquette & Basic Cyber Security for the Workplace <i>Tracie Everson, Safety Benefits</i>	Email Etiquette & Basic Cyber Security for the Workplace <i>Tracie Everson, Safety Benefits</i>

Wednesday, May 5

Time	Auditors Amphitheatre II	Treasurers Gallery DE	Registers of Deeds Gallery FG
8:30 - 9:30 am	Secretary of State <i>Kea Warne, Elections</i>	Motor Vehicles <i>Monica Weischedel, MV</i>	Business Services <i>Jason Lutz, Kyle Holt – SOS office</i>
9:30 to 10:00 am	Break – Vendor Time <i>Oahe Lobby</i>	Break – Vendor Time <i>Oahe Lobby</i>	Break – Vendor Time <i>Oahe Lobby</i>
10:15 to 11:00	SDML WC / SDPAA <i>Brad Wilson, Insurance Benefits Lynn Bren, SDPAA</i>	Motor Vehicles <i>Monica Weischedel, MV</i>	Vital Records <i>Shawna Flax, Deputy Registrar</i>
11:15 to 12:00	Legislative Audit <i>Rod Fortin</i>	Motor Vehicles <i>Monica Weischedel, MV</i>	
12:00 to 1:00 pm	Luncheon - Gallery A <i>-Vendor Appreciation</i>	Luncheon - Gallery A <i>-Vendor Appreciation</i>	Luncheon - Gallery A <i>-Vendor Appreciation</i>
1:00 to 1:45 pm		Legislative Audit <i>Rod Fortin</i>	
2:00 to 3:00 pm			Legislative Audit <i>Rod Fortin</i>

Safe Travels Home!



Supreme Court

STATE OF SOUTH DAKOTA

Steven R. Jensen
CHIEF JUSTICE

TO: Chair, Boards of County Commissioners
Sheriffs
State's Attorneys

RE: Court Security Grant Money

DATE: March 8, 2021

I am pleased to inform you that the Unified Judicial System has secured another year of funding for the Court Security Grant Program to help offset the costs of security improvements in courthouses. Since 1999, the UJS has distributed \$1,339,741 for 410 county grants throughout the state. The money helped pay part of the costs of the projects ranging from the installation of panic alarm systems to purchasing metal detectors and bulletproofing benches. The UJS has \$10,000 available in FY 2021 to help continue the important work of upgrading the security of courthouses throughout the state.

The \$10,000 appropriated by the Legislature for FY2021 may not underwrite all of the projects that are requested for this fiscal year. Therefore, as in the past, we will allocate funding based on the following priorities:

1. **Purchasing new or upgrading existing panic alarm systems.** It is our belief that being able to call law enforcement quickly and quietly in a dangerous situation remains the most effective means for diffusing problems before they spin out of control.
2. **Purchasing metal detectors.** We received several requests in the past to purchase hand-held and portable metal detectors for use in the courthouses. We will again assist in funding the purchase of this important equipment.
3. **Purchasing locks and peepholes for court facilities.** As noted in past years' grants, securing facilities can be done very economically by installing locks and peepholes throughout court facilities.

Court Security Grant Money

March 8, 2021

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4. **Other miscellaneous expenses.** These expenses could include bulletproofing benches (we strongly recommend Kevlar for this purpose) and other measures directly related to improving courthouse security.

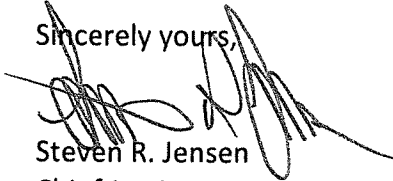
If your project involves video surveillance, electronic door locks or panic alarms please share a copy of the attached guidelines with your vendors prior to receiving bids. If there are questions about any of the items, please contact the Circuit Court Administrator in your area.

Grant applications should be submitted to Gregory L. Sattizahn, State Court Administrator, 500 East Capitol Avenue, Pierre, South Dakota, 57501-5070 by **April 15, 2021**. Counties will be eligible for up to a 50% match on security expenses, depending on the availability of funding, the above priorities, and the number of projects submitted.

The grant applications should include a cover letter requesting the funds, description of the project and a written cost proposal or estimate from the vendor of the improvements to be made. Verbal quotes will not be accepted. Please contact Aaron Olson at 773-4872 if you have any grant application questions.

I would again like to extend my sincere thanks to those of you who have been attentive to courthouse security issues. Improving courthouse security not only benefits those who work in such facilities, but also the many members of the public who transact business in them. I look forward to working with you in our continuing efforts to improve courthouse security.

Sincerely yours,


Steven R. Jensen
Chief Justice

cc: Bob Wilcox, County Commissioners Association
Presiding Judges
Circuit Court Administrators
Gregory L. Sattizahn, State Court Administrator
Aaron Olson, Director of Budget & Finance
Kent Grode, Director of Information & Technology

Video Surveillance, Electronic Door Locks and Panic Alarm Guidelines

- a. Non-state equipment may not be installed in the state computer rack.
- b. No camera or other installed devices will connect to State network.
- c. No State system will be dual homed to multiple networks. i.e. connected to both the state and county networks
- d. Hardware or software installed on UJS workstations will need to pass a security approval process and will be installed by UJS technical staff.
- e. County staff is responsible for management and operation of county installed security systems including video surveillance or electronic door locks.
- f. If access from UJS computers to security systems such as cameras, door locks or panic alarms is desired, that feature should be included in the vendor solution summary.
- g. The County may need to allow access through their firewall\network in order for UJS workstations to gain access from the internet.

CASH TRANSFER #2 March 25, 2021

3/25/2021	\$ 17,571.93	24/7	Operating cash transfer to correct an error to the wrong fund
	\$ 17,571.93		

Surplus to junk list:

01865	Jail	HP Desktop Computer
02075	24/7 Office	Intel Processor
02074	911 Office	Dell Optiplex
01667	Sheriff's Office	HP 505B CPU
01668	Sheriff's Office	HP 505B CPU
01929	Sheriff's Office	HP 8200 PC
01666	Sheriff's Office	HP 505B CPU
01667	Dispatch	HP 505B CPU
02046	Dispatch	HP Minitower with Addn. Memory & Graphics card
02045	Dispatch	HP Minitower with Addn. Memory & Graphics card
01938	Emergency Management	HP Pro 3500 Desktop
01937	Emergency Management	HP Pro 3500 Desktop PC
01936	Emergency Management	HP Pro 3500 Desktop PC
01773	Dispatch	APC Uninterrupted Power Supply
01778	Dispatch	APC Smart Uninterrupted Power Supply
01777	Dispatch	APC Smart Uninterrupted Power Supply

RESOLUTION #2021-16

WHEREAS, President Biden signed an Executive Order on January 27, 2021 to help restore balance on public lands and waters, create jobs, and provide a path to align the management of America’s public lands and waters with our nation’s climate, conservation, and clean energy; and

WHEREAS, according to the Department of the Interior, approximately 60% of the land in the United States is in a natural state. Is it necessary to protect more? Above the 60%, there are 12% of lands that are permanently protected at this time. 23% of America’s ocean is currently strongly protected. Do we need more?; and

WHEREAS, Per “The Guardian” online magazine article of Wednesday, February 17, 2021, the “so-called 30 by 30 conservation goal has already met with bipartisan support in congress, and it aligns with science based global preservation targets to reach an eventual target of 50% by 2050.”; and

WHEREAS, “The Guardian” article further states that “in order to meet Biden’s goals, the country will have to conserve more than 400 million acres of land and inland waterways alone in the next 10 years.”; and

WHEREAS, “The Guardian” article continues with “At the top of conservationists lists are areas rich in biodiversity: mountain ranges like the Appalachians and the Blue Ridge Mountains, wide swaths of prairieland across the Great Plains, old-growth forests in the Pacific north-west and currently under-protected coastal forests in the American south-east.”; and

WHEREAS, “The Guardian” article states and quotes Tom Cors, Government relations director of lands for the Nature Conservancy “Even if some protected areas are still privately owned “ownership isn’t as important as outcome.” – NOTE this is an assault on private ownership; and

WHEREAS, “The Guardian” article reports “By summer, it is likely that the Interior Department and other US agencies will have developed a roadmap to reach the 30 by 30 goals. That means there is still time for Americans to influence the process.” Now is the time for good people to stand up and be counted; and

NOW, THEREFORE, BE IT RESOLVED, to protect our land and Nation, we need to contact our U.S Congressional Senators and Representative, our State Senator and Representatives to make our voices heard.

Motion passed and Resolution #2021- 16, adopted this 25th day of March, 2021.

Joe Falkenburg, Chairman

ATTEST:

Sue Ganje, Fall River Auditor

FOOD SERVICE AGREEMENT

This Food Service Partnership Agreement is made and entered into by and between **FALL RIVER JAIL** ("Client"), and **CURA HOSPITALITY, LLC** ("Company") (collectively "the Parties").

1. TERM AND INTENT

- 1.1 Client grants Company the exclusive right to provide Food Service to Client, employees, guests and other persons at the Premises.
- 1.2 This Agreement shall commence on March 1, 2021 (the "Commencement Date") or sooner if mutually agreed upon in writing by both of the Parties. The Agreement will remain in effect through February 28, 2022. The Agreement shall automatically renew for additional like periods, unless either party provides written notice of termination to the other party at least sixty (60) days prior to the expiration date or unless this Agreement is otherwise terminated as set forth herein.

2. DEFINITIONS

- 2.1. Accounting Period. Company's accounting calendar is based on an accounting cycle consisting of four (4) rotational periods of four (4) weeks, four (4) weeks, five (5) weeks.
- 2.2. Agreement. In order of precedence: (i) this Food Service Partnership Agreement, Exhibits and Schedules, as amended and, where specifically included by reference, (ii) the Company's Proposal and (iii) the Solicitation.
- 2.3. Food Service. Operations and Products to be provided by Company in accordance with this Agreement related to the preparation, service and sale of food, beverages, goods, merchandise and other items at the Premises.
- 2.4. Governmental Rule. Any statute, law, rule, regulation, ordinance or code of any governmental entity (whether federal, state, local or otherwise).
- 2.5. Premises. The Client's facility located at 906 N. River Street, Hot Springs, SD 57747.
- 2.6. Products. Food, beverages, goods, merchandise, and supplies.
- 2.7. Proprietary, Confidential and Trade Secret Information. Items used in Company Food Services (owned by or licensed to Company) including, without limitation, menus, signage, surveys, Software (i.e. menu systems, food production systems, accounting systems), recipes, management guidelines and procedures, operating manuals, personnel information, purchasing and distribution practices, pricing and bidding information, financial information, provided, however that the following items are specifically excluded: (i) information generally available to and known by the public or (ii) information independently developed or previously known by the Client.
- 2.8. Servicewares. Items used in the service of food and beverages including, without limitation, chinaware, glassware, silverware, disposables, trays, and carts.
- 2.9. Smallwares. Items used in the preparation of food including, without limitation, pots, pans and kitchen utensils.
- 2.10. Supervisory Employee. Those persons who have directly or indirectly performed management or professional services on behalf of Company for the Client at any time during this Agreement including, without limitation, any corporate employee, manager, assistant manager, chef, lead cook or dietitian.

3. FOOD SERVICES

- 3.1 Food Service. Company will provide food preparation and service of food and beverages to Client's employees, staff and guests. In case of inclement weather which may impede meal delivery, Company Food Service Director, will determine if delivery of meals will cause a safety hazard. The Food Service Director will communicate with the Client to arrange meal pick up by the Client.
- 3.2 Program Specifications.
 - A. Menu. Company shall provide menus that meet nutritional requirements for inmate wellness per South Dakota Department of Corrections. Calories per day will be 2,500.
 - B. Hours. Company shall provide necessary Food Services at such hours as the Client and Company mutually agree.
- 3.3 Purchasing. Company shall purchase those Products and supplies necessary to comply with Company's obligations as set forth in this Agreement from Company's approved vendors that meet Company's guidelines and requirements.
- 3.4 Inventory. Company will purchase and own all inventories of food, beverages, and supplies.

4. EMPLOYEES

- 4.1. Employees. Company shall hire employees necessary for its performance of this Agreement. Persons employed by Company will be the employees of Company and not of Client. Company's employees and agents shall comply with applicable rules and regulations concerning conduct on the Client's premises which the Client imposes upon its employees and agents provided such rules and/or regulations are not in violation of any federal, state, and/or local laws. Client agrees to provide Company notice of any proposed changes in rules, at least thirty (30) days prior to implementation. Company will consider Client's written requests to remove Food Service employees, provided such requests are non-discriminatory and comply with all laws and regulations governing employment.
- 4.2. Existing Employees; Employment Terms; Employee Pension and Benefit Plans. Company in its sole discretion may elect to hire any managers or employees of Client or Client's incumbent foodservice provider (collectively, "Existing Employees") who are qualified, available and willing to provide Food Service at the Premises. Company shall have the authority to establish the terms of employment for all current Company managers and employees (including Existing Employees that Company may elect to hire in connection with this Agreement). Client represents that such Existing Employees are not represented by a union and are not entitled to be paid a living or prevailing wage under any Governmental Rule or agreement.
- 4.3. Wages and Hours. Company shall comply with all applicable federal, state and local laws and regulations pertaining to the wages and hours of employment for Company's employees. Client shall comply with all applicable federal, state and local laws and regulations pertaining to the wages and hours of employment for Client's employees.
- 4.4. Payroll Taxes. Company shall be responsible for all withholding and payroll taxes relative to Company's employees. Client shall be responsible for all withholding and payroll taxes relative to Client's employees.
- 4.5. Background Checks. Company shall conduct necessary background checks as required by law.

- 4.6. Equal Opportunity and Affirmative Action Employer. Company abides by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their age, race, color, religion, sex, sexual orientation or national origin. Company employs and promotes individuals without regard to age, race, color, religion, sex, national origin, protected veteran status or disability.
- 4.7. Non-Hire. Client acknowledges that Company has invested considerable amounts of time and money in training its Supervisory Employees. Therefore, the Client agrees that during the Supervisory Employee's employment with Company and for a period of twelve (12) months thereafter no Supervisory Employees of Company will be hired by Client nor any facility affiliated with Client, nor will Client permit employment of Company Supervisory Employees on Client's Premises or the Premises of any facility affiliated with Client. Client agrees that if it violates this provision, Client shall pay to Company and Company shall accept as liquidated damages and not as a penalty, an amount equal to one time the annual salary) of the Supervisory Employee(s) hired by or allowed to work with Client in violation of the terms of this Agreement. Company shall be entitled to pursue all other remedies available under federal, state, or local law. This provision shall survive the termination of this Agreement.

5. PREMISES, FACILITIES, UTILITIES AND EQUIPMENT

INTENTIONALLY OMITTED

6. LICENSES, PERMITS AND TAXES

- 6.1 Licenses and Permits. Company shall procure, maintain and post the food licenses and permits as required by law.
- 6.2 Taxes. Company shall be responsible for collecting and remitting sales tax on applicable sales collected by Company. Unless Client provides documentation of Client's federal and state tax-exempt status to the Company's sole satisfaction, Client shall reimburse Company for state and local sales tax on the full amount of charges and fees billed to the Client. Client shall secure and pay all federal, state and local property, excise and income and other taxes and fees required for the Premises and resulting from the Food Services provided for hereunder. Client shall immediately pay for any tax assessments including interest, penalties, costs and expenses, which are assessed against the Food Service operation and were not in effect as of the Commencement Date or were owed but unpaid as of the Commencement Date. Client shall notify Company promptly should its sales tax status be changed.

7. FINANCIAL ARRANGEMENTS

7.1 Payment Arrangement.

A. Inmate Meal Rate.

- a. Flat Rate Client shall pay Company the amount of Six Dollars and Twenty-Five Cents (\$6.25) per meals

The rate shall not include charges for floor stock, nourishments, supplements, etc. These will be provided at actual cost plus 10% billed to Client.

C. Service and Pricing Assumptions. The financial terms set forth in this Agreement, and all other obligations assumed by Company hereunder, are based on the following assumptions:

1. Population:
2. Average Sales:
3. Patient Days:
4. Hours of Operation:
5. Purchasing: Company will make purchases on behalf of the Client at a level similar to that in place at the Commencement of this Agreement.

To the extent any of the basic assumptions change or if Client requests a significant change in Services as provided under this Agreement, the Company's base rate shall be proportionately increased, unless the Parties otherwise mutually agree otherwise.

7.2 Payments Due Dates, Method and Late Payment Penalty. Company shall issue an invoice at the end of each Accounting Period showing the amounts due. Client 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 Company to charge the finance charge shall not be construed as a waiver of Company's normal entitlement to receive timely payment as set forth herein.

7.3 Right to Offset. In the event that Client is more than thirty (30) days past due on any obligations to Company, Company shall have the right to offset, from any other sums owed by Company to Client, all or any portion of such outstanding receivables. Additionally, Company shall have the right, at Company's option, at any time that Client is over thirty (30) days past due on any obligations require that Client pay, on a prebilling basis, at least one week in advance of each Accounting Period, the estimated amount due Company for that Accounting Period. The estimated amount shall be adjusted and reconciled to the actual amount in the next prebilling invoice, or if Client is no longer past due on its obligations to Company, with the next invoice due hereunder. Further, Company shall have the right to immediately adjust hours, prices, labor and menu offerings to further off-set any losses.

7.4 Change in Conditions. The financial terms set forth in this Agreement, and all other obligations assumed by Company hereunder, are based on conditions in existence on the date Company commences operations including, without limitation, population; labor costs; 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, Client acknowledges that in connection with the negotiation and execution of this Agreement, Company has relied upon Client's representations regarding existing and future conditions (the "Representations"). In the event of change in the Conditions, inaccuracy of the Representations, or if Client requests any significant change in the Food Services as provided under this Agreement, the financial terms and other obligations assumed by Company shall be renegotiated to reflect a

proportionate increase in Company's charges to the Client. Company will provide a thirty (30) day notice of such increased charges.

- 7.5 Future Pricing. Pricing adjustments shall be made on an annual basis and shall be agreed upon by the parties at a rate no less than the greater of: three percent (3%) or the most recently released U.S. Department of Labor Consumer Price Index, All Urban Consumers, National Average Unadjusted, Food Away From Home. Up to ninety (90) days prior to the anniversary of the Commencement Date, Company shall provide Client notification of the adjustment. On the anniversary date, Company proposed adjustments shall go into effect, unless the Parties have entered into a written agreement with an alternative cost adjustment.
- 7.6 Attorney's Fees and Costs. Client shall pay all costs of collecting any amount due Company, including attorney's fees and all costs and other expenses incurred by Company in collecting an indebtedness of Client. This provision shall survive the termination of the Agreement.

8. TERMINATION OF THE AGREEMENT.

- 8.1 Termination for Non-Performance. If either party refuses, fails or is unable to perform or observe any of the terms or conditions of this Agreement for any reason other than for Excused Performance as set forth in this Agreement, the party claiming such deficiency shall provide the breaching party written notice of any such breach. If the breaching party remedies such breach within (i) three (3) days in the case of failure to make payment when due, (ii) fifteen (15) days in the case of any other breach, or (iii) a reasonable time where cure is not possible within fifteen (15) days (collectively the "Notice Period"), the notice shall be null and void. If the breaching party fails to remedy the breach within the Notice Period, the party giving notice may cancel the Agreement after the end of the Notice Period.
- 8.2 Termination for Financial Insecurity. If either Party makes an unauthorized assignment for the benefit of creditors, files a petition under the bankruptcy or insolvency laws of any jurisdiction, has or suffers a receiver or trustee to be appointed for its business or property, or is adjudicated a bankrupt or an insolvent, the other party may terminate the Agreement with three (3) days' notice. Provided, however, that Client agrees to provide Company thirty (30) days' notice before filing a petition for bankruptcy.
- 8.3 Voluntary Termination. Either Party may terminate this Agreement with or without cause by written notice to the other party given not less than ninety (90) days prior to the effective date of termination.
- 8.4 Continuing Obligations. The termination of this Agreement shall not affect the rights, privileges, or liabilities of the Parties as they exist as of the effective date of termination. All outstanding amounts owed to Company shall become due and payable immediately upon termination. If, at Client's request, Company enters into agreements with one or more third parties in connection with its management of Client's Food Service operations (collectively, "Third Party Agreements"), Client agrees, at Client's sole cost and expense, to: (i) assume and undertake (or cause to be assumed and undertaken by the Food Service provider succeeding Company) all responsibilities of Company under all Third Party Agreements from and after the date this Agreement expires or is earlier terminated; (ii) release Company from all liability associated with such Third Party Agreements from and after the date this Agreement expires or is earlier terminated; and (iii) bear all liability and responsibility with respect to any costs, fees and other charges associated with

termination of such Third Party Agreements. This Paragraph shall survive the termination or expiration of this Agreement.

9. INDEMNIFICATION; INSURANCE

9.1 Insurance. Company shall maintain their own insurance on their respective real property, equipment and contents. Upon request, evidence of such insurance shall be provided in the form of a certificate of insurance.

A. Company Insurance. Company shall procure and maintain the following insurance:

1. Worker's Compensation Insurance as prescribed by the laws of the state where the Premises are located; and
2. Comprehensive General Liability Insurance, with limits of two million dollars (\$2,000,000.00) per occurrence and two million dollars (\$2,000,000.00) annual aggregate to cover any and all claims that arise during the course of this Agreement.

C. Subrogation. Client and Company waive any and all right of recovery from each other for property damage or loss of use thereof, however occurring, which loss is insured under a valid and collectible insurance policy to the extent of any recovery collectible under such insurance. 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 personal death or injury. Company shall not be liable to the Client, in any way for damage to the Facilities or Premises caused by reason of fire, or other hazard, however caused, or by the reason of an act of God. In any event, Company shall not be held liable for any cause to an extent which would exceed effective coverage and dollar limits prevailing under the policies of insurance described in this Agreement.

9.2 Indemnification. Each Party agrees to provide the following indemnification:

- A. Each party agrees that it will defend, indemnify and hold harmless the other party, its officers, directors, parent corporation, affiliates, employees and agents ("Indemnified Parties") against any and all liabilities, losses, damages, injuries, deaths, reasonable litigation expenses (including, without limitation, reasonable attorneys' fees), costs and costs of court (collectively, "Damages") which Indemnified Parties may hereafter sustain, incur or be required to pay arising out of the other party's negligent acts, omissions or failure to perform obligations pursuant to this Agreement. Provided, however, neither party shall be required to defend, indemnify and hold harmless the other party for any intentional or criminal actions of the other party or its employees, visitors or invitees. Client agrees to defend, indemnify and hold harmless Company Indemnified Parties from all Damages which may arise due to any act or omission of a Company Party made in compliance with a Client's rules or requirements.
- B. Notice of Indemnification. A party shall only be required to indemnify pursuant to the Agreement, where that party receives a written request to indemnify within twenty (20) days after the initial receipt of notice of any such lawsuit or claim by the party requesting indemnification. Failure to notify a party of such claim or lawsuit within the stated period of time shall relieve that party of any and all responsibility and liability under this Agreement to defend, indemnify and hold harmless for that claim or lawsuit.

10. GENERAL AGREEMENT TERMS

- 10.1 Confidentiality. Neither Client, nor Client's employees or agents, shall disclose, photocopy, duplicate or use, either during or after the term of this Agreement, any Proprietary, Confidential and Trade Secret Information, without Company's prior written permission. All Proprietary, Confidential and Trade Secret Information shall remain Company exclusive property. Client's access or use of Company Proprietary, Confidential and Trade Secret Information or Software shall not create any right, title, interest or copyright in such Information or Software. If Client is requested to disclose any of the Confidential Information to any third party for any reason, Client shall provide Company with prompt notice of such request(s). Upon termination of this Agreement, Client shall return all Company Proprietary, Confidential and Trade Secret Information in Client's possession relating to Company's services pursuant to this Agreement. Client agrees that upon breaching this provision, Company shall be entitled to equitable relief, including injunction or specific performance, in addition to all other available remedies. This provision shall survive the termination of the Agreement.
- 10.2 Intellectual Property. Nothing in this Agreement is intended to grant any rights to Client under any patent, copyright, trademark, trade name, trade secret or other proprietary right of Company (whether now owned or hereafter developed or acquired), all of which are reserved to Company.
- 10.3 Independent Contractor Relationship. It is mutually understood and agreed, and it is the intent of the Parties, that an independent contractor relationship is hereby established under the terms and conditions of this Agreement. Employees of Company are not, nor shall they be deemed to be, employees of Client. Employees of Client are not, nor shall they be deemed to be, employees of Company.
- 10.4 Notice. Any notice required under this Agreement shall be deemed to have been sufficiently provided when delivered by hand, or three days after being sent by certified or registered mail return receipt requested, or by overnight delivery service with receipt of delivery, provided such delivery is to the parties at the following addresses:
- | | |
|------------------------|-----------------------------|
| Client | Company |
| Fall River Jail | Cura Hospitality, LLC |
| 906 North River Street | 2400 Ansys Drive, Suite 404 |
| Hot Springs, SD 57747 | Canonsburg, PA 15317 |
- 10.5 Excused Performance. 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, pandemic, epidemic, 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.

- 10.6 Assignment or Transfer. 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.
- 10.7 Entire Agreement; Waiver. This Agreement, including any Exhibits hereto, constitutes the entire Agreement between the Parties with respect to the provisions of Company's services, and there are no other or further written or oral understandings or agreements with respect thereto except as otherwise set forth herein. No variation or modification of this Agreement and no waiver of its provisions shall be valid unless in writing and signed by the duly authorized officers of Company and Client. This Agreement supersedes all other agreements between the Parties or their predecessors for the provision of Company Food Services.
- 10.8 Counterparts; Electronic Signatures. 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.
- 10.9 State Guidelines. Client hereby agrees that the validity and construction of this Agreement shall be governed by South Dakota law. Should a lawsuit be necessary to enforce this Agreement, Client hereby waives any objection to venue or personal jurisdiction and agrees to be subject to the jurisdiction of the courts located in South Dakota. A facsimile copy or photocopy of this Agreement shall be valid as an original thereof. EACH PARTY HEREBY WAIVES THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE SUBJECT MATTER HEREOF AND BROUGHT BY ANY OTHER PARTY
- 10.10 Limitation of Liability. Company's entire liability and Client's exclusive remedy for damages arising out of or related to this Agreement or the Food Services shall not exceed the total amount paid by Client to Company for the current term of this Agreement. COMPANY SHALL NOT BE LIABLE FOR LOSS OF BUSINESS, BUSINESS INTERRUPTION, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, OR FOR LOSS OF REVENUE OR PROFIT IN CONNECTION 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.
- 10.11 Severability. Any term or provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation.
- 10.12 Authority. Company and Client represent that the individual executing this Agreement has been duly and validly authorized to execute this Agreement on each party's respective behalf with the full power and authority under all applicable laws and respective articles of incorporation, bylaws or other governing instrument to enter into this Agreement and to perform their obligations hereunder.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have caused their appointed and duly assigned officers to execute this Agreement.

FALL RIVER JAIL

Signature: _____

Name: _____

Title: _____

Date: _____

CURA HOSPITALITY, LLC

Signature: _____

Name: _____

Title: _____

Date: _____