MADISON COUNTY FISCAL COURT
MADISON COUNTY, KY
RESOLUTION 2024-48

A RESOLUTION FOR THE MADISON COUNTY FISCAL COURT TO APPROVE A BID AWARD FOR FOOD SERVICE MANAGEMENT AT THE MADISON COUNTY DETENTION CENTER

WHEREAS, the Madison County Fiscal Court is required to approve of all bids for projects in accordance with the Administrative Code; and

WHEREAS, the bids for food service management at the Madison County Detention Center (MCDC) were requested by Jailer Steve Tussey (the "Jailer"); and

WHEREAS, the bid notice was properly posted; and

WHEREAS, two bids were received and have been opened and reviewed by the Jailer, his team, and the Fiscal Court; and

WHEREAS, the Fiscal Court's recommendation is to award the bid for food service management at MCDC to Kellwell Food Management;

NOW, THEREFORE, BE IT RESOLVED THAT THE FISCAL COURT DOES HEREBY APPROVE THIS RESOLUTION AND AUTHORIZES THE JUDGE EXECUTIVE AND/OR HIS DESIGNEE TO NEGOTIATE AND EXECUTE CONTRACTS ON BEHALF OF THE COUNTY.

Motion made by Combs, seconded by Lochmueller.

Vote:	Yes	No
Judge Executive Reagan Taylor	✓	
Magistrate James Brian Combs	✓	
Magistrate Stephen Lochmueller	✓	
Magistrate Billy Ray Hughes	✓	
Magistrate Tom Botkin	✓	

Signed:

Reagan Taylor
Madison County Judge Executive

5-28-2024
Date

Attested:

Kenny Barger BCC
Kenny Barger
Madison County Clerk

5-28-24
Date

Food Service Agreement
By and Between Kellwell Food Management
And
The Madison County Detention Center

THIS AGREEMENT is made and entered into by and between **Kellwell Food Management**, having its principal place of business at 673 Fairground Ridge Road, (P.O. Box Z), Beattyville, KY 41311, hereinafter referred to as "**Company**", and the **Madison County Detention Center**, a government agency, hereinafter referred to as **"Client"**,

WHEREAS, Client, operates a detention center located at 107 West Irvine Street, Richmond, KY 40475, hereinafter referred to as the **"Facility"**;

WHEREAS, Company, is a food service provider and desires to provide such service for Client at Facility;

WHEREAS, Client desires Company to provide such services beginning on or around July 1, 2024.

NOW, THEREFORE, the parties agree as follows:

1. SCOPE OF SERVICES

a. Company will be the exclusive provider of food service for Client at Facility and will provide consulting services as to administrative, dietetic, purchasing, equipment, meal services and personnel to prepare meals.

b. Company will comply with and provide services required herein in accordance with applicable federal, state, and local statutes, ordinances, and regulations to include the American Correctional Association Standards and the Food and Nutritional Board of the National Academy Science.

c. Food service required outside the scope of this Agreement will be provided by Company upon written authorization by Client at mutually agreed upon prices for such services.

d. Should population fall below scale during the term of this Agreement, an updated scale with pricing shall be provided.

e. The menu shall consist of three (3) hot meals for the general population.

f. Snacks and dietary/ lifestyle meals will be provided.

g. The menu shall consist of a weekly average of 2,500 calories or 2,900 Calories. Before start of operation, Client must pick one of the two calorie options.

2. OPERATIONAL RESPONSIBILITIES: FOOD SERVICE

a. PREPARATION.

i. Client shall notify Company of the number of meals required each day as of midnight count. If such notice is not given, Company will prepare the same number of meals as prepared for the previous day.

ii. Company shall ensure the preparation of meals. Facility personnel shall transport meals to appropriate areas. Facility personnel shall return trays to the kitchen after each meal in a timely manner.

b. SPACE AND EQUIPMENT.

i. Client will, at its expense, provide Company with kitchen space at Facility.

ii. Client agrees to provide Company with adequate kitchen equipment and on the day of commencement be operational and ready to operate.

iii. Client also agrees to provide Company with heat, refrigeration, lights, ventilation, and all other utility services, including local business telephone services as may be reasonably required for performance of the requirements of this Agreement.

iv. Company will be responsible for the cost of long-distance telephone and computerized transmission service.

v. Client will bear all additional costs to produce meals, if, for any reason, Client cannot provide adequate space, equipment, and utilities.

vi. Client will provide all cooking and preparation small-wares, utensils, trays and eating utensils.

vii. Client and Company agree that Company will retain sole access to locks and keys utilized to lock all storage, coolers and freezers. Should Client need access to keys, Client agrees to make every attempt to contact Company before cutting locks. If in the event a lock is cut or removed, Client agrees to reimburse Company for lock(s).

c. SANITATION.

i. Company will be responsible for daily cleaning and housekeeping.

ii. Company will ensure the food preparation, storage and receiving areas(s) are cleaned and sanitized daily.

iii. Client will be responsible for extermination services and the removal of trash, garbage and frying oils from the designated food service area.

d. MAINTENANCE.

i. Client will provide general maintenance services to include, but not limited to:
1. Gas Systems
2. Water Systems
3. Sewer/ Sewage Systems
4. Ventilation Systems
5. Lighting Systems
6. Air Conditioning and Duct Systems
7. Refrigeration Systems
8. Floors and Floor Coverings
9. Walls
10. Ceiling Surfaces

ii. Client shall provide preventive maintenance, equipment repairs and replacements for Client's owned equipment.

di. RESIDENT WORK PROGRAM.

i. Company will provide work opportunities for residents designated by Client for participation in the Resident Work Program.

ii. Client agrees to provide, at a minimum, 6 inmate workers.

iii. Client agrees to bear all additional costs associated with Company needing to hire additional labor due to Client not being able to sustain the minimum number of inmate workers.

iv. Typical food service opportunities are mostly related to, but not limited to, sanitation, food preparation/ production and storeroom functions.

dii. CONTINGENCY PLAN.

i. Company will submit within sixty days (60) of commencement of services herein, a contingency plan to provide meal service in the event the area or services of Facility cannot be used.

ii. Client will use its best efforts to assist Company by permitting reasonable variations in the menu cycle and method of service, as conditions may require. However, Company will not be relieved of its responsibility to provide meal service under this Agreement.

iii. Additional costs, if any and if appropriately documented, incurred providing service during this time shall be reimbursed by Client.

g. FOOD, PAPER, AND CLEANING SUPPLIES.

i. Company shall purchase and pay for all food products and consumable supplies.

ii. Company shall purchase all required paper products.

1. Client shall bear all cost associated with excessive use of paper products because of equipment losses, changes in production schedule/ requirements and all calamities resulting from acts of God.

iii. Company shall purchase all required chemical and sanitation products.

h. RETURN OF EQUIPMENT.

i. Company shall return to Client, at the expiration of this Agreement, food service premises and all equipment furnished by Client.

ii. Company shall return this equipment and premises in the condition in which received, except for ordinary wear and tear and except to the extent that said premises and equipment may have been lost or damaged by fire, flood, or other disaster, and except to the extent that said equipment may have been stolen by persons other than employees of Company without negligence on the part of Company or its employees.

i. LICENSE, FEES, PERMITS, AND TAXES.

i. Company shall secure and pay all federal state and local licenses, permits and fees which may pertain to the provision of services required pursuant to this Agreement.

3. PERSONNEL

a. STAFFING.

i. Company shall provide personnel to perform the services set forth.

ii. Company shall provide, at Client request all written job descriptions to each employee which clearly delineates all duties.

iii. Company shall monitor its staff to verify performance compliance with the requirements of this Agreement.

iv. Company will permit only employees who have a clear background and drug screen to perform services at Facility.

v. Company agrees to evaluate the current food service staff to judge their ability to operate a Kellwell Food Management operational project but makes no promise to hire any (or all) permanently.

vi. Company agrees that all Food Service Managers shall obtain and keep active/ valid, a SERVSAFE Managers Certification. Company will offer this training to all managers at the end of their 90-day probationary period.

b. ORIENTATION.

i. Company and Client will jointly provide orientation to any Company employee providing services at Facility. Orientation will address, at a minimum, applicable Facility policies, procedures, and security issues.

c. HEALTH EXAMS.

i. Company shall cause its employees assigned to duty at Facility to submit to periodic health exams at least as frequently and stringently as required by Kentucky statutes and will submit to Client in the form of a valid food handler's certificate.

d. FACILITY ADMITTANCE.

i. Client reserves the right, in its sole discretion, to deny admittance to Facility to any Company personnel after first providing Company with the basis for such denial. In this event, Company shall provide alternate personnel to supply services required herein.

e. EMPLOYMENT OF STAFF.

i. Client and Company agree that, without specific permission of the other party, neither party will hire a supervisory employee of the other for the period of this Agreement and twelve months thereafter final day of employment.

f. SECURITY.

i. Client will always provide reasonable and adequate physical security for Company employees, suppliers, management, and other authorized visitors.

ii. Client agrees to compensate Company for any food items and supplies lost due to theft by Facility employees.

4. PAYMENT

a. SCALED PRICE.

i. Client shall pay Company the agreed upon price.

ii. The fiscal arrangements in this Agreement are based on conditions existing on the date Company commences operations, including Facility's resident population, the availability of resident labor, food & supply costs, federal, state, and local sales and other taxes and other operation costs.

iii. In the event of a change in these conditions, either party may request a revision of the fiscal arrangements to reflect the change.

b. Pricing is dependent on the use of insulated trays and three (3) hot meals and a weekly average of 2,500 or 2,900 calories. Before start of operation, Client must pick one of the two calorie options.

i. Pricing is agreed upon as the following:

Population From	Population To	Price Per Tray 2,500 Calories	Price Per Tray 2,900 Calories
<	249	TBN	TBN
250	275	$ 1.5492	$ 1.6502
276	300	$ 1.4870	$ 1.5880
301	325	$ 1.4373	$ 1.5358
326	350	$ 1.3952	$ 1.4962
351	375	$ 1.3592	$ 1.4601
376	400	$ 1.3279	$ 1.4289
401	425	$ 1.3005	$ 1.4015
426	450	$ 1.2764	$ 1.3774
451	475	$ 1.2549	$ 1.3559
476	500	$ 1.2510	$ 1.3523
501	525	$ 1.2484	$ 1.3499
526	550	$ 1.2359	$ 1.3472
551	575	$ 1.2238	$ 1.3373
576	600	$ 1.2147	$ 1.3270
601	625	$ 1.2053	$ 1.3176
626	+	$ 1.1966	$ 1.3090

.101 38,708.35 per year

i. Staff Meals can be billed at the inmate rate, $6.00 Per Meal or at a 10% mark up of all materials provided.

ii. Client and Company must mutually agree on terms and conditions required for Company to install and operate the Kellwell Corner.

iii. Catering Meals Provided at a Mutually Agreed Upon Rate per the requirements of the meal service provided.

iv. Holiday Lifter meals will be bill at the inmate scaled rate.

v. If at any time during the term of contract the inmate count falls below the scale listed above, Kellwell requires Madison County to renegotiate pricing befitting of the current inmate population.

c. INVOICES.

i. Company shall submit invoices at the beginning of each week that will cover the prior week's meals and services.

ii. Company shall provide Client with a comprehensive weekly summary of meals, services, and credits.

iii. This summary shall be forwarded to Facility Administrator or his designee each month.

iv. Invoices will reflect the preceding week's food services as follows:
1. Actual number of resident meals.
2. Any additional food or beverage services as required.

d. PAYMENT TERMS.

i. Payment terms are net + 30 days.

ii. Such payment shall be sent to:

Kellwell Food Management
P.O. Box Z
Beattyville, KY 41311

e. PAYMENT PROCESS.

i. Payment method shall be electronic via AFT/ACH transfer, or another acceptable electronic method agreed upon between the parties.

ii. Payments may also be made by check. Checks should be mailed to:

Kellwell Food Management
P.O. Box Z
Beattyville, KY 41311

f. RIGHT TO OFFSET:

i. If 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.

ii. 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.

iii. 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.

iv. 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.

v. 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.

g. CHANGES IN CONDITIONS.

i. 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").

ii. 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.

iii. 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 Client.

h. FUTURE PRICING.

   i. Pricing adjustments shall be made on an annual basis and shall be agreed upon by the parties at a rate equivalent to the most recently released U.S. Department of Labor Consumer Price Index, All Urban Consumers, National Average Unadjusted, Food Away from Home.

   ii. Company shall notify Client up to thirty (30) days prior to the anniversary of the commencement date.

   iii. Company proposed adjustments shall go into effect only after each party has agreed in writing.

   iv. Company will make all reasonable efforts to propose price adjustments during the fiscal budget planning cycle of Client.

i. JAIL EXPANSION.

   i. Client and Company acknowledge that if a new jail facility is built or additions added to existing building, Company will be entitled to a financial adjustment.

j. ATTORNEY FEES.

   i. 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.

k. KELLWELL CAFÉ.

   i. Should Client elect to participate in the Kellwell Café, Company agrees to pay Client 15% commission on all sales minus non-commissionable items and taxes and fees.

5. <u>EQUAL EMPLOYEMENT OPPORTUNITY</u>

a. Company and Client mutually agree that they shall not discriminate against any employee or applicant for employment or on any matter directly or indirectly related to employment, because of race, color, religion, sex, sexual preference, national origin, physical or mental handicap where not relevant to the job, height, weight, age between 18 and 70, marital status, or other criteria made illegal by state or federal law or county policy.

b. In addition, Company agrees to take affirmative steps to ensure that applicants are employed, and that employees are treated, during employment, without regard to the criteria listed.

6. INDEMNIFICATION

a. Company agrees to defend, indemnify, and hold harmless Client, its officers, employees, agents, and servants for all claims for accidents or occurrences involving death, bodily injury and damage to tangible property caused by negligence or wrongful acts of Company arising out of the performance of this Agreement.

b. Company agrees to pay all claims, damages, judgments, legal costs, adjuster fees and attorney fees related thereto.

c. However, it is expressly understood that Company shall not be responsible for damages caused by residents.

d. Employees, agents, and residents of Facility are not agents or employees of Company and as such, no liability is to be incurred by Company by reason of said employment and except for personal injury to such persons caused by Company's negligence.

e. Client agrees to defend, indemnify, and hold Company harmless from any liability claim by or through such persons against Company.

7. RECORDS

a. Company agrees to retain all records and other documents related to its provision of services required pursuant to this Agreement at its office in Beattyville for thirty-six months after termination of this Agreement.

b. Company agrees to make all records and documents available to Client upon request.

8. TERM OF AGREEMENT

a. This term of this Agreement shall be one year.

b. By mutual agreement, this Agreement may be renewed on a year-by-year basis.

9. TERMINATION

a. Either party may terminate this Agreement for convenience, at any time during the term, upon thirty (30) days' notice to the other party.

b. Such notice must be sent via certified mail.

c. In the event of termination for convenience, Client will pay Company those costs directly attributable to work done or supplies obtained in preparation for completion or compliance with agreement prior to termination.

d. Provided, however, that no costs will be paid which are recoverable in the normal course of doing business in which Company is engaged, or costs which can be mitigated through the sales of supplies or inventories.

e. In the event Client pays for the cost of supplies or materials obtained for use under this agreement, said supplies or material will become property of Client and will be delivered to the proper Client representative.

f. Company will not have continuing liability after termination under this section except for accountability for materials and supplies existing at the time of termination.

10. EXTENT OF AGREEMENT

a. This Agreement, including Company's proposal, represents the entire Agreement between Client and Company and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Client and Company.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be signed by their duly authorized representative the day and year first above written.

John Walling
Owner
Kellwell Food Management
Date: 5/28/24

Steve Tussey
Jailer
Madison County Detention Center
Date:

Reagan Taylor
Judge Executive
Madison County Fiscal Court
Date: 5-28-2024