



SCHOOL BOARD MEETING REPORT

Board Meeting Date: June 20, 2017

Agenda # _____

Staff/Administrator: Debbie Simons

Superintendent: David Valenzuela

Type of Item: *Informational* *Action*

Please state your proposal briefly and clearly. What do you want the board to know, discuss, or decide?

I respectfully request that the Board of Directors approve the attached contract approving Aramark as the Management service for Custodial Services for the 2017-2018 school year, with four annual amendments. This contract is the result of studying the impact of the contract over the last year and will establish the beginning of a 5-year contract cycle, with annual renewals beginning July 1, 2017.

Provide history/background information on your proposal.

As you know, Aramark currently provides management of the District's Custodial Services program. This contract includes an on-site manager to provide oversight, training and support of the District's Custodial Department and staff, and also provides a specific program to care for the 997,522 square feet that make up the District's buildings and facilities. The contract also includes Aramark's obligation to purchase all products, supplies, equipment and services utilized in the Custodial Program and allows the District to purchase goods and supplies through Aramark's purchasing contracts. This contract allows either party to terminate the agreement utilizing the termination process identified within the agreement in approximately 90-days; with the exception of the first 90 days of the contract. The cost of this contract is \$210,666.29, which includes a 2.2% index adjustment and a 2% pre-payment discount.

List the advantages of your proposal:

Custodial services continues seamlessly. The District continues making progress on addressing the need to manage costs, and realize efficiencies. Custodial staff know what to expect, what supplies to use, and what products to apply.

List possible disadvantages of your proposal:

None at this time.

List possible alternatives that could also offer a solution to your proposal. Why were they not recommended?

None at this time.

Superintendent's recommendation(s):

TRSD FORM BD-615
Revised 6/8/2017

Approve: Yes No

AMENDED AND RESTATED MANAGEMENT SERVICES AGREEMENT

This AMENDED AND RESTATED MANAGEMENT SERVICES AGREEMENT (the "**Agreement**") is made and entered into as of this 1st day of July, 2017 (the "**Effective Date**"), by and between THREE RIVERS/JOSEPHINE COUNTY SCHOOL DISTRICT ("**District**"), and ARAMARK MANAGEMENT SERVICES LIMITED PARTNERSHIP, a Delaware limited partnership ("**Aramark**"). District and Aramark will be referred to jointly as the "**Parties**" and individually as a "**Party**."

BACKGROUND:

WHEREAS, on July 1, 2002, Client and Aramark entered into a Management Services Agreement for the provision of certain management services (as amended, the "**Prior Agreement**");

WHEREAS, the Parties agree that, as of the Effective Date, there are no outstanding sums, liabilities or other obligations due to either Party in connection with the Prior Agreement, all such obligations being satisfied, released and discharged in full as to the respective Parties as of the Effective Date;

WHEREAS, effective as of the Effective Date, the Parties desire to enter into this Agreement for the provision of certain management services, replacing in its entirety the Prior Agreement, as more particularly described herein.

AGREEMENT:

1. Scope of Management Services

The preceding Background section is hereby incorporated by reference as if fully set forth herein. District hereby grants to Aramark the exclusive right to provide District with certain Management Services for District's facilities (the "**Facilities**") during the Term (defined below in Section 2). "**Management Services**" are defined by the scope of work described in the following Exhibits, which are incorporated by reference herein. The Facilities for which Management Services will be provided are defined individually for each type of service, and are listed in Attachment 1 to each respective Exhibit. Aramark will provide the Management Services solely in accordance with the Exhibits and in accordance with the terms and conditions of this Agreement.

Service	Exhibit
Custodial	B

Aramark shall render the Management Services with the same degree of care normally exercised by other professional service providers under similar circumstances. Aramark will perform its services hereunder as an independent contractor, and nothing in this Agreement shall be deemed to make Aramark, or its employees, a common law employee, agent, partner or fiduciary of, or joint venture with, District. Aramark shall at no time be acting as an architect, engineer, indoor air quality expert or advisor or other design professional, and shall not be required to carry out duties requiring the services of a design professional.

District shall be solely responsible for all services required for the ownership and operation of the Facilities beyond the scope of the Management Services to be provided by Aramark. District shall be responsible for compliance with all federal, state, and local safety and health laws and regulations with respect to the Facilities. Aramark shall be responsible for compliance with all federal, state, and local safety and health laws and regulations with respect to the Management Services.

2. Term; Renewals

The initial term of this Agreement will begin on July 1, 2017 (the "**Commencement Date**"), and will continue for a period of four (4) years (the "**Initial Term**"). Thereafter, this Agreement will automatically renew for consecutive terms of one (1) year each (individually, a "**Renewal Term**," and collectively with the Initial Term, the "**Term**"). Either Party may elect not to renew this Agreement at the expiration of either the Initial Term or any Renewal Term by giving the other Party written notice to that effect not later than ninety (90) days before the date on which the then current Initial Term or Renewal Term would otherwise end.

3. Operational Matters

(a) Space and Utilities. District will provide Aramark with reasonable office space, storage and locker space, warehouse and distribution space and services at District's Facilities, at no cost to Aramark, for Aramark's use in providing the Management Services. Such space will include all utilities (including water, sewer, electricity and telephone service) and access to copiers, fax machines and other standard office equipment. Such space will be under Aramark's exclusive use, subject to District's access rights for safety inspection and emergency response. The Aramark Operations Team (defined below in Section 4(a)) will also be granted access to District's voicemail and intranet systems, at no cost to Aramark, to facilitate electronic communications and access to information needed to render Management Services efficiently under this Agreement.

(b) Cooperation. District acknowledges that Aramark will need the active support of District's professional, administrative, operations, and other personnel to provide Management Services under this Agreement, and District agrees to use its best efforts to cooperate with Aramark in that regard.

(c) Intentionally Omitted

(d) Joint Review. The Parties' representatives will meet on a regular basis, at least once per month, to review and discuss any ongoing operational matters relevant to the Management Services under this Agreement.

(e) Budgeting. The Parties acknowledge and agree that District has the sole authority to review, approve and, from time to time, modify District's budget for the Management Services; provided however, that any such review, approval or modification shall not change the financial terms set forth in this Agreement without Aramark's prior written approval.

The Parties further acknowledge and agree that Aramark's ability to perform its obligations hereunder is subject to, and conditioned upon, District's approval and implementation of budgets for the Management Services consistent with Aramark's recommendations.

(f) Purchasing. Aramark shall manage all purchases of products, supplies, equipment and services utilized in the Management Services, which purchases shall be made through Aramark's purchasing program. In the event Aramark pays for products, supplies, equipment and services which are District's responsibility in order to expedite the purchase of such items, all such purchases shall be accounted for as a direct cost of operations and shall be reimbursed promptly by District. Unless otherwise expressly stated herein, all such purchases made by Aramark to expedite purchasing shall be titled in the name of the District (using District's tax identification information) and used solely in the Management Services.

To the extent that Aramark provides products or supplies to District on a cost-reimbursable basis, Aramark is entitled to receive and retain all cash discounts and all other discounts, rebates and allowances otherwise available to Aramark under its arrangements with distributors and suppliers.

In the event an affiliated company or division of Aramark furnishes products, supplies, equipment or services necessary to the efficient operation of the Management Services, charges to District for such products, supplies, equipment or services shall be competitive with the cost of obtaining such products, supplies, equipment or services from an independent source in the open market.

(g) District's Operational and Financial Information. The Management Services that Aramark has agreed to provide under this Agreement and the corresponding Aramark Fee were developed based on operational and financial information provided by District (including but not limited to labor and supply costs, District's employees at the Facilities, and use of the Facilities by District, its employees, and its students). District represents that such information is current, complete, and accurate, and acknowledges that Aramark has reasonably relied on it. The Parties anticipate that District will continue to provide similar information to Aramark from time to time, which will also be current, complete, and accurate, so that Aramark may reasonably rely on it in providing Management Services. If such information changes or is inaccurate, then the financial terms and other obligations assumed by Aramark will be renegotiated and restated to correct such change or inaccuracy on mutually agreeable terms.

(h) Hazardous Substances; Pre-Existing Conditions. Aramark has no duty to investigate, detect, prevent, handle, encapsulate, remove, or dispose of, and will have no responsibility to District or others for any exposure of persons or property to, asbestos, lead, fuel storage tanks or contents, indoor air pollutants or contaminants, poor air quality, or hazardous, toxic, or regulated waste substances, mold, fungi, mildew, pollutants, or contaminants (collectively, the "**Hazardous Substances**") at District's Facilities or their surrounding premises; and such duties have not been included in the Aramark Fee. District will comply with all applicable federal, state, and local laws and regulations, which have been or will be enacted during the Term of this Agreement, regarding such Hazardous Substances on the Facilities' premises. District will inform Aramark of the presence of such Hazardous Substances and acknowledges that Aramark employees will not be required to work in any location where they could be exposed to such Hazardous Substances. Aramark has advised District that it does not provide or assume any responsibility to monitor or remediate Hazardous Substances or any similar conditions, and that all determinations and corrective actions regarding Hazardous Substances and any similar conditions shall be made by District or a third party retained by District. In no case will any Aramark employee act in the capacity of a "Designated Person" (within the meaning of the Asbestos Hazard Emergency Response Act, "AHERA"), which duties remain solely with District.

Aramark will not be responsible for any conditions that existed in, on, or upon the Facilities or the District's equipment or systems before the commencement of services pursuant to the Prior Agreement ("**Pre-Existing Conditions**"), including, without limitation, environmental impairments, and other conditions. Notwithstanding the general indemnity provision contained below in Section 6, District will indemnify, defend and hold Aramark harmless from and against any and all claims, damages, liabilities, costs and expenses (including reasonable attorneys' fees) that Aramark may incur in connection with any Pre-Existing Conditions. The Parties acknowledge and agree that Aramark's responsibilities hereunder are limited to the scope and substance of Aramark's Management Services, as defined in the Exhibits to this Agreement.

4. Personnel

(a) Aramark Operations Team. Aramark will provide and pay personnel for the efficient management of the Management Services (the "**Aramark Operations Team**"), which Aramark may adjust from time to time, as appropriate. The Aramark Operations Team will be led by at least one (1) manager (the "**Aramark Manager**"), who will coordinate training and management of the service employees in those departments managed by Aramark (the "**Service Employees**"). The Aramark Manager will act as Aramark's chief representative for Aramark's day-to-day performance of the Management Services, and will interact directly with District. If an Aramark Manager should become unacceptable to District's Chief Executive Officer or such officer's designated representative, then District's Chief Executive Officer or designated representative may request his or her removal and Aramark will provide a mutually acceptable replacement within a reasonable time thereafter. While on the Facilities, the Aramark Operations Team will be subject to the rules and regulations of District, copies of which will be provided by District to Aramark reasonably in advance.

(b) Service Employees. District will provide all Service Employees Aramark deems necessary for the efficient provision of the Management Services. District will be responsible for all

wages, payroll and other taxes, benefits, fees, and other charges or insurance required by any federal, state and local law, statute or regulation (including, but not limited to, unemployment taxes, Social Security contributions, worker's compensation premiums and all similar taxes and payments), attributable to each Service Employee. Aramark will have no authority with respect to the wages, hours, or other working conditions of any Service Employee, and District remains responsible for all matters associated with recruiting, hiring, employment, compensation, benefits, insurance, promotion, discipline, and discharge of each Service Employee. Aramark is not, and will not be deemed to be, a party to any collective bargaining agreements to which District was, is, or may become a party, or an employer or a joint employer of the Service Employees. District will indemnify and hold Aramark, its directors, officers and employees, harmless from and against all claims, liabilities, and losses (including court costs and reasonable attorneys' fees and consultants' fees) relating to or arising out of any claim or allegation that Aramark is, or is deemed to be, an employer or a joint employer of the Service Employees.

The Parties' representatives will meet on a regular basis, at least once per calendar quarter, to review financial and operational matters relevant to District's provision of the Service Employees. In the event that the Parties subsequently determine that the Service Employees should be provided by Aramark, rather than by District, the Parties will negotiate and execute a mutually agreeable amendment to this Agreement specifying the financial and operational matters associated with such a change in scope.

(c) Personnel Actions. If Aramark incurs any costs, including legal fees, retroactive costs and/or wages and damages, as a result of any personnel action taken by District or by Aramark at the direction of District, which action Aramark would not have taken but for District's direction, District shall reimburse Aramark for such costs.

(d) Restrictions on Hiring Supervisory Employees. "**Supervisory Employees**," for the purpose of this Section, is defined as those persons who performed management or professional services for the Facilities, directly or indirectly, at any time during the then previous twelve (12) months. Aramark agrees that no Supervisory Employees of District will be hired by Aramark for the Term of this Agreement and twelve (12) months thereafter.

District acknowledges that Aramark has invested considerable amounts of time and money in training its Supervisory Employees in the systems, procedures, methods, forms, reports, formulas, computer programs, plans, techniques and other valuable information that are proprietary and unique to Aramark's manner of conducting its business and that Aramark makes such information available to its Supervisory Employees, its subsidiaries and affiliates, on a confidential basis. Therefore, District agrees that no Supervisory Employees of Aramark, its subsidiaries or affiliates, will be hired by District for the Term of this Agreement and twelve (12) months thereafter, and that District will not permit any Supervisory Employees of Aramark, its subsidiaries or affiliates to provide services for the Facilities directly or indirectly (through consulting contracts, contracts with third parties that employ or otherwise retain any Supervisory Employees, or otherwise) for the Term of this Agreement and twelve (12) months thereafter. Additionally, District agrees that if it violates the conditions set forth in this Section, District will pay to Aramark, and Aramark will accept as liquidated damages and not as a penalty, an amount equal to two times the annual salary (base and bonus) of the Supervisory Employee(s) retained by District or allowed to work on the Facilities in violation of this Section.

(e) Equal Opportunity and Affirmative Action Employer. Neither Party shall discriminate because of race, color, religion, national origin, age, sex, gender, pregnancy, disability, sexual orientation, gender identity, genetic information, military status, veteran status (specifically status as a disabled veteran, special disabled veteran, Vietnam Era veteran, recently separated veteran, armed forces service medal veteran, or other protected veteran) or other classification protected by applicable federal, state or local law, in the recruitment, selection, training, utilization, promotion, termination, or other employment related activities concerning employees assigned to duty in the District's Facilities. Aramark affirms that it is an equal opportunity and affirmative action employer and shall comply with all applicable federal, state and local laws.

(f) Background Checks. Aramark shall comply with the provisions of applicable law and Aramark standard policies and procedures relating to background checks of prospective employees, including fingerprinting, convictions of certain offenses, and ongoing reporting obligations, as applicable. To the extent permitted by law, Aramark shall allow the District to inspect its background check records. Consistent with its Drug Free Workplace Act Policy, Aramark shall also conduct pre-employment, drug and alcohol testing. All costs associated with the background checks and the pre-employment screenings shall be the responsibility of Aramark and/or its current and/or prospective employees.

5. Financial Terms

Financial terms of this Agreement are set forth on Exhibit A attached hereto and made a part hereof.

6. Indemnity; Insurance; Limitation of Liability

(a) Indemnity. Each Party will indemnify and hold the other Party, its subsidiaries and affiliated companies, and their respective directors, officers, partners, members, shareholders and employees, harmless from any third party liability (including reasonable attorneys' fees and court costs) by reason of the negligent acts or omissions of the indemnifying Party, its employees or agents. This Section will not operate to waive either Party's rights under any worker's compensation act, disability benefits act, or other employee benefits acts, whether in tort, contract, or otherwise. If the damages, injury, loss or claim is caused by the negligence of both Parties, the apportionment of said damages, injury, loss or claim shall be shared between both Parties based upon the comparative degree of each Party's negligence and each Party shall be responsible for its own defense and its own costs including but not limited to the cost of defense, attorney's fees and witnesses' fees and expenses incident thereto.

In addition the District shall indemnify and hold harmless Aramark, its subsidiaries and affiliated companies, and their respective directors, officers and employees, against the following:

- i. Liability related to, or arising out of, any defective condition or the presence of Hazardous Substances or Pre-Existing Conditions on the Facilities or the claimed or actual release or threatened release or disposal of Hazardous Substances from or at the Facilities, to the extent not caused by the willful misconduct or gross negligent acts or omissions of Aramark, its employees or subcontractors, including, without limitation, fines, penalties, clean-up costs, or costs of other environmental remediation measures;
- ii. Liability arising from actions by any Service Employee or applicant for a position as a Service Employee predicated upon any alleged or actual wrongful action or omission by Aramark in hiring, firing, disciplining, evaluating, promoting, or increasing or decreasing the wages of any Service Employee, or in modifying the terms or conditions of his or her employment in any way, or failing to modify the terms or conditions of his or her employment in any way; provided, however, that Aramark has obtained the District's prior approval in taking a challenged action or refraining from taking an action that allegedly should have been taken. Indemnity pursuant to this subparagraph shall include, without limitation, claims and losses arising from claims or awards of retroactive wages, damages, fines and penalties due to the foregoing labor-related actions; and/or
- iii. District's failure to comply with all applicable laws, codes, regulations, ordinances or statutory requirements of any governmental authority having jurisdiction over the Agreement or the Facilities.

Each Party agrees to provide the other Party with prompt written notice of all losses or claims for which it will seek indemnity under this Agreement. Each Party agrees not to incur any cost or expense with respect to any loss or claim for which it seeks indemnity under this Section without the other Party's prior written approval; provided, however, that the foregoing shall not apply in the event that the other Party has in writing rejected, denied or otherwise declined the indemnification request with respect to such loss or claim. Each Party agrees to cooperate fully with the other Party in the investigation, defense and

settlement of all such losses and claims.

(b) Insurance. Aramark will provide, or cause to be provided, workers' compensation insurance as required by law. Additionally, Aramark will carry employers liability and commercial general liability insurance (including coverage for products liability, negligent acts, and broad form vendors' coverage), each with limits of Two Million Dollars (\$2,000,000) combined single limit per occurrence. Aramark will furnish to District, upon request, a certificate of insurance which states that such coverage is in effect. Both Parties waive all rights of recovery from each other for property damage or loss of use thereof, however occurring. The foregoing waiver includes, but is not limited to, waiver of losses covered by fire, extended coverage, boiler explosion and sprinkler leakage policies, but does not waive personal injury or death claims.

Any insurance coverage (additional insured or otherwise) that Aramark provides for District and their respective Board members, administrators and employees shall only cover liability assumed by Aramark in this Agreement; such insurance coverage shall not cover liability in connection with or arising out of the wrongful or negligent acts or omissions of District and their respective Board members, administrators and employees.

(c) Limitation of Liability. Aramark's liability shall not under any circumstances exceed the amount of the Aramark Fee. In no event will either Party be liable to the other Party for any loss of business, business interruption, consequential, special, indirect or punitive damages.

7. Termination; Force Majeure

(a) If at any time during the term of this Agreement either Party considers terminating the Agreement, such Party shall give the other Party written notice that it is considering such action, which notice shall set forth with sufficient specificity such Party's reasons for contemplating termination. During the following thirty (30) day period the Parties shall discuss, in good faith, the Party's reasons for considering termination in an effort to avoid the need for such action. Following the thirty (30) day discussion period, the Party considering termination, if not fully satisfied, may elect to terminate the Agreement by giving the other Party sixty (60) days' written notice of its intention to terminate; provided, however, neither Party may give notice of its intention to terminate during the first ninety (90) days of operation under this Agreement.

Notwithstanding any provision in this Agreement to the contrary, Aramark may terminate this Agreement immediately at any time if District fails to pay Aramark any amounts due Aramark hereunder within the time period provided in this Agreement for such payment, and such failure continues for a period of ten (10) days following written notice by Aramark to District of such failure.

(b) Force Majeure. If either Party is rendered unable to perform its duties under this Agreement, in whole or in part, by reason of any event that is not reasonably under its control (including, but not limited to, Acts of God, fires, floods, earthquakes, accidents, strikes, riots, national emergencies, and other such force majeure events), then any duty so impacted will be suspended during such event. The Party rendered unable to perform due to force majeure must promptly notify the other Party, and neither Party shall be responsible to the other Party for any losses resulting from such force majeure, except for payment of monies owed. If either Party's inability to perform exceeds one hundred twenty (120) days, then either Party may terminate this Agreement by written notice, effective upon the other Party's receipt of such written notice.

(c) Prepaid Vendor Contracts. Upon termination or expiration of this Agreement, District will reimburse Aramark for the costs of any prepaid vendor contracts which Aramark has paid, or on which Aramark has incurred an obligation to pay, for the benefit of District; together with Aramark's ordinary and necessary expenses incurred through the last day of services which Aramark has not recovered previously.

(d) Purchase of Inventory. At the termination or expiration of this Agreement, District agrees, if requested by Aramark, to purchase Aramark's usable inventory of products, supplies and equipment

that have not yet been charged as a direct cost of operation. The purchase price for such inventory will be Aramark's invoice cost, and Aramark will submit to District an invoice for such inventory.

(e) Appropriation of Funds. If sufficient funds are not appropriated for District's proposed budget for its next fiscal year to enable District to make payments due to Aramark under this Agreement, and District has no funds available from any other source that can be used for that purpose, then District will provide Aramark with an opinion letter and supporting documentation from District's attorneys containing a specific description of the lack of funds, and will allow Aramark to audit District's books and records on the appropriations, budget, and shortfall. District and Aramark then will review the Management Services in light of all funds available to District for such services and District's actual budget for its next fiscal year, to determine a level of Management Services that can be performed within the proportionate level of all available funds. If Aramark does not present such modifications of its Management Services program, then either Party may terminate this Agreement effective at the end of District's then current fiscal year, upon ninety (90) days prior written notice; and District agrees that it will not contract with another service provider for services in the nature of the Management Services during the remainder of the then current term if this Agreement is terminated pursuant to this Section.

8. Confidential Information and Proprietary Materials

All financial, statistical, operating and personnel materials and information, including, but not limited to, technical manuals, plans, policy and procedure manuals and computer programs relative to or utilized in Aramark's business or the business of any subsidiary or affiliate of Aramark, shall be the property of Aramark and shall be confidential. District shall keep such information confidential and shall so instruct its agents, employees, and independent contractors, and the use of such information by District in any manner shall not affect Aramark's ownership or the confidential nature of such information. District shall not photocopy or otherwise duplicate any such materials without the prior written consent of Aramark.

District agrees that all proprietary computer software, systems and technology, signage, and marketing and promotional literature and material used by Aramark in providing services pursuant to this Agreement (the "**Proprietary Material**") shall remain the property of Aramark, notwithstanding the fact that the District may have been charged for the use of such materials. Aramark grants District a non-exclusive right to use the Proprietary Material for the Term of this Agreement. All patents, copyrights, trade secrets and other proprietary rights in or related to the Proprietary Material are and will remain the exclusive property of Aramark, whether or not specifically recognized or perfected. District will not take any action that jeopardizes Aramark's proprietary rights or acquire any rights in the Proprietary Material. Unless otherwise agreed, Aramark will own all rights in any copy, modification, adaptation, or derivation of the Proprietary Material, including any improvement or development thereof. District will obtain, at Aramark's request, the execution of any instrument that may be appropriate to assign these rights to Aramark or to perfect these rights in Aramark's name. Upon the conclusion or other termination of this Agreement, all use of trademarks, service marks, and logos owned by Aramark or licensed to it by third parties shall be discontinued by District and District shall immediately return any Proprietary Material to Aramark.

9. Publicity

Neither Aramark nor District shall disclose the terms of this Agreement to any other person or entity outside its organization other than as required by law. Neither District nor Aramark and its Affiliates shall, without the other Party's consent, use the other Party's name, logo, trademark or otherwise refer to or identify the other Party in any publicity matters relating to the Services. Notwithstanding the foregoing, both Parties and their respective Affiliates may, without prior consent of the other Party, use that Party's name or logo and the existence of this Agreement in connection with earnings calls or similar matters with their respective investors or analysts as well as communications to prospective clients (if applicable) and for use in such Party's marketing materials.

10. General Provisions

(a) Notice. Any notice under this Agreement must be in writing, and will be effective when

delivered personally, delivered by a national overnight delivery service, or three (3) business days after being deposited in the United States mail (postage prepaid, registered or certified). All notices will be addressed to the receiving Party at the following address (or such other address of which that Party has given proper notice):

If to District:

Three Rivers/Josephine County School District
8550 New Hope Road
Grants Pass, Oregon 97527
Attn: David Valenzuela, Superintendent

If to Aramark:

ARAMARK MANAGEMENT SERVICES LIMITED PARTNERSHIP
Attn: Vice President and Chief Financial Officer, Aramark Facilities
Aramark Tower
1101 Market Street
Philadelphia, PA 19107-2988

With a copy to:

ARAMARK MANAGEMENT SERVICES LIMITED PARTNERSHIP
Attn: Vice President and Associate General Counsel, Aramark Facilities
Aramark Tower
1101 Market Street
Philadelphia, PA 19107-2988

(b) Computer Matters. District acknowledges and agrees that Aramark has no responsibility for the continued successful operation of any computer hardware, software or equipment under computerized control (other than computer hardware, software and equipment provided by, or on the behalf of, Aramark), which malfunctions or ceases to operate as a result of software errors, operator errors, infection by computer virus, or tampering.

(c) Survival. The sections of this Agreement entitled Start-Up Period; Purchasing, Hazardous Substances; Pre-Existing Conditions; Restrictions on Hiring Supervisory Employees; Indemnity; Insurance; Limitation of Liability; Prepaid Vendor Contracts; Purchase of Inventory; Confidential Information and Proprietary Materials; and Computer Matters will survive the term and termination of this Agreement.

(d) No Waiver. No waiver will be effective against either Party unless it is in writing and signed by the waiving Party. A waiver of any particular breach of any term contained in this Agreement will not operate as a waiver of that term itself, or as a waiver of any subsequent breach thereof. The failure of Aramark or District to exercise any right or remedy available under this Agreement upon the other Party's breach of the terms, representations, covenants or conditions of this Agreement or the failure to demand the prompt performance of any obligation under this Agreement shall not be deemed a waiver of (i) such right or remedy; (ii) the requirement of punctual performance; or (iii) any right or remedy in connection with any subsequent breach or default on the part of the other Party.

(e) Severability. Should any of the provisions of this Agreement be declared or determined by any Court of competent jurisdiction to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby and said illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement, unless the illegality or invalidity of the illegal or invalid part, term or provision causes this Agreement to fail of its essential purpose, in which case, this entire Agreement shall become invalid and shall be null and void.

(f) Authority. Each Party represents and warrants that it has the requisite authority to enter into this Agreement and to perform its duties hereunder, that the individual signing below on that Party's behalf has all requisite authority and approvals to do so and to bind that Party, and that it has done and will do all things necessary so that this Agreement will be valid, binding and legally enforceable upon that respective Party.

(g) Entire Agreement; Amendments. This Agreement has been negotiated and prepared jointly by the Parties, and will not be construed as having been drafted by any one Party. This Agreement and its Exhibits contain the final and complete expression of all agreements between the Parties with respect to the subject matter of this Agreement, and supersede all prior and contemporaneous agreements between the Parties, whether oral or written. Except as otherwise provided herein, any change, modification or amendment of this Agreement must be in writing and signed by all Parties.

(h) Counterparts. This Agreement may be executed in multiple counterparts, including, without limitations, by facsimile and portable document format, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

(i) Assignment. Neither District nor Aramark shall assign this Agreement without the prior written consent of the other; provided, however, that either Party may assign the Agreement to an Affiliate without the consent of the other Party. For purposes of this Agreement, "**Affiliate**" shall mean an entity which controls, is controlled by or is under common control with the assigning Party or its ultimate parent entity.

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date shown first above.

Aramark Management Services Limited Three Rivers/Josephine County School District
Partnership

By: Aramark SMMS LLC, its general partner

By: _____
Jason Coyle
Authorized Signatory

By: _____
David Valenzuela Superintendent

EXHIBIT A

FINANCIAL TERMS

A. Aramark Fee: All facilities, equipment and services to be provided by District under this Agreement shall be provided at District's expense. During the term of this Agreement, District shall pay Aramark an annual fee for Aramark's provision of the Management Services hereunder (the "**Aramark Fee**"), which Aramark Fee shall be TWO HUNDRED FOURTEEN THOUSAND NINE HUNDRED SIXTY-FIVE and 60/100 DOLLARS (\$214,965.60).

B. Adjustments to Aramark Fee: The Aramark Fee will be adjusted from time to time, as follows:

(i) **Annual Adjustment.** Commencing on the first anniversary of the Commencement Date, and annually on each successive anniversary hereafter, the Aramark Fee will be increased by an amount equal to the Employment Cost Index published by the United States Department of Labor, Bureau of Labor Statistics (June 1989 = 100% base period), Total Compensation for Private Industry Workers, or a comparable index if that index is not available. Aramark shall be entitled to automatically implement the foregoing increase in the Aramark Fee.

(ii) **Adjustment for Certain Changes.** If Aramark's costs increase due to increases in employee health and welfare benefits costs or due to causes beyond Aramark's control, including, but not limited to, an increase in federal, state or local minimum wage rates, an increase in employer contributions to social security or payroll taxes (including retroactive changes to such contributions), or changes in a collective bargaining agreement covering Aramark's or the District's employees, then Aramark shall give District written notice of such increase, and ten (10) business days after such notice, the Aramark Fee shall be adjusted automatically to reflect the full amount of such increase in costs, such adjustment to be retroactive to the date of such increase.

C. Invoicing. At the beginning of each month during the Term, Aramark will submit to District an invoice for the Aramark Fee and any additional costs incurred in accordance with this Agreement owed to Aramark for such month.

D. Payment Terms.

(i) **General.** All invoices submitted by Aramark to District shall be paid within fifteen (15) days of the invoice date. If any amount due to Aramark under this Agreement is not paid in full within fifteen (15) days after its invoice date, then the unpaid portion will bear interest, from the invoice due date until the date paid, at a rate of one and a half percent (1.5%) per month (or, if prohibited by law, then the maximum rate permitted legally) (the "**Interest Rate**"). The right of Aramark to charge interest for late payments shall not be construed as a waiver of Aramark's right to receive payment promptly, in accordance with the terms of this Agreement. To protect its payment rights, Aramark, at its option and upon written notice: (i) if and so long as any payment under this Agreement is past due more than thirty (30) days, may require District to pay the Aramark Fee two (2) weeks in advance; and (ii) if and so long as any payment under this Agreement is past due more than sixty (60) days, may require District to sign a note, security agreement, and financing statement granting a security interest in its accounts receivable and other assets to Aramark. In the event that Aramark incurs legal fees and costs in enforcing its right to payment and/or any of its other rights under this Agreement, District agrees that it shall be liable and obligated to reimburse Aramark for those legal fees and costs.

(ii) **Prepayment Discount.** In the event that District elects in writing to Aramark to pre-pay the annual Aramark Fee in full (less the following pre-payment discount), and District remits such payment in full to Aramark within fifteen (15) days after receipt of an invoice from Aramark for the same, Aramark will apply a one-time pre-payment discount of two percent (2%) of the applicable annual Aramark

Fee. Notwithstanding the foregoing, in no event shall any prepayment discount be deemed to reduce the amount of the Aramark Fee for any other purposes set forth in this Agreement (including annual escalators or otherwise). For reference purposes, for the Agreement year commencing July 1, 2017, the amount payable by District applying the foregoing prepayment discount, should it elect to prepay the Aramark Fee in full and remit payment within fifteen (15) days of receipt of an invoice from Aramark for the same, shall be \$210,666.29 (\$214,965.60 less 2% prepayment discount).

E. Change in Scope. The Parties agree that the scope of the Management Services and the corresponding Aramark Fee are based upon factors including but not limited to: the number, size, and function of the Facilities; use of areas; average monthly occupancy rates, enrollment levels, employment levels, shifts, traffic volume, etc.; departments managed; equipment; and specific duties and frequencies described in the Exhibits. Any change in any such factors or in the nature or scope of Management Services will constitute a change in scope to this Agreement. If District requests an expansion or reduction in the Management Services provided by Aramark hereunder, the Parties shall negotiate in good faith an equitable adjustment of the Aramark Fee commensurate with the expansion or reduction of such services. In addition, the District may request, and Aramark may provide, additional services hereunder on such terms and conditions as the Parties shall mutually agree in writing. District will be responsible for any increased operating costs resulting from changes in federal, state or local laws, ordinances, codes or regulations, or implementation of new laws, ordinances, codes or regulations after the execution of this Agreement.

Further, in the event that a determination is made by a government authority that any sale, purchase, payment or use of property made to or by Aramark under this Agreement, either in whole or in part, is subject to any sales, use, gross receipts, property or any similar tax, which tax was not contemplated by the Parties at the Commencement Date, the full amount of any such tax liability, together with any interest paid by Aramark, shall be invoiced by Aramark and shall be reimbursed by District, notwithstanding the fact that this Agreement may have expired or been terminated for any reason by either Party prior the date of such determination.

F. Grant. The Parties acknowledge and agree that (a) Aramark has made a one-time unrestricted grant to the District in the amount of Ten Thousand Dollars (\$10,000) (the "**Grant**") prior to the Effective Date in connection with Prior Agreement and (b) the provisions below with respect to such Grant shall apply as if the Grant was made after the Effective Date hereof, notwithstanding the replacement of the Prior Agreement with this Agreement. The Grant shall be amortized on a straight-line basis over five (5) years, commencing on July 1, 2016. Upon expiration or termination of this Agreement by either Party for any reason whatsoever prior to the complete amortization of the Grant, District shall reimburse Aramark for the total unamortized balance of the Grant as of the date of expiration or termination, as applicable, of this Agreement. In the event such payments owing to Aramark are not paid to Aramark within ten (10) days of the corresponding payment date, District agrees to pay interest on such amounts at the Interest Rate from such payment date until the date actually paid. The right of Aramark to charge interest for late payment shall not be construed as a waiver of Aramark's right to receive timely payment.

EXHIBIT B

CUSTODIAL MANAGEMENT SERVICES PROGRAM SCOPE OF SERVICES

Aramark will provide a Custodial Management Services Program ("**Custodial Program**") to District as described in this Exhibit.

I. AREAS SERVED

Attachment CUST-1 contains a list of the Facilities that are included in the Custodial Program.

II. VENDOR CONTRACTS

Aramark will provide coordination and administrative oversight, but not management, of certain vendor contracts identified by District to Aramark in writing, if any (the "**Managed Vendors**"). All Managed Vendors, if any, will be paid directly by District. Any out of pocket costs that Aramark incurs in performing its services related to Managed Vendors herein will be invoiced to District as a pass-through reimbursement, and District shall pay the same in accordance with the invoice payment terms set forth in the Agreement.

III. ARAMARK MANAGER'S RESPONSIBILITIES:

The Aramark Manager will manage the Custodial Program. The Aramark Manager will coordinate the management and the activities of the Service Employees within the District's Custodial Department. As set forth in the Agreement, all Service Employees shall be employees of the District and not employees of Aramark.

The Aramark Manager's duties will be to:

- to consult with, and make recommendations to, District on Custodial Program functions and services;
- to provide initial recommendations and review of the staffing levels, implementation of procedures, and utilization of resources within District's Custodial Department;
- to work with District to develop, implement, and maintain a Custodial Program that will comply with applicable Federal and State regulatory standards;
- to produce reports related to the operation of District's Custodial Department as agreed by the Parties;
- to recommend job descriptions and standards of performance for each position under Aramark's management;
- to track employment and training;
- to assist the District with Service Employee performance and progress evaluations performed by District;
- to hold team meetings for Service Employees on training and other relevant activities; and
- to attend certification, training and awards meetings and seminars as required from time to time.

IV. MATERIALS AND SUPPLIES

- The cost of the cleaning materials and supplies (excluding expendable supplies such as toilet tissue, paper towels, deodorants, washroom soap, and plastic container liners which will be provided by District) needed to perform the Custodial Program is included in the Aramark Fee. The transfer of ownership of an item to District shall occur once Aramark removes such item from bulk storage for District's use.
- Aramark shall provide additional or replacement equipment needed for the Custodial Program. Any equipment, software, systems and technology provided by Aramark to render the Custodial Program (including computer hardware) shall remain the property of Aramark. Aramark shall be responsible to repair, maintain and replace such equipment at no additional cost to District. If District uses any

specialized custodial software at any time during the term of the Custodial Program, then District, at its own cost, will make such software and appropriate hardware available for use by Aramark and the Custodial Program will incorporate use of that software.

- The transfer of ownership of custodial equipment which has been fully depreciated (no remaining book value) transfers automatically to the District and the District shall be responsible for the cost of repairs and maintenance of such equipment.
- Aramark shall depreciate all its custodial capital equipment on a straight-line basis over six (6) years notwithstanding any shorter length of the Initial Term or Renewal Terms in Section 2 of this Agreement). Upon termination of this Agreement, District may purchase from Aramark any custodial equipment (other than Aramark proprietary software, systems or technology) at its then depreciated book value or salvage value, whichever is greater. In any transfer of equipment of Aramark, District shall remove from such equipment all Aramark identifying marks. If this Agreement is terminated due to District's breach or failure to pay, then District may not exercise its option hereunder to purchase Aramark equipment under this Section.

V. DESCRIPTION OF SERVICES AND FREQUENCIES

The Service Employees will clean the areas as specified below. The numbers below represent the number of times per week that a service will be performed, unless otherwise noted (AN = As Needed, S = Scheduled Basis, N/A = Not applicable, WC = Weekend Cleaning).

Area	Sanitize/disinfect	Spot clean	Dust	Wet clean horizontal	Empty and clean waste	Dry mop floors	Spot clean floors	Damp mop floors	Vacuum carpets	Burnish floors	Pick up loose trash
Classrooms	SB	AN	AN	AN	SB	SB	SB	SB	SB	N/A	AN
Chalkboards/Whiteboards	N/A	AN	SB	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Offices	SB	AN	AN	AN	SB	SB	SB	SB	SB	N/A	SB
Entrances	SB	AN	AN	SB	AN	AN	AN	SB	SB	N/A	AN
Laboratories	SB	SB	AN	AN	SB	N/A	N/A	SB	N/A	N/A	AN
Art Rooms	AN	AN	AN	AN	SB	N/A	AN	SB	N/A	N/A	AN
Library	AN	AN	AN	AN	SB	SB	AN	SB	SB	N/A	AN
Auditorium	SB	AN	AN	AN	SB	SB	AN	SB	SB	N/A	AN
Stage	AN	AN	AN	AN	SB	SB	AN	SB	N/A	N/A	AN
Music Rooms	AN	AN	AN	AN	SB	SB	AN	SB	SB	N/A	AN
Closets	N/A	N/A	AN	AN	N/A	N/A	N/A	SB	SB	N/A	AN
Drinking Fountains	SB	AN	N/A	SB	N/A	N/A	N/A	N/A	N/A	N/A	AN
Wrestling Room	AN	AN	AN	AN	AN	N/A	AN	AN	N/A	N/A	AN
Kitchen	SB	AN	SB	SB	SB	SB	AN	SB	N/A	N/A	AN
Public Telephone	SB	AN	SB	SB	N/A	N/A	N/A	N/A	N/A	N/A	AN
Stairways	N/A	AN	AN	AN	N/A	SB	NA	SB	NA	N/A	AN
Corridors	SB	SB	SB	SB	SB	SB	AN	SB	SB	N/A	AN
Cafeteria	SB	AN	SB	SB	SB	SB	AN	SB	SB	N/A	AN
Cafeteria Tables	SB	AN	SB	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Area	Sanitize/disinfect	Spot clean	Dust	Wet clean horizontal	Empty and clean waste	Dry mop floors	Spot clean floors	Damp mop floors	Vacuum carpets	Burnish floors	Pick up loose trash
Cafeteria Chairs	SB	AN	SB	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Restrooms	SB	SB	SB	SB	SB	N/A	SB	SB	N/A	N/A	SB
Locker Rooms and Showers	SB	SB	SB	SB	SB	N/A	SB	SB	N/A	N/A	SB
Conditioning Area	SB	AN	AN	AN	SB	SB	AN	SB	N/A	N/A	AN
Gymnasium	SB	SB	SB	AN	SB	SB	SB	SB	N/A	N/A	AN
Gymnasium Bleachers	N/A	AN	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	AN
Gymnastic Room	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Shop Area	AN	AN	AN	AN	SB	SB	AN	AN	N/A	N/A	AN
Mechanical/Boiler Rooms	N/A	AN	AN	AN	AN	AN	AN	AN	N/A	N/A	AN

The Custodial Program includes the following project work on a scheduled basis, unless otherwise noted.

- Empty trash.
- Secure Buildings (i.e. lock when complete services for evening).

- Custodial equipment preventive maintenance.
- Scheduling.
- Polish metal work.
- Clean and relamp light fixtures.
- Carpet cleaning.
- Ground level exterior window cleaning.
- Removal of graffiti.
- Machine scrubbing of floors in showers and restrooms.
- Spot washing of walls.
- Set up and take down for regularly scheduled or routine school sponsored events.

The Custodial Program includes the following project work on an annual basis, unless otherwise noted.

- Clean inside of lockers.
- Refinish stage floor.
- Comprehensive cleaning of kitchen and cafeteria floors, walls, and exterior surfaces of vents.
- Floor finishing/refinishing to include all types of flooring.
- Perform minor repairs to chairs (e.g. replace chair glides, etc.)
- Minor repair to furniture.
- Clean Boiler Room floors.
- Change HVAC air filters.
- Clean carpets.

VI. SUMMER CLEANING

Project work is the major focus of the Custodial Program during the summer months. Daily cleaning of classroom areas is excluded during this time. Classrooms will receive a one-time comprehensive cleaning during the summer months. Designated classrooms, multipurpose rooms, hallways, administrative offices, and restrooms will be cleaned as required due to use for summer school or camp activities.

VII. EXTRA SERVICES

The scope of the Custodial Program is limited to the description provided in this Exhibit and its Attachments, but Aramark may offer to schedule and provide other services as Extra Services at District's request, for an additional fee (on which Aramark and District will mutually agree in writing).

VIII. EXCLUSIONS

The following are expressly excluded from Aramark's responsibilities under this Agreement:

- Laboratory equipment, sink hoods, shelves and countertops.
- Art room kilns, ovens, countertops and sinks.
- Music room equipment.
- Kitchen equipment and vent hoods.
- Floor, carpet and furniture repairs (except as described above under "Project Work").
- Cleaning all machinery and equipment in boiler, fan, and air compressor rooms, and all building systems' mechanical equipment located anywhere outside such areas.
- Mold/mildew/fungi investigations and remediation is excluded. Cleaning mold/mildew is limited to bathroom and shower areas, to the extent that they are included in the scope of services described above in this Exhibit.
- Investigations, remediation and abatement of Hazardous Substances.

ATTACHMENT CUST - 1

BUILDINGS TO BE SERVICED UNDER CUSTODIAL PROGRAM

BUILDING	CLEANABLE SQUARE FOOTAGE
Hidden Valley HS	143,206
North Valley HS	136,157
Illinois Valley HS	100,700
Lincoln Savage MS	71, 583
Fleming MS	74,229
Lorna Byrne MS	58,570
Applegate ELM & MS	28,751
Evergreen ELM	62,366
Fort Vannoy ELM	40,100
Fruitdale ELM	31,109
Jerome Prairie ELM	30,838
Madrona ELM	37,816
Manzanita ELEM	50,665
Williams ELM	21,631
Wolf Creek ELM	17,011
District Office	24,090
Warehouse Bldg.	7,500
Maintenance Bldg (offices and restrooms)	11,270

The Custodial Program and the corresponding Aramark Fee are based on the foregoing data provided by District. Any buildings or areas not listed above are excluded from the Custodial Program.