

## CAFETERIA SERVICES AGREEMENT

THIS AGREEMENT is made as of \_\_\_\_\_ by and between Collin County, a political subdivision of the State of Texas, with offices located at 2300 Bloomdale, McKinney (“County”), TX 75071 and \_\_\_\_\_ a \_\_\_\_\_ corporation, with principal offices at \_\_\_\_\_ (“ Firm “)

WHEREAS, County desires to avail itself of Firm’s cafeteria services; and

WHEREAS, Firm desires to perform such services for Client;

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the Parties hereto, intending to be legally bound hereby, agree as follows.

### 1. Scope of Services

1.1 County grants to Firm, as an independent contractor, the exclusive right to provide and manage the County’s cafeteria program, herein after referred to as “Services,” to include management of the cafeteria located at 2100 Bloomdale, McKinney, TX 75071. Firm shall render the Services within the facility including but not limited to, the food preparation, serving, dining and storage areas designated for the Cafeteria program, all as more specifically described in the following: Exhibit A – Firm Responsibilities, Exhibit B – County Responsibilities, Exhibit C – Commission and Fees, Exhibit D – County provided equipment, Exhibit E – Insurance, Exhibit F – Collin County Request for Proposal, RFP No. 06306-12, and Exhibit G – Firm’s response to Collin County Request for Proposal, RFP No. 06306-12.

### 2. Commencement and Termination

2.1 The agreement shall become effective as of \_\_\_\_\_ and shall remain in force until December 31, 2015 unless sooner terminated as herein provided. It may thereafter be renewed upon written agreement of the Parties for up one (1) additional thirty six (36) month period.

2.2 The parties agree that either party shall have the right to terminate this Agreement without cause upon thirty (30) days written notice to Firm.

2.3 Regardless of which party initiates termination, County shall be entitled to compensation for any and all services completed in accordance with the provisions of this Agreement prior to termination.

2.4 County reserves the right to terminate the Agreement immediately in the event the Firm fails perform in accordance with the provisions of this Agreement.

2.5 Upon termination or expiration of this Agreement, Firm shall, as soon thereafter as is feasible, but in no later than fifteen (15) days after the effective date of termination or expiration of this Agreement, vacate all parts of the Premises occupied by Firm, remove its equipment (if applicable) and return the Facilities to County, together with all the equipment furnished by County pursuant to this Agreement, in the same condition as when originally made available to Firm, excepting reasonable wear and tear, fire and other casualty loss.

2.6 At the termination of this Agreement, if requested by Firm and agreed to by County, County may either purchase directly or cause Firm's successor to purchase Firm's usable inventory of food and supplies. The purchase price for such food and/or supplies should be at Firm's cost.

### 3. Firm Responsibilities

3.1 Pursuant to the provisions of this Agreement, Firm shall operate and manage its Services hereunder at such locations as agreed upon and maintain its Services with appropriate merchandise of good quality at reasonable prices, which shall be approved by County.

3.2 Firm shall comply with all federal, state and local laws and regulations governing the preparation, handling and serving of foods. Firm shall procure and keep in effect all licenses and permits required by law and shall post such permits as required by law. Firm shall comply with applicable federal, state and local laws and regulations pertaining to wages and hours of employment.

3.3 Firm shall hire all employees necessary for the performance of this Agreement.

3.4 Firm shall provide all services in Exhibit A.

### 4. County Responsibilities

Clint shall provide Firm with the space reasonable necessary for the operation of the Services and shall furnish items listed in Exhibit D.

### 5. Financial Arrangements

The financial arrangements of this Agreement are set forth in Exhibit C.

### 6. Insurance

Firm agrees to meet all insurance requirements as set forth on Exhibit E which is attached hereto and thereby made a part of this Agreement.

### 7. Indemnity

7.1 The Firm agrees to the fullest extent permitted by law, to indemnify and hold harmless the County and its officers, agents and employees of and from damages, injuries (including death), claims, property damages (including loss of use), losses, demands, suits, judgments and costs, including reasonable attorney's fees and expenses, arising out of or occasioned by Firm's breach of any of the terms or provisions of this Agreement, or by any other negligent act, error or omission of the Firm, its agents, servants, employees, subcontractors, licensees, invitees, or any other persons or entities for whose acts the Firm is legally liable.

7.2 In claims against any person or entity indemnified under this Section 7.1 by an employee of the Firm, anyone directly or indirectly employed by the Firm or anyone for whose acts the Firm may be liable, the indemnification obligation under this Section 7.1 shall not be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for the Firm under workers' compensation acts, disability benefit acts or other employee benefit acts.

#### 8. Independent Contractor

In the performance of services hereunder, the Firm shall be deemed an independent contractor and shall not, with respect to its acts or omissions, be deemed an agent, subcontractor or employee of the County.

#### 9. Assignment and Subletting

The Firm agrees that neither this Agreement nor the services to be performed hereunder will be assigned or sublet without the prior written consent of the County. The Firm further agrees that the assignment or subletting or any portion or feature of the services required in the performance of this Agreement shall not relieve the Firm from its full obligations to the County as provided by this Agreement.

#### 10. Audits and Records

The Firm agrees that at any time during normal business hours, and as often as County may deem necessary, Firm shall make available to representatives of the County for examination all of its records with respect to all matters covered by this Agreement, and will permit such representatives of the County to audit, examine, copy and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement, all for a period of one (1) year from the date of final settlement of this Agreement or of such other or longer period, if any, as may be required by applicable statute or other lawful requirements.

#### 11. Complete Contract

11.1 This Agreement, including the exhibits hereto numbered "A" through "G", constitute the entire agreement by and between the parties regarding the subject

matter hereof and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified or canceled by a duly executed written instrument, signed by the County and the Firm.

11.2 Warranties contained in this Agreement are in addition to and not in lieu of, any and all other liability imposed upon the Firm by law with respect to the Firm's duties, obligations, and performance hereunder. The Firm's liability hereunder shall survive the County's final acceptance and payment for the Project. All representations and warranties set forth in this Agreement, including without limitation, this paragraph, shall survive the final completion of the Work or earlier termination of this Agreement. The Firm acknowledges that the County is relying upon the Firm's skill and experience in performing the services pursuant to this Agreement.

## 12. Mailing of Notices

Unless instructed otherwise in writing, Firm agrees that all notices or communications to the County permitted or required under this Agreement shall be addressed to the County at the following address:

Collin County Purchasing  
2300 Bloomdale, Suite 3160  
McKinney, TX 75071

County agrees that all notices or communications to Firm permitted or required under this Agreement shall be addressed to Firm at the following address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

All notices or communications required to be given in writing by one party or the other shall be considered as having been given to the date such notice or communication is posted by the sending party.

## 13. Miscellaneous

### 13.1 Paragraph Headings

The paragraph headings contained herein are for convenience only and are not intended to define or limit the scope of any provision in this Agreement.

### 13.2 Interpret Contract Fairly

Although this Agreement is drafted by County, should any part be in dispute, the parties agree that the Agreement shall not be construed more favorable for either party.

### 13.3 Venue/Governing Law

The parties agree that the laws of the State of Texas shall govern this Agreement, and that it is performable in Collin County, Texas. The venue for any litigation related to this Agreement shall be in Collin County, Texas.

### 13.4 Parties Bound

County and Firm, and their partners, successors, subcontractors, executors, legal representatives, and administrators are hereby bound to the terms and conditions of this Agreement.

### 13.5 Severability

In the event a term, condition, or provision of this Agreement is determined to be void, unenforceable, or unlawful by a court of competent jurisdiction, then that term, condition, or provision shall be deleted and the remainder of the Agreement shall remain in full force and effect.

### 13.6 Effective Date

This Agreement shall be effective from and after execution by both parties hereto.

### 13.7 Term of Agreement

The term of Agreement shall conform to the schedule as stipulated in Exhibit "B" attached herein. No other extension shall be authorized unless granted by written agreement between the County and Firm.

### 13.8 Observe and Comply

Firm shall at all times observe and comply with all federal and State laws and regulations and with all City ordinances and regulations which in any way affect this Agreement and the work hereunder, and shall observe and comply with all orders, laws, ordinances and regulations which may exist or may be enacted later by governing bodies having jurisdiction or authority for such enactment. No plea of misunderstanding or ignorance thereof shall be considered. Firm agrees to defend, indemnify and hold harmless County and all of its officers, agents, and employees from and against all claims or liability arising out of the violation of any such order, law, ordinance, or regulation, whether it be by itself or its employees.

**WITNESS OUR HANDS AND SEALS** on the date indicated below.

COLLIN COUNTY, TEXAS

Date: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

## EXHIBIT A RESPONSIBILITIES OF FIRM

The Firm shall occupy and maintain in a safe and healthy manner the allotted space and provide a basic menu of high quality, varied meals, snacks and beverages. It is the responsibility of the vendor to establish, review and control the menu selection, pricing, and portion sizes of all items for sale.

### 5.7.1 Minimum Specifications:

1. Provide all inclusive food services, defined as:
  - 1.1 Minimum operating hours 7:30 to 3:00 p.m. Monday – Friday all days except County recognized holidays.
  - 1.2 Hire, fire, and train staff
  - 1.3 Maintain cafeteria, to include kitchen equipment (see Attachment A inventory) and smallwares, serving and dining spaces in a clean orderly and healthy condition.
2. Provide any equipment or small wares deemed necessary to do business that is not currently owned. Firm will maintain ownership upon completion or termination of contract.
3. Provide carryout containers.
4. Responsible for grease disposal in a manner that is consistent with applicable laws.
5. Dispose of daily trash in exterior receptacle provided by County.
6. Provide an on-site manager no less than 80% of business hours. Provide each staff member a name tag and uniform to be worn throughout business hours on a daily basis. Uniform should designate that staff member is employed by Firm.
7. Obtain and maintain at Firms expense all local, state or federal licenses and/or approvals and permits necessary for operations, including City of McKinney health inspections.
8. Follow all laws related to employment.
9. Provide option for multiple forms of customer payment including cash, credit and debit cards.
10. All staff will be required to pass a background check before they are allowed to work on-site. A background check will be performed every six (6) months. The County will not accept employees with the following background:
  - 10.1 No persons who are on active probation or parole
  - 10.2 No persons under pending indictment
  - 10.3 No persons subject to an active criminal investigation
  - 10.4 Business operations must meet all state, federal and local health and other regulatory requirements.

11. Deliveries will only be available to the site Monday – Friday 7:30 a.m. to 5:00 p.m.
12. Management will have access to the site Monday – Friday 5:00 a.m. to 8:00 p.m.
13. Food shall not be prepared on the premises for another non-County location and/or contract.
14. Firm will be responsible for grease trap cleaning and disposal.
15. Firm will be financially responsible for maintaining maintenance agreements for all kitchen equipment.
16. Firm will be responsible for repairs for all kitchen equipment.
17. Firm will be responsible for all interior finish out (signage, decorations, etc.)
18. Firm shall be responsible for all data and telecom services and infrastructure. This includes phone and credit card capabilities.
19. If needed by Firm, Firm shall supply a dishwasher.
20. Firm will provide signage in the cafeteria notifying patrons on how to contact Firm if customers have comments/complaints via phone and e-mail address.
21. Firm shall respond to communication from the Collin County designated project manager within 48 hours.
22. In regards to the financial offer, Firm shall provide commission check to Collin County by close of business on the 10<sup>th</sup> of each month for the previous month. Commission check will be mailed to Collin County, Treasury Office, Suite 3138, McKinney, TX 75071.



## EXHIBIT B

### RESPONSIBILITIES OF COUNTY

1. County will provide dumpster for trash disposal.
2. County will be responsible for all structure, building lights, painting, wall repairs, floor repair (excludes cleaning), plumbing maintenance, electric maintenance and annual exhaust hood cleaning.
3. County will designate a person to act as the County's project manager for this contract.
4. County will provide access to the kitchen facilities 24/7 days.
5. County will provide equipment listed in Exhibit D.

EXHIBIT C

COMMISSION AND FEES

EXHIBIT D

COUNTY PROVIDED EQUIPMENT

See Foodservice Equipment Plan

## EXHIBIT E

### INSURANCE REQUIREMENTS

1. Before commencing work, the vendor shall be required, at its own expense, to furnish the Collin County Purchasing Agent with certified copies of all insurance certificate(s) indicating the coverage to remain in force throughout the term of this contract.

1.1 Commercial General Liability insurance at minimum combined single limits of (\$1,000,000 per-occurrence and \$2,000,000 general aggregate) for bodily injury and property damage, which coverage shall include products/completed operations, independent contractors, and contractual liability each at \$1,000,000 per occurrence. Coverage must be written on an occurrence form.

1.2 Workers Compensation insurance required by Texas Law at statutory limits, including employer's liability coverage at minimum limits. In addition to these, the contractor must meet each stipulation below as required by the Texas Workers Compensation Commission; (Note: If you have questions concerning these requirements, you are instructed to contact the DWC).

1.2.1 By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

1.2.2 The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the governmental entity.

1.3 Commercial Automobile Liability insurance shall be no less than \$500,000 combined single limits per accident for bodily injury and property damage, including owned, non-owned, and hired vehicle coverage.

1.4 Professional Liability Insurance at minimum limits of \$2,000,000. This policy must have a two (2) year extended period of coverage, (i.e. tail coverage). If you choose to have project coverage endorsed onto your base policy, this would be acceptable.

2. The required limits may be satisfied by any combination of primary, excess or umbrella liability insurances, provided the primary policy complies with the above requirements and the excess umbrella is following form. The vendor may maintain reasonable and customary deductibles, subject to approval by Collin County.

3. With reference to the foregoing insurance requirement, the vendor shall endorse applicable insurance policies as follows:

- 3.1 A waiver of subrogation in favor of Collin County, its officials, employees, volunteers and officers shall be contained in the workers compensation coverage.
  - 3.2 The vendor's insurance coverage shall name Collin County as additional insured under the General Liability policy.
  - 3.3 All insurance policies shall be endorsed to the effect that Collin County will receive at least thirty (30) days notice prior to cancellation, non-renewal or termination of the policy.
  - 3.4 All copies of Certificates of Insurance shall reference the project/contract number.
4. All insurance shall be purchased from an insurance company that meets the following requirements:
    - 4.1 A financial rating of B+VI or better as assigned by the BEST Rating Company or equivalent.
  5. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent, and shall contain provisions representing and warranting the following:
    - 5.1 Sets forth all endorsements and insurance coverages according to requirements and instructions contained herein.
    - 5.2 Sets forth the notice of cancellation or termination to Collin County

EXHIBIT F  
COUNTY REQUEST FOR PROPOSAL RFP 02131-11

EXHIBIT G  
FIRM RESPONSE TO REQUEST FOR PROPOSAL, RFP 02131-11