



**REQUEST FOR PROPOSALS (RFP) No. 00070
FOR
CHILDREN'S COURT HOUSE FOOD SERVICE FACILITY DEVELOPMENT AND OPERATION**

PRE-PROPOSAL CONFERENCE TO BE HELD:

October 2, 2014 at 10:00 AM (local time)
155 NW Third St., 1st Floor, "Food Service Facility", Miami, Florida, 33128

ISSUED BY MIAMI-DADE COUNTY:

Internal Services Department, Procurement Management Services Division
for
Internal Services Department, Real Estate Development Division

COUNTY CONTACT FOR THIS SOLICITATION:

Andrew Zawoyski, CPPO, Contracting Officer
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PROPOSAL RESPONSES DUE:

October 31, 2014

Electronic proposal responses to this RFP are to be submitted through a secure mailbox at BidSync until the date and time as indicated in this document. It is the sole responsibility of the Proposer to ensure its proposal reaches BidSync before the Solicitation closing date and time. There is no cost to the Proposer to submit a proposal in response to a Miami-Dade County solicitation via BidSync. Electronic proposal submissions may require the uploading of electronic attachments. The submission of attachments containing embedded documents or proprietary file extensions is prohibited. All documents should be attached as separate files. All proposals received and time stamped through the County's third party partner, BidSync, prior to the proposal submittal deadline shall be accepted as timely submitted. The circumstances surrounding all proposals received and time stamped after the proposal submittal deadline will be evaluated by the procuring department in consultation with the County Attorney's Office to determine whether the proposal will be accepted as timely. Proposals will be opened promptly at the time and date specified. The responsibility for submitting a proposal on or before the stated time and date is solely and strictly the responsibility of the Proposer. The County will in no way be responsible for delays caused by technical difficulty or caused by any other occurrence. All expenses involved with the preparation and submission of proposals to the County, or any work performed in connection therewith, shall be borne by the Proposer(s).

A Proposer may submit a modified proposal to replace all or any portion of a previously submitted proposal up until the proposal due date. The County will only consider the latest version of the proposal. For competitive bidding opportunities available, please visit the County's Internal Services Department website at: <http://www.miamidade.gov/procurement/>.

Requests for additional information or inquiries must be made in writing and submitted using the question/answer feature provided by BidSync at www.bidsync.com. The County will issue responses to inquiries and any changes to this Solicitation it deems necessary in written addenda issued prior to the proposal due date (**see addendum section of BidSync Site**). Proposers who obtain copies of this Solicitation from sources other than through BidSync risk the possibility of not receiving addenda and are solely responsible for those risks.

1.0 PROJECT OVERVIEW AND GENERAL TERMS AND CONDITIONS

1.1 Introduction

Miami-Dade County, hereinafter referred to as “the County”, as represented by the Internal Services Department, Real Estate Development Division, is soliciting proposals from experienced, qualified and sufficiently financed parties interested in leasing commercial/retail space at the Children’s Court House Building, located in downtown Miami, at 155 NW Third St., Miami, Florida, 33128 and developing and operating a Food Service Facility. This space does not have and will not permit cooking on premises.

The County anticipates awarding a Lease Agreement for a five (5) year term, with one (1) five (5) year option to renew at the County’s sole discretion.

The anticipated schedule for this Solicitation is as follows:

Solicitation Issued:

Pre-Proposal Conference: See front cover for date, time, and place. Attendance is recommended but not mandatory. If you need a sign language interpreter or materials in accessible format for this event, please call the ADA Coordinator at (305) 375-2013 or email hjwrig@miamidade.gov at least five days in advance.

Deadline for Receipt of Questions: October 3, 2014

Proposal Due Date: See front cover for date and time.

Evaluation Process: November 2014

Projected Award Date: January 2015

1.2 Definitions

The following words and expressions used in this Solicitation shall be construed as follows, except when it is clear from the context that another meaning is intended:

- 1 The word “Building” to mean the Children’s Courthouse Building, located at 155 NW Third St., Miami, Florida, 33128.
- 2 The word “Contractor” to mean the Proposer that receives any award of a contract from the County as a result of this Solicitation, also to be known as “the prime Contractor”.
- 3 The word “County” to mean Miami-Dade County, a political subdivision of the State of Florida.
- 4 The words “Food Service Facility” to mean the establishment at Children’s Courthouse Building that will be developed through any agreement issued as a result of this Solicitation and which will serve food to Building visitors and employees.
- 5 The words “Lease Agreement” to mean a contract between the County and a selected Proposer that allows the selected Proposer rights to the use of a property owned or managed by the County for a period of time. The agreement does not provide ownership rights to the selected Proposer; however, the County may grant certain allowances to modify change or otherwise adapt the property to suit the needs of the selected Proposer.
- 6 The words “Leased Premises” to mean the area to be leased and operated by the selected Proposer comprised of a total of approximately 1736 square feet, located on the first floor.
- 7 The word “Proposal” to mean the properly signed and completed written submission in response to this solicitation by a Proposer for the Services, and as amended or modified through negotiations.
- 8 The word “Proposer” to mean the person, firm, entity or organization, as stated on the Solicitation Submittal Form, submitting a response to this Solicitation.
- 9 The words “Scope of Services” to mean Section 2.0 of this Solicitation, which details the work to be performed by the Contractor.
- 10 The word “Solicitation” to mean this Request for Proposals (RFP) document, and all associated addenda and attachments.
- 11 The word “Subcontractor” to mean any person, firm, entity or organization, other than the employees of the Contractor, who contracts with the Contractor to furnish labor, or labor and materials, in connection with the Services to the County, whether directly or indirectly, on behalf of the Contractor.
- 12 The words “Work”, “Services”, “Program”, or “Project” to mean all matters and things that will be required to be done by the Contractor in accordance with the Scope of Services and the terms and conditions of this Solicitation.

1.3 General Proposal Information

The County may, at its sole and absolute discretion, reject any and all or parts of any or all responses; accept parts of any and all responses; further negotiate project scope and fees; postpone or cancel at any time this Solicitation process; or waive any irregularities in this Solicitation or in the responses received as a result of this process. In the event that a Proposer wishes to take an exception to any of the terms of this Solicitation, the Proposer shall clearly indicate the exception in its proposal. No exception shall be taken where

the Solicitation specifically states that exceptions may not be taken. Further, no exception shall be allowed that, in the County's sole discretion, constitutes a material deviation from the requirements of the Solicitation. Proposals taking such exceptions may, in the County's sole discretion, be deemed nonresponsive. The County reserves the right to request and evaluate additional information from any respondent regarding respondent's responsibility after the submission deadline as the County deems necessary.

The submittal of a proposal by a Proposer will be considered a good faith commitment by the Proposer to negotiate a contract with the County in substantially similar terms to the proposal offered and, if successful in the process set forth in this Solicitation and subject to its conditions, to enter into a contract substantially in the terms herein. Proposals shall be irrevocable until contract award unless the proposal is withdrawn. A proposal may be withdrawn in writing only, addressed to the County contact person for this Solicitation, prior to the proposal due date or upon the expiration of 180 calendar days after the opening of proposals.

Proposers are hereby notified that all information submitted as part of, or in support of proposals will be available for public inspection after opening of proposals, in compliance with Chapter 119, Florida Statutes, popularly known as the "Public Record Law". The Proposer shall not submit any information in response to this Solicitation which the Proposer considers to be a trade secret, proprietary or confidential. The submission of any information to the County in connection with this Solicitation shall be deemed conclusively to be a waiver of any trade secret or other protection, which would otherwise be available to Proposer. In the event that the Proposer submits information to the County in violation of this restriction, either inadvertently or intentionally, and clearly identifies that information in the proposal as protected or confidential, the County may, in its sole discretion, either (a) communicate with the Proposer in writing in an effort to obtain the Proposer's written withdrawal of the confidentiality restriction or (b) endeavor to redact and return that information to the Proposer as quickly as possible, and if appropriate, evaluate the balance of the proposal. Under no circumstances shall the County request the withdrawal of the confidentiality restriction if such communication would in the County's sole discretion give to such Proposer a competitive advantage over other proposers. The redaction or return of information pursuant to this clause may render a proposal non-responsive.

Any Proposer who, at the time of proposal submission, is involved in an ongoing bankruptcy as a debtor, or in a reorganization, liquidation, or dissolution proceeding, or if a trustee or receiver has been appointed over all or a substantial portion of the property of the Proposer under federal bankruptcy law or any state insolvency law, may be found non-responsible. To request a copy of any ordinance, resolution and/or administrative order cited in this Solicitation, the Proposer must contact the Clerk of the Board at (305) 375-5126.

1.4 Cone of Silence

Pursuant to Section 2-11.1(t) of the Miami-Dade County Code, as amended, a "Cone of Silence" is imposed upon each RFP or RFQ after advertisement and terminates at the time a written recommendation is issued. The Cone of Silence prohibits any communication regarding RFPs or RFQs between, among others:

- potential Proposers, service providers, lobbyists or consultants **and** the County's professional staff including, but not limited to, the County Mayor and the County Mayor's staff, County Commissioners or their respective staffs;
- the County Commissioners or their respective staffs **and** the County's professional staff including, but not limited to, the County Mayor and the County Mayor's staff; or
- potential Proposers, service providers, lobbyists or consultants, any member of the County's professional staff, the Mayor, County Commissioners or their respective staffs **and** any member of the respective selection committee.

The provisions do not apply to, among other communications:

- oral communications with the staff of the Vendor Assistance Unit, the responsible Procurement Agent or Contracting Officer, provided the communication is limited strictly to matters of process or procedure already contained in the solicitation document;
- oral communications at pre-proposal conferences, oral presentations before selection committees, contract negotiations during any duly noticed public meeting, public presentations made to the Board of County Commissioners during any duly noticed public meeting; or
- communications in writing at any time with any county employees, official or member of the Board of County Commissioners unless specifically prohibited by the applicable RFP or RFQ documents.

When the Cone of Silence is in effect, all potential vendors, service providers, bidders, lobbyists and consultants shall file a copy of any written correspondence concerning the particular RFP or RFQ with the Clerk of the Board, which shall be made available to any person

upon request. The County shall respond in writing (if County deems a response necessary) and file a copy with the Clerk of the Board, which shall be made available to any person upon request. Written communications may be in the form of e-mail, with a copy to the Clerk of the Board at clerkbcc@miamidade.gov.

All requirements of the Cone of Silence policies are applicable to this Solicitation and must be adhered to. Any and all written communications regarding the Solicitation are to be submitted only to the Procurement Contracting Officer with a copy to the Clerk of the Board. The Cone of Silence shall not apply to oral communications at pre-proposal conferences, oral presentations before selection committees, contract negotiations during any duly noticed public meeting, public presentations made to the Board of County Commissioners during any duly noticed public meeting or communications in writing at any time with any county employee, official or member of the Board of County Commissioners unless specifically prohibited by the applicable RFP, RFQ or bid documents. The Proposer shall file a copy of any written communication with the Clerk of the Board. The Clerk of the Board shall make copies available to any person upon request.

1.5 Communication with Selection Committee Members

Proposers are hereby notified that direct communication, written or otherwise, to Selection Committee members or the Selection Committee as a whole are expressly prohibited. Any oral communications with Selection Committee members other than as provided in Section 2-11.1 of the Miami-Dade County Code are prohibited.

1.6 Public Entity Crimes

Pursuant to Paragraph 2(a) of Section 287.133, Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a proposal for a contract to provide any goods or services to a public entity; may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work; may not submit proposals on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and, may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

1.7 Lobbyist Contingency Fees

- a) In accordance with Section 2-11.1(s) of the Code of Miami-Dade County, after May, 16, 2003, no person may, in whole or in part, pay, give or agree to pay or give a contingency fee to another person. No person may, in whole or in part, receive or agree to receive a contingency fee.
- b) A contingency fee is a fee, bonus, commission or non-monetary benefit as compensation which is dependent on or in any way contingent upon the passage, defeat, or modification of: 1) any ordinance, resolution, action or decision of the County Commission; 2) any action, decision or recommendation of the County Mayor or any County board or committee; or 3) any action, decision or recommendation of any County personnel during the time period of the entire decision-making process regarding such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission or a County board or committee.

1.8 Collusion

In accordance with Section 2-8.1.1 of the Code of Miami-Dade County, where two (2) or more related parties, as defined herein, each submit a proposal for any contract, such proposals shall be presumed to be collusive. The foregoing presumption may be rebutted by the presentation of evidence as to the extent of ownership, control and management of such related parties in preparation and submittal of such proposals. Related parties shall mean Proposer or the principals thereof which have a direct or indirect ownership interest in another Proposer for the same contract or in which a parent company or the principals thereof of one Proposer have a direct or indirect ownership interest in another Proposer for the same contract. Proposals found to be collusive shall be rejected. Proposers who have been found to have engaged in collusion may be considered non-responsible, and may be suspended or debarred, and any contract resulting from collusive bidding may be terminated for default.

2.0 SCOPE OF SERVICES

2.1 Background

Miami-Dade County, hereinafter referred to as “the County”, as represented by the Internal Services Department, Real Estate Development Division, is soliciting proposals from experienced, qualified and sufficiently financed parties, hereinafter referred to as “Proposer,” to lease commercial/retail space, develop, operate, and maintain a food service facility at the Children’s Court House Building, located in downtown Miami, at 155 NW Third St., Miami, Florida, 33128 and developing and operating a food service facility. This space does not have and will not have conditions and equipment appropriate for cooking. Microwaves are allowed for reheating.

Approximately 450 employees will work in the building with an anticipated 500 people visiting on a daily basis.

The Leased Premises within the Children’s Courthouse Building consists of approximately 1736 square feet, located on the first floor.

The Leased Premises shall include a dedicated area in the lobby for the Selected Proposer to install permanent signage advertising the Food Service Facility. Such signage shall be limited to the name of the Food Service Facility, and shall not advertise daily specials, services, food items and/or products offered in the Food Service Facility. The Selected Proposer shall be responsible for maintaining the dedicated area of the wall or indoor signage, at its sole cost and expense. The Selected Proposer, should it elect to do so, may seek to advertise in other areas of the Building with the prior written approval of the County.

Parking for employees and visitors is available offsite at various public parking locations surrounding the Building. No parking is available in the Building for employees of the Selected Proposer. The Building has an indoor loading area, which can only accommodate medium sized trucks. All deliveries must be made through the loading area.

The County expects the Selected Proposer to operate and maintain a Food Service Facility that offers high nutritional meal options to employees and visitors. The Selected Proposer to provide breakfast and lunch options including, but not limited to, coffee, eggs, toast, bagels, smoothies, subs, sandwiches, salads, entrees, soups, vegetarian/organic, etc. Other food items such as snacks and soft drinks may also be sold.

2.2 Preferred Qualification Requirement

It is preferred that the Selected Proposer demonstrates the following:

1. Five (5) years of experience as a food service facility owner, manager and/or supervisor within the past ten (10) years in a food service facility (e.g. cafe, bistro, cafeteria, etc.);
2. Knowledge of all applicable rules and regulations adopted by the County, and any and all laws, ordinances, and/or rules and regulations of other governmental entities and/or authorities having lawful jurisdiction, which may be applicable to the Selected Proposer's development and operation of the Food Service Facility; and
3. Adequate financial strength for improvements, to provide equipment, furniture, fixtures, start-up operations and working capital as demonstrated through the Proposer's pro forma and financial documents submitted as part of the response to this solicitation.

2.3 Requirements and Services to be Provided

The Leased Premises shall be provided in its “as-is” condition. The County will not pay for or reimburse the Selected Proposer to make any improvements to the Leased Premises. The Selected Proposer shall perform any and all improvements to the Leased Premises, in compliance with the South Florida Building Code, and in accordance with the Lease Agreement. The space does not have and will not have conditions and equipment appropriate for cooking. The Selected Proposer may bring in hot food and serve in warming units.

A. General Services

The Selected Proposer shall:

1. Secure and comply with any and all permits/licenses necessary for the establishment and operation of a Food Service Facility or other prepared food service provider, as may be required by any and all government entities, agencies and/or authorities, including, but not limited to, the County, the City of Miami, and the State of Florida.

2. Comply with all applicable rules and regulations adopted by the County, and any and all laws, ordinances and/or rules and regulations of other governmental entities and/or authorities having lawful jurisdiction, which may be applicable to Selected Proposer's operation of the Food Service Facility.
3. Prepare an Operations Manual inclusive of all information concerning the operation (e.g. detailed operation approach, types of food served, hours of operation, on-site manager, food manager and any other supervisory roles, expected number of employees, signage, marketing) of the Food Service Facility and appropriate emergency evacuation and hurricane plans and provide such Manual to the County for approval prior to commencement of the operation of the Food Service Facility. Thereafter, the Selected Proposer shall provide the County with any and all updates to the plans, but at least once on an annual basis.

B. Operation and Quality of Services

The Selected Proposer shall:

1. Establish a quality Food Service Facility, which shall provide quality nutritional products and excellent customer service, with an emphasis on appearance and ambiance in maintaining competitiveness with other food and beverage destinations in the local marketplace.
2. Create a visually exciting and inviting Food Service Facility environment, through a creative design, including displays, signage, graphics, and lighting that complements the aesthetics of the building.
3. The Food Service Facility will be available for use by employees and visitors of the Building. Catering services within the Building is permissible to employees working in the Building for on site events only. No cooking is allowed in Leased Premises.
4. Currently, the Selected Proposer is limited to the Leased Premises only. No tables will be allowed in hallway outside the Leased Premises.
5. Employ a qualified full-time on-site manager having experience in the management of this type of operation, who shall be available during all business hours and be delegated sufficient authority to ensure the competent performance and fulfillment of the responsibilities of the Selected Proposer.
6. Have sufficient, well-groomed employees who provide prompt, courteous, and efficient service to patrons while wearing proper uniforms, gloves in food prep areas and service/cooking areas including having their hair pulled back and in hair nets, and visible identification/access cards. Provide sufficient and proper training to its employees for food handling, maintaining cleanliness, and providing friendly customer service. All employees shall have all required certifications for a food services facility by Department of Health and/or other appropriate jurisdictions (State/Local) as may be required.
7. Prepare advertising signage (outdoor signage on courthouse is prohibited), marketing, and promotions.
8. The Food Service Facility shall be open and in full operation to provide food and beverage service no later than one hundred eighty (180) days following the full execution of the Lease Agreement. The County reserves the right to extend this time-frame if necessary as its sole discretion.
9. Operate the Food Service Facility at a minimum, five (5) days a week, Monday through Friday, continuously from (suggested to be at this time from 7:00 am to 4:00 pm), except on County, state and federal holidays. Hours of operation may be extended/changed as deemed appropriate by the Selected Proposer, subject to the written approval of the County.
10. There will be vending machines located throughout the Building. These vending machines are not part of any agreement issued as a result of this solicitation.
11. The Food Service Facility shall accept, at a minimum, most, if not all, major credit cards.
12. Ensure prices are fair and consistent with prices of similar food service establishments.
13. Prominently post all menus with associated pricing in the food service areas and any other legally required information.

14. Maintain all business licenses, health permits, as required by local, state, or federal law and liability and workers compensation insurance.
15. Allow the Department of Health and other State, County, and City inspectors (Inspecting Entity) the right to inspect the Lease Premises as may be deemed appropriate by the Inspecting Entity.
16. Ensure that food is stored properly and in designated areas.
17. Perform inventory of food, shop, merchandise, and supplies to ensure there is always sufficient product available to meet the demands of the Food Service Facility.
18. Provide security for the interior of the Leased Premises at its own discretion. The County is not responsible for providing any security, including, but not limited to any guest, customers, patrons, and/or agents of the Selected Proposer nor the Selected Proposer's furnishings, fixtures, equipment, soft goods, supplies, or any personal property. The Building currently has a security service in place; however, it does not extend to inside of the Leased Premises. The Selected Proposer will be solely responsible for the security of the Leased Premises.
19. Maintain proper books and records for the services provided, for auditing purposes as needed by the County.
20. Keep in full force and effect all required insurance and indemnification as required by the County and outlined in the Lease Agreement.
21. Maintain all foodservice areas and equipment, at minimum, in a safe manner as outlined in the Food and Drug Administration Food Code, Chapter 64E-11, Florida Administrative Code, and in compliance with the Florida Department of Business & Professional Regulation.
22. Pursuant to Section 509.039, *Florida Statutes*, employ a qualified full-time on-site certified professional food manager with experience in the management of a Food Service Facility, or similar type of operation. The manager shall be available during all business hours, and be delegated sufficient authority to ensure the competent performance and fulfillment of the responsibilities of the Selected Proposer. The Selected Proposer and employees shall be distinctly uniformed or appropriately attired so as to be distinguishable as the Selected Proposer's employees.
23. Purchase Access and/or Identification Cards for permanent employees. All employees with access to the Food Service Facility shall go through the County's background check service. The approximate cost for said service, per person, is \$45.00, plus an additional \$15.00 for each Identification/Access Card.

C. Improvement, Maintenance and Repairs

The Selected Proposer shall:

1. Within sixty (60) days after award of any agreement pursuant to this solicitation, prepare and submit to the County a Conceptual Plan, which illustrates how the space will look upon completion of the build-out. The build-out, including any alteration/remodeling, shall be completed within one hundred eighty (180) days from contract award subject to permitting. No alterations, changes or additions to the Food Service Facility shall be made by the Selected Proposer without the prior written consent of the County. All work shall be in compliance with applicable building codes, including, but not limited to the American with Disabilities Act (ADA), and performed by licensed and insured contractors, and Subcontractors.
2. The Children's Courthouse is a Leeds rated building and the County participates in Florida Water Star program. The Selected Proposer shall consider these aspects as it prepares it Conceptual plan and selects its appliances.
3. Provide ample tables and chairs for the dining room, along with any and all other furniture, fixtures, and equipment required for the operation of the Food Service Facility. Operate and maintain the entire premises in a first-class manner and condition.

4. Color scheming – design and color scheme of floor, lighting, furnishing, fixtures, tables chairs should take into consideration the design schemes of the Building. These designs and color schemes will be as approved by the County. Durability of the furnishings and fixtures should be such to meet the requirements of a Children’s Courthouse Building.
5. Keep and maintain the Food Service Facility in a clean and neat condition. Janitorial services and pest control for Leased Premises, as well as data, phone and TV shall be the sole responsibility and at the expense of the Selected Proposer. The Selected Proposer shall abide by the County’s Integrated Pest Management guidelines for pest control.
6. Air conditioning, electrical and water and sewer of Leased Premises is provided as part of rent.
7. The County will install sub-meters for electric and water and sewer and the Selected Proposer is responsible for the associated costs. While there is water access in the Leased Premises, the Selected Proposer is responsible for the addition of any hot water required.
8. Garbage disposal/recycling (presently, paper, cardboard, aluminum, and printer cartridges are being recycled) is provided by the County and is part of the rent. Selected Proposer is responsible to remove garbage from Leased Premises to garbage disposal/recycling units as provided at the loading dock. The Selected Proposer will clean Leased Premises each day of operation and all garbage/recycling shall be removed prior to closing for the night.
9. Utilize loading dock for all deliveries. The availability of the loading dock may be subject to certain hour limitations.
10. After the Food Service Facility opens for business, in the event the Selected Proposer fails to properly maintain the Food Service Facility, and/or fails to make necessary alterations, changes, additions, repairs, rebuilding, remodeling or repainting of the Food Service Facility, the County, in accordance with the terms and conditions of the Lease Agreement, may make the needed corrections or repairs, on behalf of the Selected Proposer, and the cost and expenses of such repairs and alterations shall be the responsibility of the Selected Proposer.
11. Provide security for the Leased Premises. The County is not responsible for the security pertaining to the Food Service Facility, including but not limited to any employees, customers or patrons, and/or the Selected Proposer’s furnishings, fixtures, equipment, soft goods, and/or supplies. The Selected Proposer will meet with County to discuss these security measures and to allow for County accessibility in an emergency, in the event this emergency takes place during off hours.

D. Financial

The Selected Proposer shall advise the County in the event that its financial position differs substantially from the information provided in its proposal to the detriment of the Selected Proposer.

E. Leased Premises Rent

The Selected Proposer shall pay to the County rent and various operating fees, which includes:

1. Base Rent

The Selected Proposer shall pay a Base Rent and any applicable tax(es) to the County, due in twelve (12) equal monthly payments, on the first (1st) day of each month (which rent shall increase annually) starting from Beneficial Occupancy, which cannot be more than 180 days after contract award date, unless specifically granted by the County at its sole discretion.

2. Percentage Fee

The Selected Proposer shall also pay in addition to the Base Rent, a Percentage Fee, which represents a proposed percentage of the Selected Proposers monthly gross receipts, within ten (10) days following the end of each month during the term of the Lease Agreement.

Note: Refer to Form B-1, Price Proposal Schedule for Base Rent and/or Percentage Fee. It is the intent of the County to provide the best possible service to the public. It is the County's further intent to gain revenues. However, the County makes no guarantee the County will act, promote, approve, assist or cooperate in any manner to assure that the Food Service Facility will be a financial success for the Selected Proposer. The objective of this Solicitation is to establish a Lease Agreement to provide for the development and operation of a Food Service Facility in the Children’s Courthouse Building.

F. Compliance with Laws, Ordinances, and Regulations

In addition to all requirements to secure and comply with all permits, laws, ordinances, and regulations applicable to the establishment and occupancy of the Leased Premises contemplated herein, the Selected Proposer is subject the following:

- A) Code of Federal Regulations 49 CFR 26.7 binding the Selected Proposer not to discriminate based on race, color, national origin, or sex;
- B) Code of Federal Regulations 49 CFR 27.7; 27.9(b) and 37 binding the Selected Proposer not to discriminate based on disability; and binding the same to compliance with the Americans with Disabilities Act with regard to any improvements constructed; and
- C) Maintain all food services areas and equipment in a safe manner pursuant to Food and Drug Administration Food Code, Chapter 64E-11, Florida Administrative Code, and Florida Department of Business and Professional Regulation;
- D) Employ a qualified full-time, on-site, certified food manager with experience in the management of a Food Service Facility, or similar type of operation pursuant to Section 509.039, Florida Statutes; and
- E) Sample of Tenant's rules and regulations for the Building. See Attachment A.

G. Security Deposit

The Selected Proposer shall deliver a check to the County in the amount of three months Base Rent prior to the County's issuance of a Notice-to-Proceed (a Performance and Payment Bond in the same amount can be submitted in lieu of the certified check). See Attachment B.

In the event the Selected Proposer provides a performance and payment bond in lieu of a certified check it shall comply with the performance bond requirements every year during the term of the lease agreement, including any extensions or renewals thereof. The County's Internal Services Department will issue a notice to the Selected Proposer every year and the Selected Proposer shall deliver the performance bond to the County within fourteen (14) calendar days of the notice issuance date. If the Selected Proposer fails to deliver the initial Performance Bond within the specified time, including granted extensions, the County shall declare the Selected Proposer in default of the contractual terms and conditions.

3.0 RESPONSE REQUIREMENTS**3.1 Submittal Requirements**

In response to this Solicitation, Proposer should **complete and return the entire Proposal Submission Package**. Proposers should carefully follow the format and instructions outlined therein. All documents and information must be fully completed and signed as required and submitted in the manner described.

The proposal shall be written in sufficient detail to permit the County to conduct a meaningful evaluation of the proposed services. However, overly elaborate responses are not requested or desired.

4.0 EVALUATION PROCESS**4.1 Review of Proposals for Responsiveness**

Each proposal will be reviewed to determine if the proposal is responsive to the submission requirements outlined in this Solicitation. A responsive proposal is one which follows the requirements of this Solicitation, includes all documentation, is submitted in the format outlined in this Solicitation, is of timely submission, and has the appropriate signatures as required on each document. Failure to comply with these requirements may result in the proposal being deemed non-responsive.

4.2 Evaluation Criteria

Proposals will be evaluated by an Evaluation/Selection Committee which will evaluate and rank proposals on criteria listed below. The Evaluation/Selection Committee will be comprised of appropriate County personnel and members of the community, as deemed

necessary, with the appropriate experience and/or knowledge, striving to ensure that the Evaluation/Selection Committee is balanced with regard to both ethnicity and gender. The criteria are itemized with their respective weights for a maximum total of one hundred (100) points per Evaluation/Selection Committee member.

<u>Technical Criteria</u>	<u>Points</u>
1. Proposer's relevant experience, qualifications, and past performance, including relevant experience and qualifications of all key personnel.	30
2. Proposer's approach to providing the services requested in this Solicitation to include an operations plan, menu etc.	30
3. Proposer's conceptual plan for the Leased Premises including renderings, layout, quality of design, construction, types of finishes, and schedule for design and construction.	10
4. Proposer's financial capabilities to make improvements, have operational funds and pro forma (See Attachment C for sample) etc.	20
<u>Price Criteria</u>	<u>Points</u>
5. Base Rent and Percentage of Gross Receipts and Capital improvement investment.	10

4.3 Oral Presentations

Upon completion of the criteria evaluation indicated above, rating and ranking, the Evaluation/Selection Committee may choose to conduct an oral presentation with the Proposer(s) which the Evaluation/Selection Committee deems to warrant further consideration based on, among other considerations, scores in clusters and/or maintaining competition. (See Affidavit – "Lobbyist Registration for Oral Presentation" regarding registering speakers in the proposal for oral presentations.) Upon completion of the oral presentation(s), the Evaluation/Selection Committee will re-evaluate, re-rate and re-rank the proposals remaining in consideration based upon the written documents combined with the oral presentation.

4.4 Not Applicable

4.5 Local Certified Service-Disabled Veteran's Business Enterprise Preference

This Solicitation includes a preference for Miami-Dade County Local Certified Service-Disabled Veteran Business Enterprises in accordance with Section 2-8.5.1 of the Code of Miami-Dade County. A VBE is entitled to receive an additional five percent (5%) of the total technical evaluation points on the technical portion of such Proposer's proposal. If a Miami-Dade County Certified Small Business Enterprise (SBE) measure is being applied to this Solicitation, a VBE which also qualifies for the SBE measure shall not receive the veteran's preference provided in this section and shall be limited to the applicable SBE preference.

4.6 Price Evaluation

The price proposal will be evaluated subjectively in combination with the technical proposal, including an evaluation of how well it matches Proposer's understanding of the County's needs described in this Solicitation, the Proposer's assumptions, and the value of the proposed services. The pricing evaluation is used as part of the evaluation process to determine the highest ranked Proposer. The County reserves the right to negotiate the final terms, conditions and pricing of the contract as may be in the best interest of the County.

4.7 Local Preference

The evaluation of competitive solicitations is subject to Section 2-8.5 of the Miami-Dade County Code, which, except where contrary to federal or state law, or any other funding source requirements, provides that preference be given to local businesses. If, following the completion of final rankings by the Evaluation/Selection Committee a non-local Proposer is the highest ranked responsive and responsible Proposer, and the ranking of a responsive and responsible local Proposer is within 5% of the ranking obtained by said non-local Proposer, then the Evaluation/Selection Committee will recommend that a contract be negotiated with said local Proposer.

4.8 Negotiations

The County may award a contract on the basis of initial Proposals received. Therefore, each initial Proposal should contain the Proposer's best terms from a monetary and technical standpoint.

The Evaluation/Selection Committee will evaluate, score and rank proposals, and submit the results of their evaluation to the County Mayor or designee with their recommendation. The County Mayor or designee will determine with which Proposer(s) the County shall negotiate, if any, taking into consideration the Local Preference Section above. The County Mayor or designee, at their sole discretion, may direct negotiations with the highest ranked Proposer, negotiations with multiple Proposers, and/or may request best and final offers. In any event the County engages in negotiations with a single or multiple Proposers and/or requests best and final offers, the discussions may include price and conditions attendant to price.

Notwithstanding the foregoing, if the County and said Proposer(s) cannot reach agreement on a contract, the County reserves the right to terminate negotiations and may, at the County Mayor's or designee's discretion, begin negotiations with the next highest ranked Proposer(s). This process may continue until a contract acceptable to the County has been executed or all proposals are rejected. No Proposer shall have any rights against the County arising from such negotiations or termination thereof.

Any Proposer recommended for negotiations shall complete a Collusion Affidavit, in accordance with Sections 2-8.1.1 of the Miami-Dade County Code. (If a Proposer fails to submit the required Collusion Affidavit, said Proposer shall be ineligible for award.)

Any Proposer recommended for negotiations may be required to provide to the County updated:

- a) Its most recent certified business financial statements as of a date not earlier than the end of the Proposer's preceding official tax accounting period, together with a statement in writing, signed by a duly authorized representative, stating that the present financial condition is materially the same as that shown on the balance sheet and income statement submitted, or with an explanation for a material change in the financial condition. A copy of the most recent business income tax return will be accepted if certified financial statements are unavailable.
- b) Information concerning any prior or pending litigation, either civil or criminal, involving a governmental agency or which may affect the performance of the services to be rendered herein, in which the Proposer, any of its employees or subcontractors is or has been involved within the last three years.

4.9 Contract Award

Any contract, resulting from this Solicitation, will be submitted to the County Mayor or designee for approval. All Proposers will be notified in writing when the County Mayor or designee makes an award recommendation. The Contract award, if any, shall be made to the Proposer whose proposal shall be deemed by the County to be in the best interest of the County. Notwithstanding the rights of protest listed below, the County's decision of whether to make the award and to which Proposer shall be final.

4.10 Rights of Protest

A recommendation for contract award or rejection of all proposals may be protested by a Proposer in accordance with the procedures contained in Sections 2-8.3 and 2-8.4 of the County Code, as amended, and as established in Implementing Order No. 3-21.

5.0 TERMS AND CONDITIONS

The anticipated form of lease agreement is attached. The terms and conditions summarized below are of special note and can be found in their entirety in the agreement:

a) Vendor Registration

Prior to being recommended for award, the Proposer shall complete a Miami-Dade County Vendor Registration Package. Effective June 1, 2008, the new Vendor Registration Package, including a Uniform Affidavit Packet (Affidavit form), must be completed. The Vendor Registration Package, including all affidavits can be obtained by downloading from the website at <http://www.miamidade.gov/procurement/vendor-registration.asp> or from the Vendor Assistance Unit at 111 N.W. 1st Street, 13th Floor, Miami, FL. The recommended Proposer shall affirm that all information submitted with its Vendor Registration Package is current, complete and accurate, at the time they submitted a response to the Solicitation, by completing an Affirmation of Vendor Affidavit form.

b) Insurance Requirements

The Contractor shall furnish to the County, Internal Services Department, Procurement Management Services Division, prior to the commencement of any work under any agreement, Certificates of Insurance which indicate insurance coverage has been obtained that meets the stated requirements.

c) County Ordinance No. 12-05

The Contractor shall abide by the provisions of County Ordinance No. 12-05 amending Sections 2-10.4.01 and 10-33.02 of the Miami Dade County Code, which provides that County leases and contracts for privately funded improvements on County owned land shall be subject to the requirements of the County's CBE and CSBE program, where the total value of the construction is two hundred thousand dollars (\$200,000) or less.

6.0 ATTACHMENTS

Proposed Lease Agreement
Proposal Submission Package
Attachment A – Building Rules and Regulations
Attachment B – Payment and Performance Bond Form
Attachment C – Sample Pro Forma

LEASE AGREEMENT

BETWEEN MIAMI-DADE COUNTY

AND

FOR THE LEASE AND OPERATION OF A FOOD SERVICE FACILITY

AT

Children's Courthouse Cafeteria

MIAMI, FLORIDA

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Agreement"), made and entered into this ____ day of _____, 2014, by and between MIAMI-DADE COUNTY, FLORIDA, a political subdivision of the State of Florida (the "County"), whose Contract Liaison will be the Internal Services Department (The "Department") and _____, ____ (the "Lessee"),

WITNESSETH:

WHEREAS, the County owns and operates the facility at the Children’s Courthouse Building (“Courthouse Building” or “Building”) located at 155 NW Third St., Miami, Florida, 33128; and

WHEREAS, the proposal of the Lessee, by reference made part of this Agreement is recommended as being in the best interest of the County, and formed the basis for award of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and provisions contained herein, the parties hereto agree as follows:

- Leased Premises:** County hereby leases to Lessee and Lessee hereby leases from County for the term, at the rental, and upon the covenants and conditions set forth in this Lease Agreement, the Leased Premises in County's "Children’s Courthouse Building," a portion of the buildings outlined on the Plan of Leased Premises attached hereto as Exhibit A and incorporated herein by reference, hereinafter referred to as the "Leased Premises." Said Leased Premises is a total of 1736 square feet on the first floor located at the Courthouse Building. The Leased Premises extend to the interior faces of all exterior walls and the centerline of walls between the Leased Premises and the Common Areas and Public Areas, or to any line shown on Exhibit A where there is no wall, or to the centerline of those walls (or prolongation thereof) separating the

Leased Premises from other Leased Premises or Common or Public Areas in the County's Courthouse Building's Leased Premises; together with the appurtenances specifically granted in this Lease Agreement, including the use in common with others of the Public Areas as hereinafter more fully provided, but reserving and excepting to County (i) the use (a) the exterior faces of the exterior walls, (b) the ceiling, and (c) the space between the lower surface of the floor slab of any higher floor and the Lessee's finished ceilings; and (ii) the right to install, maintain, use, repair and replace pipes, ducts, conduits and wires leading through the Leased Premises in locations which will not substantially interfere with Lessee's use thereof, and serving other parts of the County's Courthouse Building.

2. Use: Lessee shall use the Leased Premises only for the uses contained in the Lessee's Proposal in response to RFP. The Lessee shall not provide any services or sell any item or product without the prior written approval of the Department, and any sales by the Lessee of services or items not specifically authorized in writing by the Department shall constitute a default. The unapproved services or items shall be discontinued immediately by the Lessee upon written notice from the Department. Lessee shall conduct its business at all times in accordance with this Lease Agreement.

3. Operations: Except when and to the extent that the Leased Premises may be untenable by reason of damage by fire or other casualty, Lessee shall continuously and uninterruptedly use, occupy and operate for retail purposes all of the Leased Premises other than such minor portions thereof as are reasonably required for storage and office purposes, and such storage and office space only in connection with the business conducted by Lessee in the Leased Premises; and will have on the premises adequately trained personnel for efficient service to customers.

4. **Limitations on Use:** Subject to Lessee's right to use the Leased Premises for the purposes specified in Paragraph 1, Lessee shall not suffer or permit the Leased Premises or any part thereof to be used in any manner, or anything to be done therein, or suffer or permit anything to be brought into or kept therein, which would in any way (i) violate any Legal Requirements or Insurance Requirements; (ii) cause structural injury to the Courthouse Building or any part thereof; (iii) constitute a public or private nuisance; (iv) impair the appearance of the Buildings; (v) materially impair or interfere with the proper and economic cleaning, heating, ventilating, or air-conditioning of the Courthouse Building or the proper and economic functioning of any other common service facility or common utility of the Building; (vi) impair or interfere with the physical convenience of any of the occupants of the Building; and/or (vii) impair any of the Lessee's other obligations under this Lease Agreement.

5. **Governmental Approvals:** If any governmental license or permit shall be required for the proper and lawful conduct of Lessee's business in the Leased Premises, or any part thereof, and if failure to secure such license or permit would in any way adversely affect the County, Lessee, at its expense, shall duly procure and thereafter maintain such license or permit and submit the same to inspection by the County. Lessee shall at all times comply with the terms and conditions of each license and permit.

6. **Clean Condition:** Throughout the term of this Lease Agreement, Lessee, at its sole cost and expense, will keep the Leased Premises clean and in good condition and order.

7. **Exclusivity/Nonexclusivity:** The rights granted under the Lease Agreement are exclusive only to the Leased Premises. This Lease Agreement is non-exclusive in character and in no way prevents the County from authorizing the sale or offering of competitive services, products or items by other concessionaires or others in other premises at the Courthouse Building. The

Lessee shall have no rights to any other location or concession that may be made available by the County.

8. Request for Proposal Incorporated: The Lessee acknowledges that it has submitted to the County a proposal ("Proposal") in response to RFP No. 00070 that was the basis for the award of this Agreement and upon which the County has relied. The Proposal of the Lessee ("Lessee's Proposal"), where not inconsistent with the terms of this Lease, is hereby incorporated into this Lease by reference.

9. Exhibits: The Exhibits listed in this Paragraph and attached to this Lease are hereby incorporated in and made a part of this Lease:

- Exhibit A: Plan of Leased Premises
- Exhibit B: Lessee's Floor Plan
- Exhibit C: Lessee's Work
- Exhibit D: Lessee's Design Criteria and Sign Criteria
- Exhibit E: Rules and Regulations

10. Term: The County hereby leases to the Lessee for a term of five (5) years, the Leased Premises described in Paragraph 1 hereof for a Food Service Facility. The term and Commencement Date of this Lease shall begin on the date stated on Page ____ of this Lease Agreement and ending five (5) years thereafter. Upon receipt of the Security Deposit (Article 59) and Lessee's Insurance Certificate for insurance requirements (Articles 61-66), the County will issue a Notice to Proceed, which will allow the Lessee to enter and begin occupying the Leased Premises.

11. Option to Renew: The County, at its sole discretion, reserves the right to exercise the option to renew this Lease Agreement for an additional five (5) years. The County reserves the right to exercise its option to extend this Lease Agreement for up to one hundred and eighty (180) calendar days beyond the current Lease Agreement period and will notify the Lessee in writing of this extension. This Lease Agreement may be extended beyond the initial one

hundred and eighty (180) calendar day extension by mutual agreement between the County and the Lessee, upon approval by the Board of County Commissioners.

12. Guarantee Monthly Rent: Lessee, in consideration of the use and occupancy of the Leased Premises, does hereby covenant and agree with the County to pay to the County without deduction or set off of any kind and in addition to the amount included in Article 15 – “Percentage of Monthly Gross Receipts” the sum of \$_____ per annum as a rent guarantee in monthly installments of \$_____ on the first (1st) day of each month without billing during the period from the Date of Beneficial Occupancy, which shall be, as determined by the County, the date on which substantial completion of the Leased Premises has occurred and the appropriate code enforcement agency has issued a Certificate of Occupancy (CO) or Temporary Certificate of Occupancy (TCO) that enables the Lessee to occupy or utilize the Leased Premises in a manner of its intended use, or 180 days after Commencement Date, whichever occurs first.

The Guaranteed Monthly Rent shall be adjusted upward at the end of each Lease Agreement Year based on the Consumer Price Index (CPI) under the City of Miami Group, for All Urban Consumers, under Other Goods and Services.

13. Sales Tax: The Lessee shall be liable for the prevailing State of Florida Sales and Use Tax imposed on rent (currently at the rate of 7.0%) on the amounts payable to the County under this Agreement. This Sales and Use Tax shall be payable to the County, when rent is due, which in turn will remit same, less authorized handling deductions, to the State. Said tax is applicable to Monthly Rent Guarantee unless otherwise determined by the State of Florida.

14. Additional Taxes: If at any time during the term of this Lease or any renewal thereof, under the laws of the State of Florida, or any political subdivision thereof, a tax, charge, capital

levy, or excise on rents (fixed), or other tax (except income tax), however described, shall be levied or assessed by the City of Miami in Miami-Dade County or Special Taxing district or said political subdivision against the County on account of the rent payable herein, such tax, charge, capital levy, or excise on rents or other taxes shall be deemed to constitute real estate taxes on the Leased Premises for the purposes of this Paragraph.

15. Percentage of Monthly Gross Receipts – Percentage Fee: In addition to the Guaranteed Monthly Rent, Lessee agrees to pay to the County, monthly, an amount equal to ____% (plus tax) of Monthly Gross Receipts hereinafter referred to as “Percentage Fee” within 10 days following the end of each month during the term of this Lease Agreement.

16. Late Payment Charge: In the event that the Lessee fails to make any payments on time, by the due date, as required to be paid under the provisions of this Agreement within ten (10) calendar days of the due date, a late payment charge of \$100.00 per month for each payment due to the County shall be assessed from the original due date until the Department actually receives payment. The right of the County to require payment of such late payment charge and the obligation of the Lessee to pay same shall be in addition to and not in lieu of the rights of the County to enforce other provisions herein, including termination of this Lease, or to pursue other remedies provided by law.

17. Worthless Check or Draft: In the event that the Lessee delivers a dishonored check or draft to the County in payment of any obligation arising under this Lease, the Lessee shall incur and pay a service charge, pursuant to Florida Statutes (F.S. 1995, 832.07) of twenty-five dollars (\$25.00), if the face value does not exceed fifty dollars (\$50.00); thirty dollars (\$30.00), if the face value exceeds fifty dollars (\$50.00) but does not exceed three hundred dollars (\$300.00); forty dollars (\$40.00), if the face value exceeds three hundred dollars (\$300.00); or an amount of

up to or five percent (5%) of the face amount of the check, whichever is greater. For each such dishonored check, such payment to be made not more than five (5) days from advice of such default. Further, in such event, the Department may require that future payments required pursuant to this Lease be made by cashier's check or other means acceptable to the Department. A second such occurrence of dishonored check during the lease term may be constituted a breach of contract and, at the County's option, would constitute a default allowing termination.

18. Gross Receipts:

A. Lease Agreement Year Defined: "Lease Agreement Year" means a twelve (12) month period beginning on the Commencement Date.

B. Gross Receipts Defined: "Gross Receipts" means all sales of food, beverage, merchandise by Lessee, concessionaires of Lessee and any sublessee of Lessee, sold in, upon or from the Leased Premises, including such sales as shall in good faith be credited by Lessee, its concessionaires, and sublessees in the regular course of its or their business to personnel employed at the time of sale at the Leased Premises, including also mail, email and telephone orders received at the Leased Premises and off-premises sales; but shall not be deemed to mean or include the following: amounts credited by Lessee or its concessionaires or sublessees for returned or defective merchandise; allowances to customers; trade and other discounts; sales, excise and similar taxes; workroom charges for alterations, repairs, or installation of merchandise sold or similar services; charges for making deliveries, shipments or transfers of merchandise; charges for cashing or issuing checks and money orders; carrying charges on time sales; charges for inter-store transfers of merchandise; or the proceeds of sales of Lessee's trade fixtures, operating equipment or other property used by Lessee or its concessionaires or sublessees in the operation of

its business and not acquired or held by it for the purpose of sale. Sales shall be deemed to have been made when merchandise has been served, shipped or delivered or when charged against the purchaser on the books of Lessee, or its concessionaires or sublessees, whichever of such events shall first occur.

C. Lessee's Certification of Sales: Lessee shall submit to County on or before the tenth (10th) day following the end of each month during the term of this Lease Agreement and on or before the tenth (10th) day of the month following the expiration or earlier termination of the term, a written statement, signed by Lessee and certified by it to be true and correct, showing the amount of Gross Receipts during the preceding month, along with a copy of the Sales and Use Tax Return filed with The Florida Department of Revenue. Lessee shall submit to County on or before the sixtieth (60th) day following the end of each of each Lease Agreement Year an Annual Written Statement, signed by Owner, CEO, or Financial officer of the Lessee and certified by it to be true and correct, setting forth the amount of Gross Receipts during the preceding Lease Agreement Year. The statement referred to herein shall be in such form and style and contain such details and breakdowns as County may reasonably determine or require.

D. Examination of Lessee's Books and Records: Such books and records as are necessary to determine the amount of any Percentage Fee payable to County shall be subject to examination by County or its authorized representatives at reasonable times during Lessee's business hours, at County's expense and in such manner as not to interfere unreasonably with the conduct of Lessee's business. All information obtained by County or its authorized representatives from Lessee's books and records are subject to the requirements of Florida Public Records Act.

E. Lessee's Sales Records: For the purpose of computing and verifying the Percentage Rent due hereunder, Lessee shall prepare and keep, for a period of not less than three (3) years following the end of each Lease Agreement Year, adequate books and records, including but not limited to those relating to inventories, purchases, and receipts of merchandise, and all sales and other pertinent transactions by Lessee. Lessee shall record at the time of sale each receipt from sales or other transactions, whether for cash or on credit, in one or more sealed cash register or registers having a cumulative total. Lessee shall keep, for at least three (3) years following the end of each Lease Agreement Year, all pertinent original sales records, which records shall include (i) cash register tapes; (ii) serially-numbered sales slips; (iii) mail order; (iv) telephone orders; (v) settlement report sheets of transactions with subtenants, concessionaires, and licensees; (vi) records showing that merchandise returned by customers was purchased by such customers; (vii) receipts or other records of merchandise taken out on approval; (viii) income and sales tax returns; and (ix) such other records which would normally be examined and required to be kept by an independent accountant pursuant to generally accepted auditing standard in performing an audit of Lessee's Gross Receipts. The acceptance by County of payments of Percentage Fee or reports thereon shall be without prejudice and shall in no case constitute a waiver of County's right to examination of Lessee's books and records of its Gross Receipts and inventories of merchandise.

F. Audit of Lessee's Business Affairs and Records: County shall have the right to cause, upon five (5) days written notice to Lessee, a complete audit to be made by a designated external auditing firm or other certified public accounting firm selected by the Department, or the Internal Auditing Department of the County. Lessee shall make all

such records available for said examination at the Leased Premises or at some other mutually agreeable location. If the result of such audit shall show that Lessee's statement of Gross Receipts for any period has been understated, Lessee shall pay County the amount due. If such understatement is three percent (3%) or more, Lessee shall pay County the cost of such audit in addition to any deficiency payment required, plus ten percent (10%) of any such deficiency, all of which shall be collectible hereunder as rent. A report of the findings of said accountant shall be binding and conclusive upon County and Lessee. The furnishing by Lessee of any grossly inaccurate statement shall constitute a breach of this Lease. Any information, excluding written documents, obtained by County as a result of such audit shall be held in strict confidence by County except in any proceeding or action to collect the cost of such audit or deficiency, or except in connection with any mortgage or assignment of this Lease for financing purposes.

G. If Lessee fails to record, maintain, or make available sales supporting documentation as specified above, then Lessee shall be deemed to be in default under this Paragraph 18(G).

19. Utility Services: The County has caused all necessary utility lines and services to be brought to the Leased Premises. Lessee shall not place any unacceptable load or burden on the capacity of the applicable building systems and utility lines of the Buildings as determined either by the public utility providing such service or by the County in the exercise of reasonable judgment. Lessee shall make all repairs caused by Lessee's negligence.

20. Payment of Building Services: In consideration of the Guaranteed Monthly Rent paid by the Lessee to the County, the County will pay for all charges for utility service used or consumed in or upon the Leased Premises as follows: electricity, water and sewerage, and waste removal services.

21. Curtailment or Interruption of Service: The County reserves the right to interrupt, curtail or suspend the provision of any utility service to which Lessee may be entitled hereunder when necessary by reason of accident or emergency or for repairs, alterations, or improvements in the judgment of County desirable or necessary to be made, or due to difficulty in obtaining supplies or labor or for any other cause beyond the reasonable control of the County. The work of such repairs, alterations, or improvements shall be prosecuted with reasonable diligence. The County shall in no respect be liable for any failure of the utility companies or governmental authorities to supply utility service to Lessee or for any limitation of supply resulting from governmental orders or directives. No diminution or abatement of rent or other charges, nor damages, shall be claimed by Lessee by reason of the County's or other individual's interruption, curtailment or suspension of a utility service, nor shall this Lease Agreement or any of Lessee's obligations hereunder be affected or reduced thereby.

22. Accord and Satisfaction: No payment by Lessee or receipt by County of a lesser amount than any payment of rent or additional rent herein stipulated shall be deemed to be other than on account of the earliest stipulated rent or additional rent then due and payable, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction. The County may accept such check or payment without prejudice to County's right to recover the balance of such rent or pursue any other remedy provided in this Lease Agreement, at law or in equity.

23. Payment of Fees: All payments made to the County shall be paid or mailed to:

Miami-Dade County
Internal Services Department
Real Estate Division
111 N.W. 1st Street, Suite 2460

Miami, FL 33128

(Checks shall be made payable to the Internal Services Department – Real Estate Division)

24. Holding Over: If Lessee remains in possession of the Leased Premises after the expiration of the term of this Lease Agreement, or any option period, without a new Lease Agreement reduced to writing and duly executed and delivered (even if Lessee shall have paid, and County shall have accepted, rent in respect to such holding over), Lessee shall be deemed to be occupying the Leased Premises only as a Lessee from month-to-month, subject to all covenants, conditions, and agreements of this Lease Agreement. If Lessee fails to surrender the Leased Premises upon the termination of this Lease Agreement, then Lessee shall, in addition to any liabilities to County accruing therefrom, indemnify and hold harmless the County and its assigns and agents from loss or liability resulting from such failure, including, without limiting the generality of the foregoing, any claims made by any succeeding Lessee on such failure.

25. County's Work: County shall not perform any further work in the Leased Premises.

26. Lessee's Work and Lessee's Design Criteria: All work other than County's Work shall be accomplished by Lessee at Lessee's sole expense and in accordance with the plan and specifications, hereinafter referred to in this Paragraph, prepared by Lessee's architect in conformity with the description of Lessee's Work and Lessee's Design Criteria therefore set forth respectively in Exhibit C and D attached hereto. Within not more than sixty (60) days following the Commencement Date, Lessee shall submit to the Department, for its review and approval, disapproval or modification, detailed plans, specifications, contract documents and construction cost estimates for the Improvements, prepared by an architectural or engineering firm registered in the State of Florida. The submission of said detailed plans, specifications, contract documents and construction cost estimates is specified in Exhibits C and D. Lessee's Work shall be

performed in accordance with the approved working plans and specifications and Exhibits C and D and shall be completed within the Days for Completion of Lessee's Work specified in Exhibit C. To the end that there shall be no labor disputes which would interfere with any part thereof, including, but not limited to, the Leased Premises, in performing any work in or about the Leased Premises, including without limitation, any such work referred to in Paragraphs ___ and ___ hereof, any other work which Lessee does whether or not such work is permitted or required pursuant to the Lease, Lessee agrees to engage the services of only such contractors, subcontractors who are approved in writing by the County prior to commencement of construction. Furthermore, only those contractors and subcontractors as have been duly licensed by the State of Florida or Dade County and which have been approved by County may perform any portion of Lessee's Work for Lessee in or upon the Leased Premises prior to commencement of construction. No contractor will be approved that has commenced construction prior to County's approval.

27. Certain Construction Contract Terms (if Applicable): All contracts entered into by the Lessee for the construction of the Improvements as stipulated in the final Conceptual Plan approved in writing by the County shall require completion of the Improvements within a specified time period following the execution of said contract(s) and shall contain, unless otherwise authorized by the Department, reasonable and lawful provisions for the payment of actual and liquidated damages in the event contractor(s) fails to complete the construction on time. The Lessee agrees that it will use its best efforts to take all necessary action available under such construction contract to enforce the timely completion of the work covered thereby. Further, all such contracts shall contain provisions requiring retaining of ten percent (10%) of contractor billings or such lesser percentage amount as may be authorized by the Department in

writing (if applicable).

28. Construction Bonds or Escrow Deposit: Unless the Department, in writing, specifically authorizes otherwise, all contracts for the construction of improvements shall require that the Lessee obtain from construction contractors a separate performance and payment bond in the full amount of the Improvements, to assure completion of the contract work and payment of the costs thereof, free and clear of all claims, liens and encumbrances of subcontractors, laborers, mechanics, suppliers and materialmen, with the County and the Lessee named as dual obligees thereunder. In lieu of a construction bond, the Lessee will deposit in escrow with County the estimated sum required to complete Lessee's Work. If such deposit shall be made, upon the satisfactory completion of all work and installations and the submission of proof that all bills in connection therewith have been paid, County shall release such funds from escrow. County, in its sole discretion, may release portions of such escrow deposit to pay bills as the work and installation progress. Prior to the commencement of any construction of the Improvements or any phase thereof, the Lessee shall provide to the County with a performance and payment bond as noted in RFP 00070 or the deposit for the estimated sum required to complete Lessee's Work.

29. Remedies for Lessee's Failure or Delay to Submit Plans or Perform Work: If Lessee fails or omits to make timely submission to County of any plans or specifications or delays in submitting or supplying information, or in giving authorizations or in performing or competing Lessee's Work, or fails to open for business on the Beneficial Occupancy Date, the County, in addition to any other right or remedy it may have at law or in equity, may pursue any one or more of the following remedies:

- A. Until Lessee shall have commenced Lessee's Work, County may give Lessee at least ten (10) days written notice that if a specified failure, omission or delay is not

cured by the date therein stated this Lease shall be deemed canceled and terminated. If such notice shall not be complied with this Lease shall, on the date stated in such notice, ipso facto be canceled and terminated, without prejudice to County's rights hereunder.

- B. County may, after written notice of its intention to do so, at Lessee's cost and expense, including, without limitation, expense for such overtime as County's Architect may deem necessary, proceed with the completion of any such plans or specifications or Lessee's Work, as the case may be, and such performance by County, shall have the same effect hereunder as if the desired plans, specifications, information, approval, authorization, work or other action by Lessee had been done as herein required. For such purpose, County may enter upon the Leased Premises and take possession thereof and of all materials, appliances, equipment thereon and employ such other contractors and subcontractors, as it may elect, to complete Lessee's Work and Lessee shall indemnify and hold County harmless from any liability that may be incurred thereby to Lessee's contractors or subcontractors.
- C. County may give notice to Lessee (notwithstanding that such notice is not otherwise required hereunder), that the term of Lease will be deemed to have commenced, that the date, to be therein specified, when the same would have commenced if Lessee had made timely submission of supply of plans, specification, estimates or other information or approval of any thereof. On and after the date so specified, County shall be entitled to be paid the Rent and any other charges which are payable hereunder by Lessee during the term of this Lease.
- D. County may require Lessee to pay to County, as additional rent hereunder, the cost

to County of completing the Leased Premises in accordance with the terms and provisions of this Lease over and above what would have been such cost had there been not such failure.

In exercising any of the foregoing remedies, County shall be entitled to retain and have recourse to any bond or escrow deposit provided by Lessee under Paragraph 34 hereof.

30. Ownership of Improvements: Upon the expiration or earlier termination of this Lease Agreement for any reason, all existing and future County installed fixtures, equipment, improvements and appurtenances attached to or built into the Leased Premises in such a manner as to become part of the freehold, whether or not by or at the expense of Lessee, shall become and remain a part of and be surrendered with the Leased Premises. Any furniture, furnishing, equipment or other articles of movable personal property owned by Lessee and located in the Leased Premises, shall be and shall remain the property of Lessee and may be removed by it at any time during the term of this Lease Agreement so long as Lessee is not in default of any of its obligations under this Lease Agreement, and the same have not become a part of the freehold, and so long as such does not materially affect Lessee's ability to use said Leased Premises and conduct its business as provided herein. However, if any of Lessee's property is removed and such removal causes damage to the Leased Premises, Lessee shall repair or pay the cost of repairing any damage to the Leased Premises resulting from such removal. Any property belonging to Lessee and not removed by Lessee at the end of the Lease Term or a renewal, if applicable, shall, at the election of the County, be deemed to be abandoned by Lessee, and the County may keep or dispose of such property and restore the Leased Premises to good order within ten (10) days after billing therefore. At the expiration of the term of this Lease Agreement, Lessee shall deliver to the County the keys and combinations to all safes, cabinets,

vaults, doors and other locks left by Lessee on the Leased Premises.

31. Lessee's Changes:

A. Conditions for Making Changes: After Commencement Date, and subject to approval of the County in writing, Lessee may at any time, at its expense, make such other alterations, additions, installations, substitutions, improvements and decorations (hereinafter collectively called "changes" and, as applied to changes provided in this Article, "Lessee's Changes"), in and to the Leased Premises, excluding structural changes, as Lessee reasonably may consider necessary for the conduct of its business in the Leased Premises, subject to approval by the County, additional to the following conditions:

- i. the outside appearance or structural integrity of the Buildings shall not be affected;
- ii. no part of the Buildings not included within the Leased Premises shall be physically affected;
- iii. the proper functioning of any of the material, electrical, sanitary, fire protection, and other service systems shall not be adversely affected;
- iv. in performing the work involved in making such changes, Lessee shall be bound by and observe all of the conditions and covenants contained in this Article; and
- v. at the expiration or any earlier termination of this Lease Agreement, on the County's written request, Lessee shall restore the Leased Premises to their condition prior to the making of any change permitted by this Article, reasonable wear and tear excepted, unless waived by the County in writing.

- B. Approvals for Changes, Cost and Insurance:** Lessee, at its expense, shall obtain all necessary governmental permits and certificates for the commencement of prosecution of Lessee's Changes and for final approval thereof upon completion, and shall cause Lessee's Changes to be performed in compliance therewith, and with all applicable laws and requirements of public authorities, and with all applicable requirements of insurance bodies, and in good and workmanlike manner, using materials and equipment at least equal in quality and class to the original installations of the Project, and so as not to impose any additional expense upon the County. Throughout the performance of Lessee's Changes, Lessee shall carry, or cause to be carried, insurance as set forth in Paragraph____. If any of Lessee's Changes shall involve the removal of any fixtures, equipment or property in the Leased Premises which are the County's Property, such fixtures, equipment or other property shall be promptly replaced, at Lessee's expense, with fixtures, equipment or other property of like utility and at least equal value unless the County shall otherwise expressly consent in writing.
- 32. Violations, Liens, and Security Interests:** Lessee, at its expense, and with diligence and dispatch, shall secure the cancellation or discharge of all notices of violation arising from or otherwise connected with Lessee's Changes or operations in the Leased Premises which shall be issued by any public authority having or asserting jurisdiction. Lessee shall promptly pay its contractors and materialmen for all work and labor done at Lessee's request. Should any such lien be asserted or filed, regardless of the validity of said liens or claims, Lessee shall bond against or discharge the same within ten (10) days of the filing of said encumbrance. In the event

Lessee fails to remove or bond against said lien by paying the full amount claimed, Lessee shall pay the County upon demand any amounts paid out by the County, including the County's costs, expenses and Counsel fees. Lessee further agrees to hold the County harmless from and to indemnify the County against any and all claims, demands and expenses, including attorney's fees, by reason of any claim of any contractor, subcontractor, materialman, laborer or any other third person with whom Lessee has contracted, or otherwise is found liable for, in respect to the Leased Premises. Nothing contained in this Lease Agreement shall be deemed, construed or interpreted to imply any consent or agreement on the part of the County to subject the County's interest or estate to any liability under any mechanic's or other lien asserted by any contractor, subcontractor, materialman or supplier thereof against any part of the Building or any of the buildings or improvements thereon (inclusive of the Leased Premises) and each such contract shall provide that the contractor must insert a statement in any subcontract or purchase order that the contractor's contract so provides for waiver of lien and that the subcontractor, materialman and supplier agree to be bound by such provision.

33. Lessee's Repairs and Maintenance: Lessee, at its expense, shall promptly make all repairs, ordinary or extraordinary, interior or exterior, structural or otherwise, in and about the Leased Premises, Common Area, and Building as shall be required by reason of (i) the performance by Lessee of any work on the Leased Premises; (ii) the installation, use or operation of Lessee's property; (iii) Lessee's portion of the utility lines in the Leased Premises, if damaged due to Lessee's negligence; (iv) the moving of Lessee's Property in or out of the Buildings; (v) the misuse or neglect of the Leased Premises by Lessee or any of its employees, agents or contractors, including the failure or neglect of Lessee to make the repairs required by the succeeding subsection hereof. Such repairs, other than those required to be made by the County

under Paragraph____, as may be necessary to maintain the Leased Premises and Lessee's property in as good order, condition, and repair as they are at the Commencement Date. Lessee shall, if due to its negligence, be responsible for repairs, maintenance, and replacements including all utility systems, serving same and appurtenances thereto, and shall keep them at all times neat, clean and in good repair, free from filth, overloading, danger of fire, explosion, or any nuisance, and return the same to the County, after removing all its property therefrom, at the expiration of the Lease Agreement Term, in as good condition as when received by Lessee, ordinary wear and use and casualty loss due to causes beyond Lessee's control excepted. Lessee agrees that it will cause no damage to foundations, roofs, walls or floors, and if it does, it will be liable to the County for the cost of repairs. If the Leased Premises are not surrendered as aforesaid, in addition to all other rights given to the County herein or by law:

- i. The County may, at its option, restore the Leased Premises to good order and condition and Lessee shall pay to the County within ten (10) days after billing therefore, as additional rent, the expense of such restoration; and
- ii. Lessee shall indemnify and hold harmless the County against any and all claims, demands, loss, or damage, including attorney's fees, resulting from the delay by Lessee in surrendering the Leased Premises including, but not limited to, claims made by any succeeding Lessee or Lessor based on such delay.
- iii. Lessee shall pay to County as liquidated damages for any holdover, in addition to amounts paid pursuant to (ii) above, double rent (including Monthly Guarantee Rent and Percentage Fee in an amount at least equal to the average yearly Percentage Fee therefore paid by Lessee).

Lessee's obligation to perform this covenant shall survive the termination of this

Lease.

34. Facilities: The Lessee hereby agrees to submit for approval by the County detailed plans and specifications for any anticipated leasehold improvements and shall construct the improvements in accordance with the approved plans. All equipment and personal property furnished by Lessee shall be of good quality and suitable for its purpose. The County shall have the right to require substitute equipment of personal property when such action is deemed necessary or desirable. Equipment acquired by the Lessee by purchase from the County that is unsuitable for Lessee's operation may be replaced with other equipment or personal property of the Lessee's choice, subject to the above conditions. It shall be the responsibility of the Lessee to coordinate activities with the County during any periods of construction and normal operations. The Lessee agrees to maintain said Leased Premises in the same condition, order, and repair as at the commencement of operations or after improvements, excepting only reasonable wear and tear arising from the use thereof under this Lease Agreement.

35. County Approval: The Lessee agrees that it will obtain prior written approval from the County in all of the following matters:

- A. Changes from originally approved specifications, activities, signage, and graphics.
- B. Equipment Lessee plans to install requiring any building modifications.
- C. Any use of the County's, or Building's name.

Further it is understood by the Lessee that should any of the above items be disapproved, Lessee may offer alternative solutions. The County shall be allowed sixty (60) days to reach a decision in any of the above matters and failure to do so within such period shall constitute approval.

36. County Approval of Change: The County reserves the right with stated just cause to require the Lessee to change within a stated time any and all items contained in Paragraph 35 it deems in need of change, despite previous approval of same.

37. Public Contact of Lessee's Employees: Lessee's employees in contact with the public shall perform their duties in an efficient and courteous manner. Lessee's employees will not be considered agents of the County.

38. Hours of Operation: The Leased Premises will be required to operate at least five (5) days a week during those hours approved by the County and as stipulated in the Operations Manual as approved by the County. Sufficient staff will be available to provide outstanding service. The County may require a change in days and/or hours of operation, if, in the reasonable discretion of the County, such a change is desirable in providing the best service to the public.

39. Pricing: Lessee shall maintain the pricing schedule as approved by the County, with prices comparable to those off-premises operations of its own company-owned or franchised stores in Miami-Dade County, if it is part of a company owned or franchised group of stores, or comparable to similar type operations if an independent or non-chain or franchise affiliated; and, in any effort to change prices Lessee will provide to the County a schedule of such proposed changes not later than ten (10) days prior to the intended implementation date, for approval, not to be unreasonably withheld, at any time during the Lease Term when price changes are contemplated.

40. Prior Approval Required: The Lessee agrees that it shall obtain prior written approval from the Department in all of the following matters pursuant to this Paragraph:

- A. hours of daily operation;
- B. uniforms to be used by employees; and
- C. The decor of the Leased Premises and all signs to be installed, erected, or displayed in or on the Buildings, and any changes thereto at any time during the term of this Lease.

41. Personnel: The Lessee shall provide the Department with the name and telephone number of a management person of the Lessee who will be on call, at all times, for emergencies or other

matters related to the operations under this Lease. The Lessee shall ensure that all its personnel are courteous and cooperative and present a neat, clean and professional appearance at all times.

42. On-Site Manager: Throughout the term of this Lease or any extensions thereof, the Lessee shall employ a qualified full-time on-site manager having experience in the management of this type of operation, who shall be available during normal business hours, and be delegated sufficient authority to ensure the competent performance and fulfillment of the responsibility of the Lessee under this Lease and to accept service of all notices provided for herein.

43. Monitoring Services: The Department shall have the right, without limitation, to monitor and test the quality of services of the Lessee, including, but not limited to personnel and the effectiveness of its cash-handling procedures, through the use of a shopping service, and other reasonable means.

44. Quality of Lessee's Service: The Lessee shall conduct its operations in an orderly manner and so as not to annoy, disturb, or be offensive to customers, patrons, or others in the immediate vicinity of such operations. The Lessee shall control the conduct, demeanor and appearance of its officers, members, employees, agents, representatives, and upon objection of the County concerning the conduct, demeanor or appearance of any such person, Lessee shall immediately take all necessary steps to correct the cause of such objection. Lessee shall take good care of said Leased Premises, shall use the same in careful manner and shall, at its own cost and expense, keep, maintain, and repair (excluding normal wear and tear) and, upon the expiration of this Lease Agreement or its termination in any manner, shall deliver said Leased Premises to the County in the same condition as at the commencement worse condition than the same was at the commencement of this Lease Agreement, with the exception of loss by fire or other casualty and ordinary wear and tear. Lessee shall furnish good, prompt and efficient service, adequate to meet

all reasonable demands therefore. The Lessee shall not conduct any business or activity not specifically authorized by this Lease Agreement in the Leased Premises, unless approved by the County. It is expressly understood and agreed that the said operation shall not interfere in any manner with the use of the public area or infringe upon the normal method of operations of any other parties authorized to conduct business at or near the location. The Lessee agrees that a determination by the County will be accepted as final in evaluating whether its activities infringe on the rights of others and that Lessee will fully comply with any decisions on this matter.

45. Services/Equipment Provided by County: The County shall provide the following:

- A. electrical as existing;
- B. water facilities as existing;
- C. sewage collection facilities as existing; and
- D. waste collection.

46. Equipment and Services Provided by Lessee: The Lessee, at its sole cost, shall provide:

- A. Janitorial Service maintaining the Leased Premises and equipment clean at all times.

If the Leased Premises and equipment are not kept clean in the opinion of the Department, the Lessee will be so advised, and if corrective action if not immediately taken, the Department will cause the same to be cleaned and the Lessee shall assume responsibility and liability for such cleaning.

- B. Extermination Service for Leased Premises.

47. Equipment Installed by Lessee: Any equipment, furnishings, signage and advertising installed by the Lessee shall be in keeping with the appropriate standards of decor at the Buildings and must be approved by the County prior to installation, which approval shall not be unreasonably withheld. The Lessee shall not install, remove or replace the equipment or furnishings without notification to, and prior approval, by the County, which approval shall not be unreasonably withheld. Following the installation of any additional equipment, furnishing

and improvements which the County may approve from time to time, Lessee shall provide to the County a statement setting forth the cost of such equipment, furnishings or improvements and the date upon which the installation of such equipment, furnishings and improvements was completed. Lessee agrees that all new equipment, furnishings and improvements provided shall meet the requirements of all applicable building, fire, pollution and other related codes. Lessee shall not alter or modify any portion of the Facility, the Leased Premises or the improvements constructed therein without first obtaining written approval from the County.

48. Maintenance Responsibilities of Lessee, Appearance of Leased Premises: Lessee shall, at its sole cost and expense, keep and maintain the Leased Premises in a clean and sanitary condition during the term of this Lease Agreement and any extension thereof. The provision of janitorial services and all interior maintenance within the Leased Premises are the sole and exclusive responsibility of the Lessee. Upon failure of the Lessee to maintain the Leased Premises as required, the Department may, after fifteen (15) days written notice to the Lessee, enter upon the Leased Premises and perform all cleaning, maintenance and repairs which may be necessary and the cost thereof, plus twenty-five percent (25%) for administrative costs, shall constitute additional rental(s), and shall be billed to and paid by the Lessee.

49. Damages: Lessee shall repair all damages to the leased or non-leased portions of the Leased Premises/Building caused by the Lessee, its employees, agents, or independent contractors.

50. Quiet Enjoyment of Leased Property: The County covenants and agrees that so long as no default exists in the performance of Lessee's covenants and agreements contained herein, Lessee may peaceably and quietly hold and enjoy the Leased Premises and all parts thereof for that portion of the Lease Term, free from eviction or disturbance by the County or any person

claiming under, by, or through the County.

51. Subordination: The County shall have the right to transfer, mortgage, assign, pledge, and convey in whole or in part the Leased Premises, this Lease Agreement and all rights of the County existing and to exist, and rents and amounts payable under the provisions hereof; and nothing herein contained shall limit or restrict any such right, and the rights of the Lessee under this Lease Agreement shall be subject and subordinate to all instruments executed and to be executed in connection with the exercise of any such right of the County, including, but not limited to, the lien of any mortgage, deed of trust, lease, or security agreement now or hereafter placed upon the Leased Premises and to all renewals or modifications thereof. This Paragraph shall be self-operative and no further instrument or subordination shall be required. Lessee covenants and agrees, if requested, to execute and deliver upon demand such further instruments confirming such subordination of this Lease Agreement to the lien of any such mortgage, deed of trust, permit, or security agreement as shall be requested by the County and/or any mortgagee, proposed mortgagee, or holder of any security agreement. Lessee hereby irrevocably appoints the County as its attorney in fact to execute and deliver any such instrument for and in the name of the Lessee.

52. Damage or Destruction of Leased Premises: If either the Leased Premises or the Building are partially damaged due to Lessee's negligence, but not rendered unusable for the purposes of this Lease Agreement, the same shall with due diligence be repaired by the Lessee from proceeds of the insurance coverage and/or at its own cost and expense. If the damage shall be so extensive as to render such Leased Premises unusable for the purposes intended, but capable of being repaired within thirty (30) days, the damage shall be repaired with due diligence by the Lessee from the proceeds of the insurance coverage policy and/or at its own cost and

expense. In the event the said Leased Premises and/or Building are completely destroyed due to Lessee's negligence, Lessee shall repair and reconstruct the premises so that they equal the condition of the Leased Premises and/or Building on the date possession was given to Lessee, and pay the County a rent based on the last Gross Receipts achieved, which reflects the County's income on the property preceding the date of destruction, for the remainder of time the Leased Premises remain untenable. In lieu of reconstructing, Lessee shall reimburse the County all expenses incurred by the County in restoring the Leased Premises to their original condition, plus Rent in accordance with the Lease Agreement, until the Leased Premises have been leased to another vendor or possession returned to Lessee. The election of remedies shall be at the sole discretion of the County.

53. County's Repair: The County, as its responsibility, and at its expense (except if the damage is caused by Lessee), shall make all repairs and replacements, structural and otherwise, necessary, or desirable in order to keep in good order and repair the foundations, roofs and structural soundness of floors and walls of the Leased Premises and the Common Areas of the Building. There shall be no allowance to Lessee for a diminution of rental value for interruption of business and no liability on the part of the County by reason of inconvenience, annoyance, or injury to business arising from the County, Lessee or others making any repairs, alterations, addition, improvements, restorations, or replacements, in or to any portion of the Building and/or Leased Premises, or in or to fixtures, appurtenances, or equipment thereof. The County shall be under no obligation to make any such repairs until and unless Lessee notifies the County in writing and the County agrees, of the necessity therefore, in which event the County shall have a reasonable time thereafter to make such repairs. Notwithstanding any other provision of this agreement to the contrary, Lessee's rent shall abate to the extent, and for such period of time, as

all or any portion of the Leased Premises and/or Building are rendered untenable by reason of any cause for which the County is legally liable.

54. Diminution for County's Repair: Except as elsewhere specifically provided in this Lease Agreement, there shall be no allowance to Lessee for a diminution of rental value and no liability on the part of the County by reason of inconvenience, annoyance or interference with Lessee's business arising from the County or its agents making any repairs, replacements, alterations, decorations, additions or improvements in or to any portion of the Leased Premises and/or Building, or in or to fixtures, appurtenances or equipment thereof, provided such work (except in case of emergency and to the extent practical) does not unreasonably interfere with Lessee's use of the Leased Premises and/or Building.

55. Performance of Obligations: Lessee covenants at all times during the term of this Lease Agreement to perform promptly all of the obligations of Lessee set forth in this Lease Agreement.

56. Ingress and Egress: Subject to rules and regulations, statutes and ordinances, and terms of this Lease Agreement governing the use of the facility, Lessee, its agents and servants, patrons and invitees, and his suppliers of service and furnishers of materials shall have right of ingress and egress to and from the Leased Premises.

57. Assignment, Subletting, and Successors in Interest: Lessee shall not assign, sublet, mortgage, pledge nor otherwise encumber this Lease Agreement nor any portion thereof, nor any property associated with this Lease Agreement without prior written approval of the County. Unapproved assignment, subletting, mortgaging, pledging or encumbering shall be grounds for immediate termination of this Lease Agreement. It is agreed that all terms and conditions of this Lease Agreement shall extend to and be binding on assignees, sublessees and other successors as

may be approved by the County. Lessee shall be liable for acts and omissions by any sublessee affecting this Lease Agreement. The County reserves the right to directly terminate (and evict or pursue any applicable remedy) any sublessee for any cause for which Lessee may be terminated.

58. Ownership of Lessee: The ownership of the Lessee is very important to the County. Therefore, the County reserves the right to terminate this Lease Agreement at any time if more than ten percent (10%) of the ownership of the Lessee has not been specifically approved by the County. The County shall reject any proposed new owner for any reason it believes is in the best interests of the public. Lessee agrees to provide on twenty-four (24) hour notice to the County an accurate list of all owners of the Lessee, showing the percentage of ownership of each owner, and, any change of corporate name or corporate ownership. Lessees, for which stock is listed on a major stock exchange, may be wholly or partially exempted from the list requirement of this Paragraph at the discretion of the County.

59. Security Deposit: Lessee shall furnish a Security Deposit in cash equal to three (3) months base rent, redeemable at the end of the Lease term except for such conditions pertinent thereto, or in such other media, as further described, acceptable to the County. The Lessee may, in lieu of a Security Deposit with the County, provide a Performance Bond or Irrevocable Letter of Credit in the same amount. This bond or Letter of Credit will be conditioned on the full and faithful performance of all covenants of this Lease Agreement. In the event that Lessee abandons performance or fails to perform as required, the County will execute on the Bond, draw upon the irrevocable letter of credit or retain the cash deposit, whichever is the case, and Lessee will be responsible for the balance of the debt, if any, that is owed. Additionally, if the County must draw upon any portion of the form of security provided, Lessee hereby agrees to restore the security to its original amount within seven (7) days of receiving notice by the County that the

security was drawn upon.

60. County's Property Insurance: Any insurance the County may maintain shall not cover Lessee's improvements and betterments, contents, or other property of Lessee. Lessee shall not violate, or permit the violation of, any condition imposed by any of the County's insurance policies, and shall not do, or permit anything to be done, or keep or permit anything to be kept in the Leased Premises which would increase the fire or other property or casualty insurance rate on the buildings or the property therein over the rate which would otherwise then be in effect (unless Lessee pays the resulting increased amount of premium as provided under the further terms hereof), or which would result in insurance companies of good standing refusing to insure the same or any of such property in amounts and at normal rates reasonably satisfactory to the County. If by reason of any act or omission on the part of Lessee the rate of property insurance on the Building, or equipment, or other property of the County, and/or other tenants shall be higher than it otherwise would be, Lessee shall reimburse the County, on demand, for that part of the premiums for property insurance paid by the County because of such act or omission on the part of Lessee, which sum shall be deemed additional rent for purposes of collection only.

61. Lessee's Property: Lessee is responsible for its improvements and betterments, equipment, furniture, fixtures, inventory and supplies or other Lessee property.

62. Not Applicable

63. Insurance Required From Lessee: The Contractor shall furnish to the Internal Services Department / Procurement Management Services, 111 NW 1st Street, Suite 1300, Miami, Florida 33128-1989, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

A. Worker’s Compensation Insurance for all employees of the Contractor as required by Florida Statute 440.

B. Commercial General Liability Insurance including Products and Completed Operations in an amount of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage. Miami Dade County must be shown as an additional insured with respect to this coverage.

C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than “A-” as to management, and no less than “Class VII” as to financial strength by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

or

The company must hold a valid Florida Certificate of Authority as shown in the latest “List of All Insurance Companies Authorized or Approved to Do Business in Florida” issued by the State of Florida Department of Financial Services.

NOTE: CERTIFICATE HOLDER MUST READ: MIAMI-DADE COUNTY
111 NW 1st STREET
SUITE 2340
MIAMI, FL 33128

Compliance with the foregoing requirements shall not relieve the Contractor of this liability and obligation under this section or under any other section in this Agreement.

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within ten (10) business days. If the insurance certificate is received within the specified timeframe but not in the manner prescribed in this Agreement, the Contractor shall have an additional five (5) business days to submit a corrected certificate to the County. If the Contractor fails to submit the required insurance documents in the manner prescribed in this Agreement within fifteen (15) business days, the Contractor shall be in default of the contractual terms and conditions and award of the Contract may be rescinded, unless such timeframe for submission has been extended by the County.

The Contractor shall be responsible for ensuring that the insurance certificates required in conjunction with this Section remain in force for the duration of the contractual period of the Contract, including any and all option years or extension periods that may be granted by the County. If insurance certificates are scheduled to expire during the contractual period, the Contractor shall be responsible for submitting new or renewed insurance certificates to the County at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the County shall suspend the Contract until such time as the new or renewed certificates are received by the County in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the County may, at its sole discretion, terminate this contract.

64. Not Applicable

65. Not Applicable

66. Indemnification: Contractor shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages,

including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Contractor or its employees, agents, servants, partners principals or subcontractors. Contractor shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

67. Taxes on Lessee's Personal Property: Lessee shall be responsible for and shall pay before delinquency all municipal, county, or state taxes assessed against any occupancy interest or personal property of any kind, owned by or placed in, upon or about the Leased Premises by Lessee.

68. Termination by County: The occurrence of any of the following shall cause this Agreement to be terminated by the County upon the terms and conditions also set forth below:

A. Automatic Termination:

- i. Institution of proceedings in voluntary bankruptcy or reorganization by the Lessee.
- ii. Institution of proceedings in involuntary bankruptcy against the Lessee if such proceedings continue for a period of ninety (90) days.
- iii. Assignment by Lessee for the benefit of creditors.

- iv. Abandonment or discontinuation of operations for more than a twenty-four (24)-hour period without prior written approval from the County.
 - v. The discovery of any misstatement in the Lessee's proposal leading to award of this Agreement, which in the determination of the County significantly affects the Lessee's qualifications to perform under the Lease Agreement
 - vi. Subject to the provisions of Paragraph____, unapproved change of ownership interest in Lessee and/or failure to submit the ownership list within twenty-four (24) hours upon the request of the County.
 - vii. Failure to cease any activity which may cause limitation of County's use of the Buildings.
- B. Termination after seven (7) calendar days written notice by the County either by posting on or at the Leased Premises and by certified or registered mail to any known address of Lessee set forth in Paragraph ____ hereof for doing any of the following:
- i. Non-payment of any sum or sums due hereunder after the due date for such payments; provided, however, that such termination shall not be effective if Lessee makes the required payment(s) during the seven (7) calendar day period following mailing of the written notice. Additionally, the County may sue for rent for the unexpired term of this Lease Agreement.
 - ii. Notice of any condition posing a threat to health or safety of the public or patrons and not remedied within the seven (7) calendar day period from receipt of written notice.
- C. Termination after fourteen (14) days from receipt by Lessee of written notice having either been posted on or at the Leased Premises or by certified or registered mail to

the address of the Lessee set forth in Paragraph ____ hereof:

- i. Non-performance of any covenant of this Lease Agreement other than non-payment of rent and others listed in A and B above, and failure of the Lessee to remedy such breach within the thirty (30) calendar day period from receipt of the written notice.
- ii. A final determination in a court of law in favor of the County in litigation instituted by the Lessee against the County or brought by the County against Lessee.

In the event that the County terminates this Lease by operation of any of the provisions as stated in Paragraphs ____ and ____, then in addition to other rights and remedies available to the County under the law, the County may accelerate the rental payments under this Lease, whereupon the entire balance owed for the current Term by the Lessee under this Lease shall become immediately due and payable without further notice or demand.

- D. Revenue Control and Audit Defaults:** The inability or failure of the Lessee to provide the County with an unqualified certified statement of Gross Receipts pursuant to Paragraph____, or to strictly adhere to the revenue control procedures established pursuant to Paragraph____ shall constitute a non-curable default and in such event the County shall have the right to terminate this Lease upon seven (7) calendar days written notice to the Lessee. In addition to termination for such default, the County shall be entitled to collect damages in the full amount of the payments of the security deposit required pursuant to Paragraph 64 hereof.
- E. Habitual Default:** Notwithstanding the foregoing, in the event that the Lessee has frequently, regularly, or repetitively defaulted in the performance of, or breached

any of the terms, covenants, and conditions, required herein to be kept and performed by the Lessee, regardless of whether the Lessee has cured each individual condition of breach or default as provided in Paragraphs ____ herein above, the Lessee shall be determined by the Director of the Department to be an "habitual violator". At the time that such determination is made, the Department shall issue to the Lessee a written notice advising of such determination and citing the circumstances therefor. Such notice shall also advise the Lessee that there shall be no further notice or grace periods to correct any subsequent breaches or defaults and that any subsequent breach(es) or default(s), of whatever nature, taken with all previous breaches and defaults, shall be considered cumulative and, collectively, shall constitute a condition of non-curable default and grounds for immediate termination of this Lease. In the event of any such subsequent breach or default, County may cancel this Lease upon the giving of written notice of termination to the Lessee, such cancellation to be effective upon the tenth (10) day following the date of receipt thereof and all payments due hereunder shall be payable to said date, and the Lessee shall have no further rights hereunder. Immediately upon receipt of said notice of termination, the Lessee shall discontinue its operations at the Leased Premises, and proceed to remove all its personal property in accordance with provisions stated herein.

69. Termination by Lessee: Lessee shall have the right upon thirty (30) calendar days from receipt of written notice to the County by certified or registered mail to the address set forth in Paragraph ____ hereof to terminate this Agreement at any time after the occurrence of one or more of the following events:

- A. Issuance by any court of competent jurisdiction of any injunction substantially restricting the use of the Leased Premises for the purposes set forth herein, and the remaining in force of said injunction for a period of more than thirty (30) calendar days.
- B. A breach by the County of any of the terms, covenants or conditions contained in this Agreement and the failure of the County to remedy such breach for a period of ninety (90) calendar days after receipt of written notice sent by registered or certified mail, return receipt requested, from the Lessee, of the existence of such breach.
- C. The assumption by the United States Government or any authorized agency thereof, or any other governmental agency, of the operation, control, or use of the Building, or any substantial part, or parts, thereof in such a manner as substantially to restrict Lessee's operations for a period of ninety (90) calendar days or more.

70. Non-Discrimination: Lessee does hereby for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, covenant and agree that:

- A. no person on the ground of race, color, religion, national origin, sex, age, or handicap shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said Leased Premises, except for bonafide causes allowed by law;
- B. that in the construction of any improvements on, over, or under such land and the furnishings of services thereon, no person on the ground of race, color, religion, national origin, sex, age, or handicap shall be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, except for

bonafide causes allowed by law; and

- C. that the Lessee shall use the Leased Premises in compliance with all other requirements imposed by or pursuant to Title 45, Code of Federal Regulations, Article 80, Non-discrimination under programs receiving Federal Assistance through the County of Health, Education and Welfare - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

That in the event of breach of any of the above non-discrimination covenants, the County shall have the right to terminate the Agreement and re-enter and repossess said Leased Premises thereon and hold the same as if said Lease Agreement had never been made or issued. This provision shall not be effective, where applicable, until the procedures of Title 45, Code of Federal Regulations, Part 80, are followed and completed including exercise or expiration of appellate rights. Lessee shall not discriminate against any employee or applicant for employment in the performance of the contract with respect to hiring, tenure, terms, conditions, or privileges of employment because of age, sex or physical handicap (except where based on a bona fide occupational qualification); or because of marital status, color, religion, national origin, or ancestry.

71. No Waiver of Right to Enforce: The waiver by County of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, or any subsequent breach of the same or any other term, covenant, or condition herein contained. The subsequent acceptance of rent hereunder by County shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant, or condition of this Lease, other than the failure of Lessee to pay the particular rental so accepted, regardless of County's knowledge of such preceding breach at the time of acceptance of such rent. No covenant, term,

or condition of this Lease shall be deemed to have been waived by County, unless such waiver is in writing by County, nor shall there be any accord and satisfaction unless expressed in writing and signed by both County and Lessee.

72. Rules and Regulations: The Lessee will observe, obey, and comply with all rules and regulations adopted by the County and all laws, ordinances and/or rules and regulations of other governmental units and agencies having lawful jurisdiction, which may be applicable to Lessee's operations under this Lease Agreement. Failure to do so will constitute a breach of the Lease Agreement.

73. Payment of Obligations: Lessee shall pay all taxes and other costs lawfully assessed against its leasehold interest in the Leased Premises, its improvements and/or its operations under the Lease Agreement; provided, however, that Lessee shall not be deemed to be in default of its obligations under this Lease Agreement for failure to pay such taxes pending the outcome of any legal proceedings instituted to determine the validity of such taxes and/or other costs. The Lessee shall procure, at the sole cost of the Lessee, all permits, licenses, and approvals required of Lessee for this operation and performance under this Lease Agreement.

74. Hurricane Preparedness: The Lessee shall follow the County's emergency evacuation and hurricane plan and its emergency evacuation and hurricane plans as submitted in County approved Operations Manual which shall not be in conflict with the County's emergency plans.

75. Inspection by County: The County shall have the authority to make periodic reasonable inspections of all the Leased Premises, equipment, and operations during the normal operating hours thereof to determine if such are being maintained in a neat and orderly condition. The Lessee shall be required to make any improvements in cleaning or maintenance methods reasonably required by the County. Such periodic inspections may also be made at the County's

discretion to determine whether the Lessee is operating in compliance with the terms and provisions of this Agreement.

76. Right of Entry: The County shall have the right to enter upon the Leased Premises during normal business hours, and at other times in the event of an emergency, as commonly determined, to examine same and to make such repairs, alterations, replacements, and/or improvements in the Leased Premises as the County deems necessary, but the County assumes no obligation to make repairs in the Leased Premises other than those expressly provided for in this Lease Agreement. The County agrees, however, that any such repairs, alterations, replacements, and/or improvements shall be made with minimum amount of inconvenience to Lessee and that the County will diligently proceed therewith to completion. The County or the County's agents shall also have the right to enter upon the Leased Premises at reasonable times to show them to actual or prospective mortgagees, tenants, or lessees of the Buildings. During the one hundred and eighty (180) days prior to the expiration of the term of this Lease Agreement, the County may show the Leased Premises to prospective tenants. If, during the last ninety (90) days of the term of this Lease Agreement, Lessee shall have removed all or substantially all of Lessee's property therefrom, the County may immediately enter, alter, renovate, and/or redecorate the Leased Premises without elimination or abatement of rent or other compensation and such action shall have no effect upon this Lease Agreement.

77. Signs: The nature, size, shape and installation of Lessee's business signs within the Leased Premises or in, on or adjacent to the Buildings must first be approved in writing by County. Said signage must also be approved by all governmental authorities having jurisdiction and must conform to the requirements set forth in the Rules and Regulations. All signs shall be removed by the Lessee at termination of this Lease and any damage or unsightly condition

caused to the premises because of or due to said signs shall be satisfactorily corrected or repaired by the Lessee.

78. Not Applicable

79. Facility Repairs, Alterations, and Additions by the County: The County shall have the absolute right to make reasonable repairs, alterations, and additions to any structures and facilities, including the Leased Premises leased under this Lease Agreement, free from any and all liability to the Lessee for loss of business or damages of any nature whatsoever during the making of such repairs, alterations, and additions, except for such damage caused by the sole negligence or intentional misconduct by the County and where not otherwise indemnified by the Lessee. In making such repairs, alterations, and additions, the County shall take such reasonable measures as are necessary to minimize interference with Lessee's operations of the Leased Premises. If the Lessee's business is interrupted, a pro-rata adjustment of the Monthly Rent Guarantee payable hereunder for the period of such interruption shall be made.

80. Surrender of Leased Premises: At the expiration or earlier termination of the term of this Lease Agreement, Lessee shall peaceably surrender the Leased Premises in as good a condition as the Leased Premises were on the Commencement Date of this Lease Agreement, ordinary wear and tear and damage by condemnation, fire or other casualty excepted. Lessee shall deliver all keys for the Leased Premises to the County at the place then fixed for the payment of rent, and shall notify the County in writing of all combinations of locks, safes and vaults, if any, in the Leased Premises. Ordinary wear and tear shall be deemed not to include damage or injury caused by moving Lessee's property or trade fixtures into or out of the Leased Premises. Lessee's obligation to observe and perform the covenants set forth in this paragraph shall survive the expiration or earlier termination of the term of this Lease Agreement.

81. Termination of Contract: Following the termination of this Lease Agreement the Lessee, within thirty (30) calendar days, or earlier if determined by the County, shall forthwith remove all of its personal property not acquired under the terms of this Lease Agreement. Any personal property of Lessee not removed in accordance with this paragraph may be removed by the County for storage at the cost of the Lessee or shall constitute a gratuitous transfer of title thereof to the County for whatever disposition is deemed to be in the best interests of the County. The County shall not be liable to Lessee for the safekeeping of Lessee's personal property during or after termination of this Agreement. The County shall have the senior interest in the Lessee's personal property. Lessee shall not remove any equipment, supplies in bulk, or fixtures within the Leased Premises at any time without pre-approval in writing from the County. Lessee shall be liable to the County for the fair market value of any equipment, supplies in bulk, or fixtures removed without County pre-approved written permission. Lessee shall also be liable for any expenses incurred by the County in prosecuting any action against Lessee following unapproved item removal described above. Lessee shall also be liable to the County for any expenses incurred by the County in replacing any items wrongfully removed by Lessee. It is the intention of the parties to this Lease Agreement that all furnishings and equipment purchased or leased by the Lessee, except those permanently affixed to buildings, as defined under the laws of the State of Florida, shall be the personal property of the Lessee. Upon the termination of this Lease Agreement and the removal of all personal property by Lessee, the Lessee shall deliver said Leased Premises to the County in the condition set forth in Paragraph ___ hereof.

82. Approvals: Except as provided otherwise, whenever prior approvals are required hereinabove by either party, such approvals shall not be unreasonably withheld.

83. Indulgence Not Waiver: The indulgence of either party with regard to any breach or failure to perform any provision of this Lease Agreement shall not be deemed to constitute a waiver of the provisions or any portion of this Agreement, either at the time of breach or failure occurs or at any time throughout the term of this Lease Agreement.

84. Notices: Any notices submitted or required by this Lease Agreement shall be sent by registered or certified mail or by acceptable commercial expedited delivery service, addressed to the parties as follows:

To the County: **Miami-Dade County**
 Internal Services Department
 111 N.W. 1st Street, 24th Floor
 Miami, Florida 33128

To the Lessee:

or to such other address as either party may designate in writing, and where receipt of same is acknowledged by the receiving party. The County may alternatively provide notice by posting written notice on or at the Leased Premises. If attempted delivery of such notice by mail is thwarted by any avoidance of receipt or unavailability for receipt by the intended recipient, that notice will have the effect of being constructively received by the recipient.

85. Rights to be Exercised by Department: Wherever in this Agreement rights are reserved to the County, such rights may be exercised by the Department.

86. Interpretations: This Lease Agreement and the exhibits and attachments hereto, and other documents and agreements specifically referred to herein, constitute the entire, fully integrated Lease Agreement between the parties with respect to the subject matter hereof and supersede all prior or contemporaneous verbal or written agreements between the parties with respect thereto, excepting any past or contemporaneous written or verbal agreements expressly and clearly incorporated by reference within the four corners of this Lease Agreement. This

Lease Agreement may be amended only by written document, properly authorized, executed, and delivered by both parties hereto. For the County, appropriate authorization shall be construed to mean appropriate formal action by the Board of County Commissioners, the County Mayor, or the Mayor's designee. This Lease Agreement shall be interpreted as a whole unit and paragraph headings are for convenience only. The Lease Agreement shall not be construed in favor of one party or the other. All matters involving the Lease Agreement shall be governed by laws of the State of Florida.

87. Security: The Lessee acknowledges and accepts full responsibility for the security and protection of the Leased Premises and all of its equipment, other personal property and money used in connection therewith. The County makes no warranties as to any obligation to provide security for the Leased Premises outside of standard security measures supplied by the County in the Building in general. Lessee may provide its own specialized security for the Leased Premises, subject to the County's written approval. Absence of said Lessee security measures shall not increase the County's security obligation.

88. Rights Reserved to County: All rights not specifically granted to the Lessee by this Lease are reserved to the County. The designation of any particular remedy for the County is without prejudice to any other relief available in law or equity, and all such relief is reserved to the County.

89. Lien: The County shall have a lien upon all personal property of the Lessee within the Leased Premises to secure the payment to the County of any unpaid money accruing to the County under the terms of this Lease.

90. Entirety of Agreement: The parties hereto agree that this Lease Agreement sets forth the entire agreement between the parties, and there are no promises or understandings other than

those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except as may be specifically authorized herein or by written instrument executed by the parties hereto.

91. Headings: The headings of the various Paragraphs and Sections of this Lease, and its Table of Contents, are for convenience and ease of reference only, and shall not be construed to define, limit, augment or describe the scope, context or intent of this Lease or any part or parts of this Lease.

92. Waiver: Waiver of any breach shall not constitute waiver of any other breach. Invalidation of any portion of this Lease Agreement shall not automatically invalidate the entire Agreement.

93. Performance: The parties expressly agree that time is of the essence in the performance of this Agreement and that the failure by the Lessee to complete performance within the time specified, or within a reasonable time, if no time is specified herein, shall relieve the County of any obligation to accept such performance.

94. No Partnership or Agency: The County and the Lessee are independent entities and the officers, employees, and agents of one are not, and shall not represent themselves to be, officers, employees, or agents of the other. This Lease Agreement does not constitute and shall not be represented to constitute a partnership between the County and the Lessee.

95. Choice of Venue: Any litigation between the County and the Lessee relating in any way to this Lease Agreement shall be brought and presented exclusively in a Court located in Miami-Dade County, Florida.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date first herein above set forth.

ATTEST:

MIAMI-DADE COUNTY

Clerk of the Board

BY: _____

WITNESS

BY: _____

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

Assistant COUNTY ATTORNEY

BY: _____

DATE: _____

EXHIBITS

(To be Attached)

Exhibit A	Plan of Leased Premises
Exhibit B	Lessee's Floor Plan
Exhibit C	Lessee's Work
Exhibit D	Lessee's Design Criteria and Sign Criteria
Exhibit E	Rules and Regulations
Exhibit F	Additional Provisions



**PROPOSAL SUBMISSION PACKAGE
REQUEST FOR PROPOSALS (RFP) No. RFP-00070
CHILDREN'S COURT HOUSE FOOD SERVICE FACILITY DEVELOPMENT AND OPERATION**

In response to the Solicitation, Proposer shall RETURN THIS ENTIRE PROPOSAL SUBMISSION PACKAGE as follows:

1. Proposal Submittal Form, Cover Page of Proposal

Complete and sign the Proposal Submittal Form (by Proposer or representative of the Proposer who is legally authorized to enter into a contractual relationship in the name of the Proposer) as required.

2. Proposer Information

Complete following the requirements therein – present responses to question as posed in the Proposer Information document which follows this cover page.

Note: The Proposer Information document is available in Word and is included in the Solicitation attachments.

3. Affidavits/Acknowledgements

Complete and sign the following:

- Lobbyist Registration for Oral Presentation
- Fair Subcontracting Practices
- Subcontractor/Supplier Listing
- Contractor Due Diligence Affidavit

4. Form B-1, Proposed Revenue Schedule

Complete following the requirements therein.

Please refer to the front cover of this Solicitation for electronic submission instructions.

PROPOSER INFORMATION

Proposer's Experience and Past Performance

1. Describe the Proposer's past performance and experience and state the number of years that the Proposer has been in existence, the current number of employees, and the primary markets served. Provide information concerning operating a similar type food facility where cooking was not permitted at the cafeteria/restaurant/food establishment.
2. Provide a detailed description of comparable contracts (similar in scope to those requested herein) which the Proposer has either ongoing or completed within the past three years. The description should identify for each project: (i) client, (ii) description of work, (iii) total dollar value of the contract, (iv) dates covering the term of the contract, (v) client contact person and phone number, (vi) statement of whether Proposer was the prime contractor or subcontractor, and (vii) the results of the project. Where possible, list and describe those projects performed for government clients or similar size private entities (excluding any work performed for the County).
3. List all contracts which the Proposer has performed for Miami-Dade County. The County will review all contracts the Proposer has performed for the County in accordance with Section 2-8.1(g) of the Miami-Dade County Code, which requires that "a Bidder's or Proposer's past performance on County Contracts be considered in the selection of Consultants and Contractors for future County Contracts." As such the Proposer must list and describe all work performed for Miami-Dade County and include for each project: (i) name of the County Department which administers or administered the contract, (ii) description of work, (iii) total dollar value of the contract, (iv) dates covering the term of the contract, (v) County contact person and phone number, (vi) statement of whether Proposer was the prime contractor or subcontractor, and (vii) the results of the project.
4. Provide Proposer's experience/knowledge in applicable rules, licenses for build-out of improvements and for the operation of a food service facility of the type requested in the Solicitation.

Key Personnel and Subcontractors Performing Services

5. Provide a Food Service Facility organizational and management structure chart showing key personnel, their titles and responsibilities, their qualification and related experience for this project. All key personnel include all partners, managers who will perform work and/or services in this project.
6. List the names and addresses of any and all first tier subcontractors, and describe the extent of work to be performed by each first tier subcontractor. Describe the experience, qualifications and other vital information, including relevant experience on previous similar projects, of the subcontractors who will be assigned to this project.
7. Describe the experience, qualifications and other vital information, including relevant experience on previous similar projects, of all key personnel (Operations Manager, Certified food manager, etc.), including those of subcontractors, who will be assigned to this project.
8. Provide resumes, if available with job descriptions and other detailed qualification information on all key personnel (Operations/Onsite Manager, Certified food manager, etc.) who will be assigned to this project, including key personnel of any subcontractors.

Note: After proposal submission, but prior to the award of any contract issued as a result of this Solicitation, the Proposer has a continuing obligation to advise the County of any changes, intended or otherwise, to the key personnel identified in its proposal.

Proposed Approach to Providing the Services

9. Describe Proposer's specific approach to setting up a food service facility, describe the food service facility and detail the procedures to be used in providing the services in the Scope of Services (see Section 2.0).
10. Describe Proposer's approach to project organization and management, including the responsibilities of Proposer's management and staff personnel that will perform work at this facility, and number of employees and their roles. Explain the Proposer's approach considering there will be no cooking allowed on the Leased Premises.
11. Present a preliminary conceptual plan with renderings which illustrates how the Proposer proposes the premises to look. Include proposed equipment, dispensers, furnishings, lighting, etc.
12. Present a preliminary Operations Manual identifying management practices; marketing plan, signs, displays, etc.; training of employees, providing excellent customer service and monitoring same; provide Proposer's approach to keeping the location secure, safe and how Proposer will ensure that food served is safe and healthy; provide Proposer's approach to maintaining the Leased Premises and equipment furnishings, etc. clean and maintained; provide evacuation and hurricane plans; and other operations information the Proposer usually provides in operations manual. Describe Proposer's approach to providing needed services at Leased Premises e.g. pest control, security, janitorial/cleaning.
13. Provide a project schedule identifying specific key tasks and duration for build-out of improvements and the process for operation.
14. Describe accounting and record keeping practices and how receipts will be recognized. What kind of information/reports will Proposer submit to County to validate sales receipts?
15. Present a proposed menu with pricing and list of items the Proposer anticipates selling at the Food Services Facility.
16. Describe Proposer's practices in providing quality products.
17. Present a pro-forma for the five year term.
18. Financial Requirements – describe Proposer's financial strength and how it plans to finance the build out improvements and to provide for start up dollars for operation and maintaining the operation ("working capital") during critical start up period. Proposer should provide information concerning anticipated costs for the improvement and start up monies.
19. Provide its most recent certified business financial statements as of a date not earlier than the end of the Proposer's preceding official tax accounting period, together with a statement in writing, signed by a duly authorized representative, stating that the present financial condition is materially the same as that shown on the balance sheet and income statement submitted, or with an explanation for a material change in the financial condition. A copy of the most recent business income tax return will be accepted if certified financial statements are unavailable.
20. Information concerning any prior or pending litigation, either civil or criminal, involving a governmental agency or which may affect the performance of the services to be rendered herein, in which the Proposer, any of its employees or subcontractors is or has been involved within the last three years.
21. Identify if Proposer has taken any exception to the terms of this Solicitation. If so, indicate what alternative is being offered and the cost implications of the exception(s).

FORM B-1

Proposed Revenue Schedule to County

INSTRUCTIONS:

Present Proposer’s payment proposal on this Form B-1 “Payment Proposal Schedule” and in the manner stated herein. The pricing includes a Guaranteed Monthly Rent and a Percentage of Monthly Gross Receipts, as further detailed below.

A. Payment Proposal for Guaranteed Monthly Rent and Percentage of Monthly Gross Receipts

1. Guaranteed Monthly Rent – which includes the County providing electricity, water and sewer and trash/recycling removal and all associated common area fees.

The Proposer shall pay the County _____ dollars
 (\$_____) per month. (Insert written amount)
 (Insert number)

Such Guaranteed Monthly Rent and any applicable tax(es) shall be received by the County from the selected Proposer by the first day of the month in advance, without billing, from the Date of Beneficial Occupancy, or 180 days after Commencement Date, whichever is sooner, through the termination date of the Agreement. The Guaranteed Monthly Rent shall be adjusted upward at the end of each Lease (or License) Agreement Year, based on the Consumer Price Index (CPI), as defined in Section 6.0, Form of Agreement.

AND

2. Percentage of Monthly Gross Receipts

The selected Proposer shall also pay to the County _____ percent
 (Insert written amount)

(_____ %) of total Monthly Gross Receipts.
 (Insert number)

Such Percentage of Monthly Gross Receipts shall be received by the County from the selected Proposer by the tenth (10th) of the month for each preceding month. Monthly Gross Receipts is as defined in Section 6.0, Form of Agreement.

Proposer: _____

Authorized Signature: _____

Print Name & Title: _____

Federal Employer Identification Number: _____

Address: _____

City/State/Zip: _____

Telephone: (____) _____

Attachment A

Building Rules and Regulations*

1. All persons (visitors & employees) and packages will be searched by means of the electronic screening equipment.
2. All hand carried articles including purses, briefcases, laptops, PDA's, cell phones, pagers, cameras, books, raincoats, umbrellas, bags, and other packages will be electronically searched before entering the building.
3. The following items are considered prohibited and will not be allowed into the building: chemical weapons, mace, pepper spray, metallic knuckles, slingshots, ammunition, bladed items, box cutters, razor blades, broken glass.
4. All vendor personnel conducting work in the facility must present identification and check in via the Building Manager's Office.
5. Hot work, welding, and brazing is prohibited without the expressed authorization from the Building Manager's Office.
6. Vendors entering the Loading Dock in order to make deliveries must be escorted by restaurant personnel.
7. Vendors working afterhours, holidays, and weekends must be cleared by AOC Security Management.
8. Deliveries permitted between 9 a.m. and 3:30 p.m.
9. Smoking is only permitted in exterior designated areas. There is no smoking inside the facility (including Loading Dock).

* These are the current rules and regulations, the Lessee shall be subject to any and all Building Rules and Regulations as may be amended.

Attachment B
Performance and Payment Bond Form



**MIAMI-DADE COUNTY, FLORIDA
PERFORMANCE AND PAYMENT BOND**

Any change, alteration or addition to this form will disqualify this Performance and Payment Bond

STATE OF FLORIDA)
) SS
COUNTY OF DADE)

KNOW ALL MEN BY THESE MEANS THAT _____

_____ As Principal, and _____

A corporation organized under the laws of the State of _____ with its home office in the city of _____, as Surety, (said Principal and said Surety hereinafter collectively being referred to as Obligor), are held and finally bound unto Dade County, Florida, acting by and through the BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, and their successors in office, hereinafter called the Obligee, in the sum of \$ _____ lawful money of the United States of America, for the payment whereof to the Obligee, the Principal and Surety respectively bind themselves, their successors, heirs, and assigns, jointly and severally, finally by these present.

Signed, sealed and dated this _____ day of _____, 20 _____.

WHEREAS the Principal and Obligee have entered into a written contract, hereinafter called the "Contract" for _____

As evidenced by contract and specifications made a part thereof, entered into between the Principal and the Obligee on the _____ day of _____, 20 _____ a copy of which Contract may be attached hereto and is hereby referred to and made a part thereof.

NOW, THEREFORE, the conditions of the foregoing obligation is such that if the Principal shall indemnify the Obligee for all loss that the Obligee may sustain by reason of the Principal's failure to comply with any of the terms of the Contract, then this obligation shall be void; otherwise, it shall remain in full force.

THIS BOND shall also be security for the performance by the Principal and Surety of the following additional covenants and obligations, and the recitals and references herein contained shall constitute a part of this Bond and obligation:

1. Said Principal (Contractor) shall well and truly perform; carry out and abide by all terms, conditions and provisions of said Contract including all maintenance and warranty provisions and furnish complete the items herein specified in accordance with the terms thereof, and the Obligor herein shall and does hereby agree to indemnify the Obligee and hold it harmless of, from and against any and all liability, loss, cost, damage or expense and attorney's fees, including appellate proceedings, which said Dade County, Florida may incur or which may accrue or be imposed upon either thereof by reason of any negligence, default and/or misconduct on the part of the said contractor, and _____ agents, servants, and/or employees, in, about or on account of the performance of said contract by the said contractor, and shall repay to and reimburse to the said Dade County, Florida, promptly upon demand, all sums of money, each and every, reasonably paid out or expended by the said Obligee on account of the failure and/or refusal of said contractor to carry out, do, perform and/or comply with any of the terms and provisions of said Contract at the time and in the manner therein provided.
2. The Principal will make payments to all persons supplying Principal labor, material and supplies used directly or indirectly by the Principal or any subcontractors of the Principal in the prosecution of the work provided for in said Contract.
3. Each and every person, natural and artificial, for whose benefit this bond has been executed as disclosed by the text of this bond and of said Contract, specifications, drawings and all papers, and of said agreement and instruments attached and made a part of said Contract, and each and every person, natural and artificial, supplying labor, materials and supplies in furtherance of said Contract, shall have the same several rights of suit or action upon this bond as if he or they were the Obligee or Obligees herein specially mentioned, and the obligations hereof shall be several as to the rights of said persons or said Obligees hereof.
4. In each and every suit brought against the Obligor upon this bond in which the Plaintiff shall be successful, there shall be assessed therein against the Obligor herein, in favor of the Plaintiff therein, reasonable counsel fees, which the Obligor hereby expressly agrees to pay as part of the cost and expense of such suit.

Attachment B
Performance and Payment Bond Form

IN WITNESS WHEREOF THE PRINCIPAL AND THE SURETY HAVE EXECUTED THESE

Presents this _____ day of _____, 20_____

WHEN THE PRINCIPAL IS AN INDIVIDUAL:

Signed, sealed and delivered in the presence of: _____
Printed Name of Individual

Two Witnesses

Signature of Individual



WHEN THE PRINCIPAL IS SOLE PROPRIETORSHIP OR OPERATES UNDER TRADE NAME:

Signed, sealed and delivered in the presence of: _____
Name of Firm

Signature of Individual

Two Witnesses

Printed Name of Individual



WHEN THE PRINCIPAL IS A PARTNERSHIP:

Signed, sealed and delivered in the presence of: _____
Name of Firm – A Partnership

Printed Name of One Partner

Two Witnesses

Signature of One Partner



WHEN PRINCIPAL IS A CORPORATION:

Secretary

Correct Name of Corporation

(Affix Corporate Seal) By: _____
President or Vice-President



Attest: _____
Corporate Surety

Countersigned: _____
Business Address

Florida Resident Agent By: _____
Corporate Seal

Attachment C

Sample Pro Forma

Sales	Reference	Year 1	Year 2	Year 3	Year 4	Year 5
Food Sales						
Beverage Sales						
Gross Sales Revenue						
Less Sales Tax Collected						
Net Sales Receipts						
Labor						
Costs						
Payroll						
Taxes and Benefits						
Total Labor Costs						
Operating Expenses						
Corporate Overhead						
Insurance						
Repair & Maintenance						
Utilities						
Professional Services						
Vehicle(s)						
Miscellaneous Costs (Licenses, Taxes, etc.)						
Total Operating Expenses						
Interest and Depreciation						
Interest						
Depreciation (annual charges for replacements of inventory)						
Total Interest and Depreciation						
Facility Improvement Expenses						
Net Profit: (Revenue-Total Expenses)						
Proposed Financial Information						
Proposed Monthly Guarantee						
Proposed % of Gross Receipts						