

CITY OF BIRMINGHAM-PURCHASING DIVISION
710 NORTH 20TH STREET
P-100 CITY HALL
BIRMINGHAM, AL 35203-2227
OFFICE: (205) 254-2265 / FAX: (205) 254-2484

TONYA ADAMS, PRINCIPAL BUYER
EDWARD WILLIAMS, ASST. PURCHASING AGENT

December 17, 2025
ITB: 26-15

TO:	Prospective Bidders
INVITATION TO BID NUMBER:	Bid #26-15 (A complete copy can be downloaded at www.birminghamal.gov)
SEPARATE SEALED BIDS FOR:	FOOD SERVICE – CITY HALL CAFETERIA
INVITATION TO BID RESPONSES WILL BE RECEIVED BY:	Tonya Adams, Principal Buyer Purchasing Division 710 North 20 th Street, P-100 City Hall Birmingham, AL 35203-2227

*****IMPORTANT SOLICITATION DATES*****

MANDATORY SITE VISIT:	INQUIRY DUE DATE:	BID DUE DATE:	BID OPENING DATE:
December 22, 2025, at 3:30 PM (Central Standard Time)	December 23, 2025, by 5:00 PM (Central Standard Time)	January 7, 2026, by 5:00 PM (Central Standard Time)	January 8, 2026, at 11:00 AM (Central Standard Time)

Bidders wishing to bid can download the complete solicitation, including the specifications and bid forms via the internet at www.birminghamal.gov (go to link titled Work, then click on Bidding Opportunities), or by visiting the Purchasing Office at the address shown above, or by calling (205) 254-2265 and requesting a copy be mailed to you.

BID OPENING WILL BE HELD AT:
Purchasing Division
710 North 20th Street
P-100 City Hall
Birmingham, AL 35203-2227

TELEPHONE INQUIRIES – NOT ACCEPTED

Telephone inquiries with questions regarding clarification of any and all specifications of the ITB will not be accepted. All questions **must** be e-mailed to Tonya Adams at tonya.adams@birminghamal.gov.

Submissions may be withdrawn, modified, and resubmitted prior to the formal bid opening due date. **Any submission modification(s) submitted after the “Bid Opening Due Date” may not be considered.**

The City of Birmingham reserves the right to accept or reject any or all bids, or any part of any bid, and to waive any informalities or irregularities in the bid. The City of Birmingham may award contract in whole or in part based on the needs of the City of Birmingham.

All costs incurred by the company to respond to this solicitation will be wholly the responsibility of the Bidder. All copies and contents of the bid, attachments, and explanations thereto submitted in response to this ITB, except copyrighted material, shall become the property of the City of Birmingham regardless of the bidder selected. Response to this solicitation does not constitute an agreement between the Bidder and the City of Birmingham. The successful bidder(s) is sometimes referred to herein as the “Vendor”.

The City of Birmingham is not responsible for delays occasioned by the U.S. Postal Service, the internal mail delivery system of the City of Birmingham or any other means of delivery employed by the bidder. Similarly, the City of Birmingham is not responsible for, and will not open, any bid responses which are received later than the date and time indicated above. Late bid responses will be retained in the bid file, unopened.

Published: Alabama Messenger –12/17/25

RELEASED BY:



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INVITATION TO BID

Sealed bids marked "FOOD SERVICE – CITY HALL CAFETERIA", will be received by the Purchasing Agent, 710 North 20th Street, P-100 First Floor City Hall, Birmingham, Alabama 35203.

Bids will be accepted until 5:00 P.M. central time (standard or daylight savings time, as applicable) on **WEDNESDAY JANUARY 7, 2026**. Bids submitted after these dates and times will not be considered.

Bids will be publicly opened at **11:00 A.M. on THURSDAY, JANUARY 8, 2026**.

The City is not responsible for delays occasioned by the U.S. Postal Service, the internal mail delivery system of the City, or any other means of delivery employed by Bidder. Similarly, the City is not responsible for, and will not open, any bid/proposal responses, which are received later than the date and time indicated above. Late bids/proposals will be retained in the bid/proposal file, unopened.

The City has resumed having public bid openings and if you plan to attend in person, we ask that you wear a mask. You may also participate virtually via WebEx. Login information can be found on the City's website at www.birminghamal.gov (click on the link titled **Work** then click on **Bidding Opportunities**).

TERM OF CONTRACT

Any contract resulting from this ITB will become effective upon bid award, not to exceed three (3) years. Per Section 3-3-7(7) of the Birmingham City Code and State Bid Law, the proposed contract shall be in effect for a minimum of one (1) year guaranteed, contingent upon Council approval. The life of this contract shall exist with the approval of both parties with the provision that no price increase in the original bid prices shall be allowed.

ADDENDA

Any addenda will be available on the internet. Bidder is responsible for checking the website for addenda until the bid opening date. Addenda will be mailed to only those vendors who were provided a copy in person or by mail.

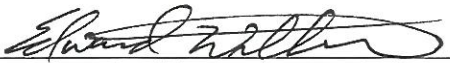
CERTIFIED CHECK/BID BOND/CASHIER'S CHECK

It is required for any contract exceeding \$10,000.00 that the bidder submits with his bid a certified check, a cashier's check, or a bid bond payable to the City of Birmingham. In order for any bid award to be considered that exceeds \$10,000.00, your bid must be accompanied by an acceptable bid bond, cashier's or certified check in the amount of \$1,000.00. Bid bond checks will be returned to all unsuccessful bidders after the formal award is made and to the successful bidder after acceptance of award. Should the successful bidder fail to accept the award, the bid bond check shall be forfeited.

The City follows a policy of nondiscrimination. No contractor with the City should discriminate on the basis of race, sex, religion or national origin. Failure by the Vendor to carry out these requirements is a material breach of its obligations, which may result in its termination or such other remedy as the City deems appropriate. No bid may be withdrawn for a period of sixty (60) days after the date of the bid opening.

All bids are to be submitted on the bid form provided and all bids are to be f.o.b. Birmingham, Alabama delivered. The City reserves the right to reject any or all bids submitted, in whole or part, and to waive any informalities.

Bids must be submitted in a sealed envelope marked "ITB #26-15 FOOD SERVICE-CITY HALL CAFETERIA, 5:00 PM Wednesday, January 7 2026". Bids may be hand delivered to Purchasing, Room P-100 First Floor, City Hall, Birmingham, Alabama or mailed to City of Birmingham, 710 North 20th Street, Birmingham, AL 35203. Bids mailed in (i.e., USPS, Federal Express, UPS, Airborne, etc.) **must** specify delivery to Room P-100, 1st Floor-City Hall


Edward Williams, Asst. Purchasing Agent

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INVITATION TO BID – cont'd

GENERAL

The City of Birmingham is seeking bids for FOOD SERVICE - CITY HALL CAFETERIA. The basis of the bid shall consist primarily of any and all FOOD SERVICE needs deemed necessary by the City Hall Cafeteria Committee. The City of Birmingham expressly reserves the right to reject any or all bids, or parts of bids, or to re-bid and to make the award in the best interest of the City of Birmingham. For the purchase of personal property, the City's policy is to apply a local preference option, as allowed by State of Alabama Code, Section 41-16-50, in determining the low bidder.

TELEGRAPHIC/ELECTRONIC BID RESPONSES

Proposal responses sent by electronic devices (i.e., facsimile machines and email) are not acceptable and will be rejected upon receipt. Bidders will be expected to allow adequate time for delivery of their bid responses either by airfreight, postal services, or by other means.

CANCELLATION

The City reserves the right to cancel the contract, in whole or part, and seek new bids at any time the City determines that the services, item(s) and/or product lines(s) being supplied is/are failing to perform satisfactorily. Any bid that imposes a service fee or any other type of fee on any order not exceeding a minimum order quantity or minimum purchase order dollar amount, will be determined a non-responsive bid and will not be considered for award. Municipalities are not liable for sales tax: reference Code of Alabama Section 40-23-4. Costs normally considered pass through costs (property tax, use tax, delivery charge, etc.) to the customer by the provider must be included in any fee proposed (Code of Alabama 40-12-222). For the purchase of personal property, the City's policy is to apply a local preference option, as allowed by the State of Alabama Code, Section 41-16-50, in determining the low bidder.

AWARD

Contract will be awarded to the lowest, most responsive and responsible bidder who meets all bid requirements.

PURCHASE ORDERS

The City will issue purchase order(s) to the successful bidder for the goods and/or services (bid items) that are the subject of the bid. Unless otherwise agreed in a writing that is signed by both parties, the entire agreement between the City and the successful bidder concerning the bid items is comprised of the terms, conditions, specifications and requirements stated in (a) the contemplated purchase order(s), (b) this Invitation to Bid and Specifications and (c) your bid (collectively, the "Contract Requirements"). These writings supersede all former proposals, offers, negotiations, representations or agreements, either written or oral, concerning the provision of bidder's goods and/or services. By acceptance of the City's purchase order(s), the successful bidder agrees to abide by and perform its responsibilities related to the bid items in compliance with the Contract Requirements.

SUBCONTRACTING

Successful bidder shall not assign this contract to any other party without prior written approval of the City of Birmingham. Contract shall not be assigned to an unsuccessful bidder who was rejected because he was not a responsive or responsible bidder.

TERMINATION OF CONTRACT

Failure to adhere to any or all terms, conditions and specifications as set forth in the contract may result in the immediate termination of the contract. Should termination occur, the holder of the contract may be declared a "non-responsive bidder" This declaration may result in the rejection of any future bids submitted by the bidder for a period of time to be determined by the City.

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INVITATION TO BID – cont'd

NON-COLLUSION

Contractor covenants and declares that it has not employed any person to solicit or procure this Agreement and that Contractor has not made, and will not make, any payment of any compensation for the procurement of this Agreement. The covenant contained herein shall survive the expiration or earlier termination of this Agreement.

PRICES

Include transportation (including fuel surcharge, if applicable).

PRE-PAYMENTS

No prepayments of any kind will be made prior to shipment.

TAX

The City of Birmingham is exempt from all Federal Tax, and sales and use tax, except Alabama tax on oils, lubricants and fuels specifically bought for over-the-road transportation use.

ADDITIONAL PURCHASES

The City has attempted to list all items for “**FOOD SERVICE - CITY HALL Cafeteria**” required during the term of the contract, if mutually agreed upon, additional contracts may be executed, based upon this bid for the same item(s) or related types. Bids may be solicited for the product included in this contract where an immediate/emergency need exists including large quantities. The decision of the Purchasing Agent as to what constitutes a biddable situation shall be final and shall not be construed as a breach of contract.

REDUCTION IN COST

Bidder agrees that the City of Birmingham will be charged no more for item(s) bid than the State of Alabama, and that in the event of a price reduction; the City will receive the benefit of such reduction on any undelivered portion of contract.

Successful bidder acknowledges and agrees that the City has the right to deduct from total amount of consideration to be paid, if any, to the successful bidder under this agreement all unpaid, delinquent, or overdue license fees, taxes, fines, penalties, and other amounts due to the City from the successful bidder.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

Bidder acknowledges and agrees that, consistent with federal law and City’s public policy, it will encourage disadvantaged business enterprise (DBE) participation to the extent permitted by law. A “disadvantaged business enterprise” is a for-profit small business concern (i) at least 51% owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51% of the stock is owned by one or more such individuals; and (ii) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it. In accordance with federal law, a “socially and economically disadvantaged individual” includes African-Americans, Hispanic Americans, Native Americans, Asian-Americans, women, and any additional groups designated as socially and economically disadvantaged by the federal Small Business Administration.

PUBLIC DISCLOSURE

Subject to applicable law or regulations, the content of each Bidder’s Proposal shall become public information upon the effective date of any resulting contract.

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INVITATION TO BID – cont'd

FORM W-9

Please submit a completed, current year W-9 tax form with your bid submission. **Bidder W-9 tax form must be submitted with your sealed bid.**

BUSINESS LICENSE

Please submit a copy of your current year City of Birmingham business license with your bid submission. **Bidder City of Birmingham business license must be submitted with your sealed bid.**

E-VERIFY

Successful Bidder (located in the State of Alabama or located outside of the State of Alabama, but employs one or more employees within the State of Alabama) represents and warrants that it does not knowingly employ, hire for employment, or continue to employ an “unauthorized alien”, as defined by the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, Act No. 2011-535 (H.B.56) of the Alabama Legislature, as amended from time to time (the “Act”) and that, during the performance of this contract, Bidder shall participate in the E-Verify program as required under the term of the Act. The bidder agrees to comply with all applicable provisions of the Act. As a condition for the award of any contract, Bidder shall provide documentation establishing that the Bidder is enrolled in the E-Verify program, or a signed, written statement that the Bidder does not have a presence (one or more employees) in the State of Alabama. **Bidder E-Verify documentation must be submitted with your sealed bid.**

SINGLE BID

If a single bid response is received for this ITB, the City reserves the option to award or negotiate for a lower price with the rejected Bidder and other Bidders by means of sealed quotes, upon department approval. The rejected Bidder’s initial offer will not be disclosed to other Bidders, prior to the awarding of a contract. The award will be made to the company offering the lowest negotiated quotation, provided that all conditions and specifications required by the City are met.

NEGOTIATIONS

The City of Birmingham reserves the right to enter into contract negotiations with the selected Bidder. If the City and the selected Bidder cannot negotiate a successful contract, the City may terminate negotiations and begin negotiation with the next selected Bidder. This process will continue until a contract has been executed or all proposals have been rejected. No Bidder shall have any rights against the City arising from such negotiations.

PROHIBITION AGAINST BOYCOTTING

By signing this contract the Contractor certifies that it is not currently engaged in, and for the duration of this agreement will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state enjoys open trade.

HOLD HARMLESS AND INDEMNIFICATION

Bidder(s) shall defend, indemnify, and hold harmless the City of Birmingham, and its agents, employees and officials (hereinafter the “Indemnitees”) from and against all demands, actions, damages, judgments, expenses (including but not limited to attorneys’ fees, expert fees, court costs and other litigation costs), losses, and claims (including those for bodily injury, sickness, disease or death, or to injury to, destruction or loss of use of tangible property) (collectively hereinafter “Claims”) by any third parties (including any employee, subcontractor or representative of the Bidder, hereinafter (Bidder Representative”) that arises out of, relates to, results from, or is attributable to any of the following: (a) Bidder’s performance or failure to perform its obligations hereunder; (b) any conditions in or about the work sites that the Bidder or any Bidder Representative may encounter; or (c) the use or occupancy of the work sites by Bidder or any Bidder Representatives. This indemnification obligation includes Claims that are caused in part by the negligence of an Indemnitee(s); provided nothing herein shall obligate Bidder to indemnify any of the Indemnitee(s) for Claims resulting from the sole negligence or from the willful misconduct of the Indemnitee(s).

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INVITATION TO BID – cont'd

GOVERNING LAW/DISPUTE RESOLUTION

Contract award to purchase the materials covered in this bid document shall be construed under and governed by the laws of the State of Alabama and each party hereto irrevocably agrees to be subject to the jurisdictions of the courts of the State of Alabama.

CONFLICT OF INTEREST

Contractor covenants and declares that it has not, and will not, acquire any interest, directly or indirectly, in any property acquired by the City during the term of this Agreement. Contractor warrants and covenants that it presently has no interest in, nor shall any interest be hereinafter acquired in, any matter that will render the services required under this Agreement a violation of any applicable Federal, State or local law. In the event that any conflict of interest should hereinafter arise, Contractor shall promptly notify the City in writing of the existence of such conflict of interest.

GUARANTEE

Bidder certifies by bidding, that he is fully aware of the conditions of service and purpose for which item(s) included in this bid are to be purchased and that his offering will meet these requirements of service and purpose to the satisfaction of the City of Birmingham Finance Purchasing Division and its agent.

CONFIDENTIALITY

Contractor agrees that such reports, information, opinions or conclusions shall not be made available to or discussed with any individual or organization, including the news media, without prior written approval of the City. Contractor shall exercise reasonable precautions to prevent the unauthorized disclosure and use of the City information whether deemed confidential or not.

INSURANCE REQUIREMENTS

Liability Insurance: For the duration of this contract and for limits not less stated below, the Contractor shall carry (i) general liability insurance (either primary or a combination of primary and umbrella coverage) with limits of not less than \$1,000,000.00 total with a maximum of \$500,000.00 for each occurrence and shall include, but not be limited to, personal injury, property damage, vandalism, property loss and theft; (ii) comprehensive automobile liability insurance concerning owned and rented vehicles operated by the Contractor with limits of not less than \$500,000.00 bodily injury per occurrence, \$500,000.00 property damage or combined single limit of \$500,000.00; and (iii) Workman's Compensation coverage in an amount adequate to comply with the statutory requirements. The City's bid number **(26-15)** must appear on any/all copies of the certificate of insurance. All such insurance shall be provided by a policy or policies issued by a company or companies qualified by law to engage in the insurance business in the State of Alabama with a rating of B+ or better according to the most current edition of Best's Insurance reports. Bidder is to provide written documentation of the company's rating with their bid.

The Contractor may use umbrella or excess liability insurance to achieve the required coverages, provided that such umbrella or excess insurance results in the same type of coverage as required for the individual policies. These insurance requirements are in addition to and do not affect any indemnification obligation of the Contractor herein.

City Additional Named Insured: Except for Worker's Compensation coverage, all coverages shall contain endorsements naming the City, and its officers, employees and agents as additional named insured with respect to liabilities that arise out of and result from the operations of the Contractor or the performance of its work. The additional named insured endorsement shall not limit the scope of coverage to the City to vicarious liability but shall allow coverage for the City to the fullest extent provided by the policies. Such additional insured coverage shall be at least as broad as Additional Insured endorsement from ISO, CG 2010.1185.

Policies Primary: All insurance policies required herein are to be primary and non-contributory with any insurance or self-insurance program administered by the City.

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INVITATION TO BID – cont'd

December 17, 2025
ITB: 26-15

INSURANCE REQUIREMENTS (cont'd)

Waiver of Subrogation: Contractor shall require the carriers of the above-required insurance coverage to waive all rights of subrogation against the City, and its officers, employees, agents, contractors and subcontractors. Further, Contractor hereby waives any rights of subrogation against the City. All general or automotive liability coverage provided herein shall not prohibit the Contractor or its employees, agents or representatives from waiving the right of subrogation prior to loss or claim.

Proof of Coverage: Before the commencement of services or work hereunder, the Contractor shall provide the City a certificate(s) of insurance and endorsements (including the additional insured endorsements) evidencing compliance with the requirements in this section. Evidence of insurance will not be accepted on a per event basis. These certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days advance notice to the City. In the event that the City is not notified that any of the coverage required herein is to be cancelled or changed in such a manner as not to comply with the requirements of this Contract, the Contractor shall, within fifteen (15) days prior to the effective date of such cancellation or change, obtain and provide the City with binder(s) of insurance evidencing the re-establishment of the insurance coverage required herein.

CONCESSION FEE

The successful awarded vendor shall pay to the City on the 5th day of each calendar month an agreed upon concession fee for the usage of premises.

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INVITATION TO BID – cont'd

GENERAL SPECIFICATIONS

(The general specification for the ITB will be placed here, followed by the DETAILED specifications, if applicable. The bid form will immediately follow the general, and any detailed specifications)

(bid form begins on following page)

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BID FORM

Edward Williams
Assistant Purchasing Agent
Birmingham, Alabama

Submitted below is my firm bid for FOOD SERVICE - CITY HALL, for the City of Birmingham. Per Section 3-3-7(7) of the General City Code for the City of Birmingham, the proposed contract shall be in effect for a minimum of one (1) year. Upon approval of both parties, the life of this contract shall exist with the provision that no price increase in the original bid prices shall be allowed, in accordance with your Invitation to Bid and Specifications dated November 3, 2025. Prices quoted are FOB Birmingham, AL, and I am bidding in exact accordance with the specifications, except as listed on the provided exceptions form.

(Place your bid form beginning here, please ensure to leave room for the bidder name at the bottom of each page. Bid Form format will vary.)

Name of Your Company: _____

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DEBARMENT STATEMENT

CERTIFICATION REGARDING DEBARMENT, SUSPENSIONS,
AND OTHER RESPONSIBILITY MATTERS
(Executive Order 12549, Debarment and Suspension, 34 CFR Part 85)

Vendor/Offeror certifies to the best of its knowledge and belief, that it and its principals:

- (a) Are are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have have not within a three-year period preceding award of this contract been convicted of or had civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or Local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are are not presently indicted for or otherwise criminally charged by a governmental entity (Federal, State or Local) with commission on any of the offenses enumerated in Paragraph (b) above; and
- (d) Have have not within a three-year period preceding award of this contract had one or more public transactions (Federal, State or Local) terminated for cause of default.
- (e) **Unique Entity ID (UEI)**
UEI number must be provided on the signature page of this document before award can be made to facilitate System Award Management (SAM) certification <https://www.sam.gov/SAM/>. Companies that do not have a free UEI number may visit <https://.dnd.com/duns-number/get-a-duns.html> for more information. *The City of Birmingham does not provide UEI numbers.*

_____	_____
AUTHORIZED SIGNATURE	TITLE
_____	_____
PRINTED NAME	DATE

_____ I am unable to certify to the above statements. My explanation is attached.

Name of your company _____

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City of Birmingham Transparency in City Government Disclosure and Certification Form

TRANSPARENCY IN CITY GOVERNMENT DISCLOSURE AND CERTIFICATION FORM

INSTRUCTIONS:

This form must be fully completed by any individual or entity (hereinafter referred to as “vendor”) seeking to enter into a contract or appointment, provide services, obtain funding or otherwise do business with the City of Birmingham with the express exclusion of persons or entities exclusively providing grant funding to the City, General Services Administration (GSA) vendors, national cooperatives approved by the Alabama Department of Examiners of Public Accounts and governmental entities to include City boards and agencies.

Submit completed forms to the appropriate City Department. All questions must be answered. Respond “Not applicable” or “NA” if a question does not apply. Attach additional pages if needed. Completed forms will be submitted to the Birmingham City Council or the appropriate Council Committee along with the Applicant’s proposed contract, appointment and/or funding request.

For purposes of this Form, the following definitions apply:

Family Member of a Public Employee. The spouse, domestic partner or a dependent of the public employee.

Family Member of a Public Official. A spouse, domestic partner, dependent, adult child and his or her spouse, parent, spouse's parents, sibling and his or her spouse, of the public official.

Public Employee. Any person employed by the City of Birmingham or its instrumentalities, including governmental corporations and authorities.

Public Official. Any person elected to public office of the City of Birmingham, whether or not that person has taken office, by the vote of the people, and any person appointed to a position at the City of Birmingham or its instrumentalities, including governmental corporations and authorities.

—
This Form is a:

New Submission

Update to a Previous Submission

Section 1: VENDOR NAME AND CONTACT:

Vendor’s Legal Name:

Physical Street Address:

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City of Birmingham Transparency in City Government Disclosure and Certification Form

Mailing Address:

Phone Number:

Contact Person:

Section 2: DISCLOSURES

(a) Identify all officers, directors, owners, members, partners and executive management of the Vendor.

(b) (PUBLIC OFFICIAL)

Are any of the persons identified in paragraph (a) above a Family Member of a Public Official of the City of Birmingham or do they have an employment or other business relationship with a Public Official of the City of Birmingham or a Family Member of a Public Official? If "yes", describe any family, employment or business relationship with the Public Official.

Yes Not Applicable

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BIRMINGHAM, AL 35203-2227
OFFICE: (205) 254-2265/FAX: (205) 254-2484**

**TONYA ADAMS, PRINCIPAL BUYER
EDWARD WILLIAMS, ASST. PURCHASING AGENT**

**December 17, 2025
ITB: 26-15**

City of Birmingham Transparency in City Government Disclosure and Certification Form

(c) (PUBLIC EMPLOYEE)

Are any of the persons identified in paragraph (a) above a Family Member of a Public Employee of the City of Birmingham or do they have an employment or other business relationship with a Public Employee of the City of Birmingham or a Family Member of a Public Employee? If "yes", describe any family, employment or business relationship with the Public Employee.

Yes Not Applicable

SECTION 3. LOBBYISTS, CONSULTANTS & ATTORNEYS:

During the past three (3) years, has Vendor retained, hired or paid any person or entity including, but not limited to, a lobbyist, consultant or attorney, to assist Vendor in obtaining a City contract, appointment or funding? If "yes", identify by individual name, firm name, address and telephone number any such person or entity.

Yes Not Applicable

SECTION 4: DISCLOSURE OF CONTRIBUTIONS:

During the past three (3) years, has the Vendor provided a campaign contribution, a contribution to a political action committee that provides funding to a Public Official's campaign or other funding to or performed services for a Public Official, or provided funding to or performed services for an individual or entity, including a charitable entity, at the request of a Public Official or Public Employee? If yes, identify the amount, date and recipient of any campaign contribution or other funding and/or the date, contract amount and nature of services performed.

Yes Not Applicable

CITY OF BIRMINGHAM-PURCHASING DIVISION
710 NORTH 20TH STREET
P-100 CITY HALL
BIRMINGHAM, AL 35203-2227
OFFICE: (205) 254-2265/FAX: (205) 254-2484

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SECTION 5: CONTRACTS WITH THE CITY OF BIRMINGHAM:

Does the Vendor have any existing contracts with the City of Birmingham or contracts which have expired or been terminated within the past three (3) years?

Yes No

SECTION 6: CLAIMS AGAINST THE CITY OF BIRMINGHAM:

Does the Vendor have any pending claims against the City of Birmingham.

Yes No

SECTION 7: GOOD STANDING:

By signing this *Transparency in City Government Disclosure and Certification Form* Vendor affirms that it is current in regard to all required federal, state, and local business, tax and other filing requirements and licensure.

CERTIFICATION:

I, the undersigned, certify that I am authorized to execute this *Transparency in City Government Disclosure and Certification Form* on behalf of the Vendor, that the foregoing information and any attachments hereto, to the best of my knowledge are true and complete. I acknowledge that the City of Birmingham is relying on the information contained herein, and that the Vendor is under a continuing obligation from the date of this certification through the completion of any contract(s) with the City to notify the City in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification. If I do so, I will be subject to criminal prosecution under the law, and it will constitute a material breach of my agreement(s) with the City, permitting the City to declare any contract(s) resulting from this certification void and unenforceable.

VENDOR SIGNATURE:

NAME:

DATE:

**AGREEMENT FOR CAFETERIA SERVICES
AND LICENSE FOR USE OF THE CITY HALL CAFETERIA**

This AGREEMENT FOR CAFETERIA. SERVICES AND LICENSE FOR USE OF THE CITY HALL CAFETERIA (this Agreement") is made this _____ of _____ 2026, by and between the CITY OF BIRMINGHAM, ALABAMA, a municipal corporation (hereinafter "the City"), and (hereinafter "Operator").

WITNESSETH:

WHEREAS, the City desires to retain the services of an operator of a cafeteria located in the basement of City Hall (the "Premises") which will primarily serve the City's employees, guests and visitors, and is willing to grant a license to use the Premises, which includes the kitchen and adjacent dining area, and the equipment therein for that purpose; and

WHEREAS the City published an Invitation to Bid for the operation of a full-service cafeteria to serve breakfast and lunch and has selected the Operator to operate the cafeteria in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained herein, and further good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Operator agree as follows:

1. **License:** The City grants to Operator a license for the non-exclusive use of the Premises for the sole purpose of operating a cafeteria in accordance with this Agreement. It is understood by Operator that this Agreement creates only a license in connection with Operator's use of the Premises and that Operator does not and shall not claim at any time any interest or estate of any kind or extent in or to the Premises by virtue of this Agreement or the use of the Premises.
2. **Term of Agreement:** The term of this Agreement (the "Term") shall be for one (1) year with the option for renewal annually for two (2) additional one (1) year terms not to exceed three (3) years, commencing _____, 2026 ("Commencement Date") and expiring on _____, 2029.
3. **Concession Fee:** As a concession fee (the "Concession Fee") for its use of the Premises, Operator shall pay to the City on the 5th day of each month, beginning on _____ 2026 and continuing on or before the 5th day of each calendar month thereafter during the Term, in the amount of \$ _____ .00 per month.

As consideration for Operator providing the cafeteria services described herein, the Concession Fee will be abated for the first three (3) months of the Term (_____, 2026 through _____ 2026). Thereafter, the Concession Fee shall be paid by the 5th day of each month in lawful money of the United States to the City at the following address: City of Birmingham, Special Assessments, Room GA-100 City Hall, Birmingham, Alabama 35203.

Any payment of the Concession Fee or any other sum due by Operator and not received by

the City within ten (10) days after such amount shall be due, without any requirement for notice to the Operator, shall be subject to a late charge equal to six percent (6%) of such overdue amount.

4. **Hours of Operation:** The Operator agrees to operate the cafeteria from 7:00 a.m. - 3:00 p.m. Monday through Friday, on days on which City Hall is open (City holidays are listed in Exhibit "A").

Operator will be allowed access to the Premises at all times reasonably necessary during the Term for purposes of food preparation, cleaning, and related purposes. The Operator shall have no right to operate the cafeteria except during those hours described above except as specifically permitted by a committee of City staff to be designated by the Mayor (the "City Hall Cafeteria Committee"). Operator agrees to comply with the City's normal security procedures for gaining access to and use of City Hall for any use of the Premises outside of the normal hours of operation of City Hall (i.e., 8:00 a.m. - 5:00 p.m., Monday through Friday).

Notwithstanding the above schedule of operation, in the event the Operator does not wish to open the cafeteria for business on one or more days during the Term, the Operator may submit a written request to the City Hall Cafeteria Committee at least thirty (30) days prior to the date on which Operator does not wish to open the cafeteria. The request shall include the date(s) of any closing and the date on which the cafeteria shall reopen. The City Hall Cafeteria Committee, in its sole discretion, shall approve or deny any such request, for which permission shall not be unreasonably withheld.

5. **Monthly Statement and Audit:** Operator shall provide a written statement to the City each month with the payment of each installment of the Concession Fee showing the total gross receipts for cafeteria for the preceding month (the "Statement"). Operator will provide the City or the City's agents or representatives with reasonable access to the books and records of Operator for the purpose of auditing and inspecting the same to verify the information included in the Statement. The records shall include documents from which the original transaction entry was made, including sales slips, cash register tapes, and/or purchase invoices. Nothing contained in this Section 5 or elsewhere in this Agreement shall be deemed to (i) alter or modify any obligation of Operator to collect and remit sales taxes to the City or (ii) limit the City's authority to audit Operator under any applicable law, code, ordinance, rule or regulation.

6. **Food and Beverages:** The Operator shall provide healthy, nutritious, high-quality food and beverages, including fresh vegetables, fruits, meats, and juices at a reasonable price. Menu prices shall be reasonably priced and displayed in an easily readable manner. Operator must present proposed menu options and prices and any price adjustments to the City Hall Cafeteria Committee for approval prior to implementation thereof. No price increase may take effect without written approval of the City Hall Cafeteria Committee. Operator will hold meetings with the City Hall Cafeteria Committee on an "as needed" basis, as well as with the City of Birmingham's Wellness Program Director or other appointed personnel, to develop healthy menus and healthy food alternatives. Operator will provide healthy methods for preparing food, follow the current guidelines for preparing foods by the Food and Drug Administration and list healthy food options on all menus. Notification of change in menu prices must be posted prior to implementation.

7. **Cash Registers:** All sales shall be recorded by cash registers, which display to the customer the amount of the sale and automatically issue receipts certifying the transaction, lock in sales totals, provide transaction records, produce duplicate audit tape, contain counters which cannot be reset and which record the transaction numbers and sales details on such tape. Any errors shall be noted by Operator on the audit tape with an explanation of the error. Cash register readings shall be recorded by Operator at the beginning and the end of each business day.

8. **Vending Machines:** The Operator acknowledges that the City has one or more existing contract(s) with other businesses that allow such businesses to operate and maintain vending machines within the Premises and provide such other businesses limited access to the Premises and the vending machines. Operator acknowledges such contract(s) and shall not engage in activities in violation thereof, and Operator agrees to refrain from tampering with or preventing accessibility to vending machines or serving and selling food items in the same form and or packaging as items supplied and contained in such vending machines.

9. **City Equipment:** The Operator accepts "as is" the Premises and the City-owned equipment and furnishings (hereinafter referred to as "City Equipment"). Operator further acknowledges that all City Equipment and other furnishings are in good working order at the time of entering into this Agreement. Operator shall provide insurance for the City Equipment as provided in Section 31. The City shall be responsible for the maintenance and repairs of its equipment; such maintenance and repairs shall be undertaken during normal operating hours of the City. Operator shall provide the City with prompt written notice of any damage to or malfunctions of the City Equipment. Operator further grants to City from time to time, at a time designated by the City, the right to inspect the Premises and City Equipment for purposes including, but not limited to, maintenance, repairs, and cleanliness to ensure proper operation of the City Equipment. **Operator Equipment:** The Operator, at its expense, shall provide any additional equipment or furnishings which it deems necessary for the operation of the cafeteria (hereinafter referred to as the "Operator Equipment"). The Operator shall be solely responsible for the loss or damage to the Operator Equipment, and any other furnishings, materials or supplies of Operator which are kept or stored on the Premises and shall be responsible for providing property loss insurance for such equipment, furnishings, materials or supplies. Operator guarantees that all equipment installed will meet the applicable requirements of the United States Food and Drug Administration and the Jefferson County Health Department. All furniture, trade fixtures and other personal property installed or kept by Operator on the Premises shall remain the property of the Operator and may be removed by Operator at any time provided, however, that Operator shall repair any damage caused by such removal. Such equipment shall be removed by Operator upon the expiration or earlier termination of this Agreement.

10. **Dining Area:** The dining area (approximately 40-50 seats) of the cafeteria shall be available during the cafeteria operating hours to all City employees and the public regardless of whether such employees or members of the public purchase food or beverage from the cafeteria. City employees may eat food brought onto the Premises from a location other than the cafeteria regardless of whether they purchase a beverage or food item from the cafeteria. Members of the public will not be allowed to bring food from outside the Premises into the cafeteria for consumption.

The City or individuals permitted by the City may use the cafeteria dining space at times when the cafeteria is not operating, provided that such use shall not be inconsistent with the Operator's use. The Operator shall not be responsible for any damage to the Premises caused by the City or such individuals or groups.

11. **Utilities:** The City, at its expense, will provide telephone, electricity, gas, water and sewer to the Premises. The City does not guarantee the uninterrupted provision of such utility service except to ensure that all reasonable and diligent efforts will be pursued in restoring interrupted service. In the event that an interruption of utility service prevents Operator from operating the cafeteria during normal operating hours for an entire day, the compensation paid by Operator to City under this Agreement shall be abated (on a prorated basis) for each day such necessary utility service remains interrupted and Operator is unable to use the Premises to provide the cafeteria services; provided, however, that the City shall not be liable for any losses incurred by the Operator which may result from interruptions or failure of such utility service. However, in the event that any utility service necessary for the use of the Premises is interrupted and not restored within ten (10) days, Operator shall have the right to terminate this Agreement at any time prior to the restoration of such utility service by providing ten (10) days' written notice to City.

12. **Alterations:** Operator shall not make any alterations of the Premises, or any part thereof, without the prior written consent of the City. Any additions to, or alterations of, the Premises, except movable furniture and trade fixtures, shall become at once a part of the realty and belong to the City. Any such alterations shall be in conformance with all applicable municipal, state and federal laws, codes, ordinances and regulations. All fixtures, excluding trade fixtures, that are attached to the Premises shall become at once a part of the realty and belong to the City upon the expiration or earlier termination of this Agreement.

13. **Cafeteria Maintenance:** Operator shall maintain all areas of the Premises in a clean and sanitary manner in accordance with the highest industry standards. Operator will be responsible for cleaning and daily maintenance of the food prep and kitchen areas at all times and for the cleaning of the dining area during hours of operation of the cafeteria. The City will provide cleaning and janitorial services in dining area only, and only after hours of operation of the cafeteria. In addition, the City shall provide regularly scheduled cleaning of grease traps and compressors and shall provide garbage collection service. Operator shall place garbage in the appropriate disposal containers daily. The Operator shall comply with all cleaning requirements of Jefferson County Health Department and the State of Alabama. In addition, Operator shall train all employees in a "clean-as -you-go" policy.

Operator must provide an action plan for its daily and monthly "heavy duty cleaning" schedule in addition to a listing of qualified personnel or contractors to perform those duties. Operator will coordinate all heavy-duty cleaning with the City's Department of Public Works. Heavy duty cleaning shall include but not limited to cleaning coils and grills as well as degreasing the floor trap and the fryer; and moving and cleaning underneath all equipment and inside ovens.

14. **Health Department Inspections:** Operator shall arrange for a health inspection of the Premises by the Jefferson County Health Department no less than six (6) business days prior to beginning operations of the cafeteria. The City shall be provided with a copy of the health inspection report prior to Operator commencing operation of the cafeteria.

The Premises shall be subject to regular inspection by Jefferson County Health Department officials. Operator shall provide the City with a full copy of all health inspection reports within twenty-four (24) hours after such inspections. Operator shall maintain a health inspection score from the Jefferson County Health Department of ninety (90) or above. If Operator fails to maintain a health inspection score of at least ninety (90), Operator shall have ninety (90) days to cure the health inspection score. Failure to achieve the required health inspection score within time provided shall be grounds for immediate termination of this Agreement. If the health inspection score is due to a failure of the City to perform its maintenance and repair obligations under this Agreement, then the City shall take appropriate action to remedy the defect within thirty (30) days after notice thereof by Operator.

15. **Emergency Use:** Operator acknowledges that during any emergency, including but not limited to severe weather warnings, the City may use the Premises for such time as it takes for the effective handling, management, and administration of such emergency. Operator further acknowledges that the City shall have the sole discretion to determine whether to close the cafeteria during or pending an emergency. The City, its elected and appointed officials, agents and employees shall not be held liable for lost profits, loss of inventory, and indirect damages resulting from equipment malfunction, acts of God, or damages resulting from emergencies requiring temporary or permanent closing of the cafeteria.

16. **Conflict with City Hall Operations:** Operator agrees that if any aspect of its cafeteria operation conflicts or interferes with the normal operations of City Hall, the Operator shall, upon notice, promptly eliminate the conflicting or interfering use.

17. **Catering Services:** (a) Operator shall receive no compensation from the City for the services provided pursuant to this Agreement, but as additional consideration for Operator providing cafeteria services to the City's employees, the City will allow Operator to provide catering services as provided in this Section 18.

(b) Operator may provide catering services to City departments holding meetings or other functions. All arrangements for menu selections, price etc. shall be made directly with the City department desiring to use Operator's services and the City shall have no responsibility for any payment for such services. The invoice for such services will be sent to and processed for payment by the department desiring to obtain such services

(c) Operator may provide catering services to private individuals or business for non-City functions. In such an event, the Operator may utilize the cafeteria kitchen facilities to the extent such activity does not interfere with the normal operation of the cafeteria or of City Hall. No such private individuals or businesses shall be allowed to use the dining area of the Premises, however, without appropriate written authorization from the City.

18. **Parking:** The City shall provide Operator with up to two (2)) parking spaces in the Boutwell parking deck, provided such spaces are available for Operator's use and access to the Premises. Operator shall pay a one-time parking fee at the same rate the City pays for such additional parking spaces.

19. **Recycling:** Operator and City will encourage the recycling of aluminum containers, paper and plastic generated from the use of the cafeteria. The City shall provide separate receptacles for this purpose. Operator will use its best efforts to use recycled products and, whenever feasible, shall use environmentally friendly products.

20. **Advertising for Signage:** Operator may advertise the cafeteria in any reputable media (including television, radio, newspaper, Internet or local magazine) and promote the cafeteria and its services in City publications such as newsletters or bulletins. All advertisements, notices and announcements shall be approved in advance by the City Hall Cafeteria Committee. Any signage on the exterior and interior of City Hall must comply with all applicable requirements and regulations and further shall be subject to the City's review and approval.

21. **Personnel Standards:** (a) All food workers employed by Operator shall have received "Food Handler" training as required by regulations of the Jefferson County Department of Health. The operator shall always provide a Certified Food Safety Manager on duty when the cafeteria is operating.

(b) Operator will provide the City with copies of any of the materials used to train its staff, and/or permit the City to observe its training activities with staff, and will provide evidence that all staff has received the appropriate training for the work which they are performing and have any and all certifications and/or licenses which may be required in order to perform such work. The City's review of such materials and observation of training shall not be deemed to create any liability or obligation on the part of the City with respect thereto.

(c) All of Operator's employees, agents, or representatives shall have a neat, clean, and sanitary personal appearance, and those who come in direct contact with the public shall wear clothing or identification which distinguishes them as employees of Operator. The Operator shall be responsible for recruiting, training, supervising, direct, discipline, and, if necessary, discharge any and all personnel working in the cafeteria. Operator shall require its employees to comply with all instructions, regulations, and codes of conduct as specified by the City.

(d) Operator agrees to use commercially reasonable efforts to hire qualified residents of the City of Birmingham to fill available positions in the cafeteria.

22. **Management:** At all times when the cafeteria is operating, the Operator shall provide an on-site manager of the daily operations of the cafeteria. Such manager must be authorized to make decisions and act on behalf of the Operator. However, any instruction or communication given by the City to the Operator pursuant to this Agreement shall be made directly to _____.

23. **Buy Local:** Operator agrees that to the extent commercially reasonable, it buys and/or leases supplies, materials and equipment used in the operation of the cafeteria from vendors located within the corporate limits of the City of Birmingham.

24. **Non-discrimination:** Neither Operator nor Operator's employees, agents, subcontractors or representatives shall discriminate against any person because of sex, age (except minimum age and retirement provisions), race, color, creed, national origin, marital status or the presence of any disability, unless based upon a bona fide occupational qualification in relationship to hiring and employment. This requirement shall apply, but not be limited to the following: employment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Operator shall not violate any of the terms of Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973 or any other applicable federal, state or local law or

regulation regarding non-discrimination. Any material violation of this provision shall be grounds for termination of this Agreement by the City and, in the case of the Operator's breach, may result in ineligibility for further City Agreements.

25. **Hazardous Substances:** Unless it exists on the date of this Agreement or brought into City Hall (inclusive of the Premises) by the City, its employees, agents or contractors, any Hazardous Substances, chlorofluorocarbons and/or asbestos which are within the Premises shall be the sole responsibility of Operator. "Hazardous Substances" shall include any substances defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials", "toxic substances", "contaminants", "regulated substances", or any other pollution under any applicable federal, state or local laws, ordinances, rules or regulations now or hereafter in effect. Upon discovery of any Hazardous Substances, Operator shall immediately take all measures necessary to comply with all applicable laws and immediately begin removal, remedy, or abatement of such substances in and around the Premises. Operator shall indemnify, defend and hold harmless the City and its respective its elected and appointed officials, officers, agents, boards, committees and employees for, from and against any and all losses, liabilities (including, but not limited to, strict liability), damages, injuries, expenses (including, but not limited to, court costs, litigation expenses, reasonable attorneys' fees and costs of settlement or judgment), suits and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, the City by any person, entity or governmental agency for, with respect to, or as a direct or indirect result of, the presence in or the escape, leakage, spillage, discharge, emission or release from the Premises of any Hazardous Substances or the presence of any Hazardous Substances placed on or discharged from the Premises by Operator, its successors or assignees or their respective agents, employees, contractors, representatives, or invitees. This indemnification shall survive termination of this Agreement.

26. **Historically Under-Utilized Business Enterprises:** Operator acknowledges and agrees that the City, as a matter of public policy, encourages minority- and women-owned business participation to the maximum extent possible. This policy includes historically under-utilized business enterprises such as architectural firms, engineering firms, investment banking firms, other professional service providers, and construction contractors as part of the City's business, economic and community revitalization programs.

27. **Liens:** Operator shall keep the Premises free of any liens or claims of lien arising from any work performed, material furnished or obligations incurred, by Operator in connection with the Premises. If Operator disputes the correctness or validity of any claim of lien, Operator shall record a bond which will release the Premises from the lien claimed. Operator's failure to cause the removal of any such lien or to post a bond within thirty (30) days of the filing of the action seeking to create such lien shall constitute a material default hereunder.

28. **Immigration Act Compliance:** Operator represents and warrants that it does not knowingly employ, hire for employment, or continue to employ an "unauthorized alien," as defined by the *Beason-Hammon Alabama Taxpayer and Citizen Protection Act*, Act No. 2011- 535 (H. B. 56), as amended from time to time (the "Act") and that, during the performance of this Agreement, Operator shall participate in the E-Verify program as required under the terms of the Act. Operator shall provide evidence of its registration in the E-Verify program prior to commencing operations under this Agreement.

By signing this contract, the contracting parties affirm, for the duration of the Agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama.

Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom.

29. **Indemnity:** Operator agrees that it shall indemnify, hold harmless and defend the City, its elected and appointed officials, officers, agents, boards, committees and employees, from any and all loss, damage, cost, charge or expense including, but not limited to, reasonable attorneys' fees, court costs and interest arising out of damage or loss to persons or property sustained by anyone by reason of the use or occupation by the Operator of the Premises, or caused by a willful, wanton or negligent act, default or omission of the Operator or its officers, agents, employees, invitees, guests or anyone for whose acts the Operator may be held liable. Notwithstanding anything in this Agreement to the contrary, Operator shall not be liable for, nor shall this indemnity be applicable to any acts, defaults, or omissions of third parties in connection with their use or occupation of the Premises for purposes unrelated to the operation of the cafeteria.

30. **Insurance: Before** commencing operations, Operator, at its expense, shall procure and maintain insurance in the amounts set forth in this Section (32). Operator shall furnish to the City a certificate or certificates in form satisfactory to the City indicating that it has complied with this Section. All certificates of insurance shall provide that thirty days' written notice be given to the City before a policy is canceled, materially changed, or not renewed. With respect to all coverage required other than workers' compensation, the City shall be named an additional insured. All coverage afforded shall be primary with respect to operations provided. The types and amounts of insurance required are as follows:

(a) Commercial General Liability Insurance. A commercial general liability insurance policy in an amount not less than \$1,000,000 per occurrence, \$1,000,000 general aggregate, covering all premises and operations, which policy shall include, without limitation, coverage for (i) contractual liability for Operator's indemnification obligations under this Agreement, (ii) products and completed operations, (iii) personal injury and advertising injury, and (iv) independent contractors.

Such policy of insurance must include coverage for all operations performed for the City by the Operator and contractual liability coverage shall specifically insure the hold harmless provisions of this Agreement.

(b) Property Damage. All Risk Property Insurance, and Boiler and Machinery Insurance, providing Full Replacement Cost and Consequential Loss coverage on the contents, furnishings and equipment, and operating equipment, including the City's Equipment.

(c) Workers' Compensation Insurance. Workers' Compensation Insurance for its employees in accordance with the provisions of the Workers' Compensation Act of the State of Alabama.

31. **Responsibility for Damages:** Operator shall be responsible for any damage to the Premises or City Equipment or other furnishings which is caused by its employees, agents, contractors, licensees, guests or invitees. The Operator shall repair any such damage at its sole cost and expense and shall also make all reasonable efforts to ensure that the Premises, City Equipment or other furnishings are left in at least the same condition as they existed at the time Operator assumed occupancy of the Premises, reasonable wear and tear excepted.

32. **Licenses and Permits:** Operator, at its sole cost and expense, will obtain all local, state or federal licenses, permits and approvals necessary for its operation of a cafeteria in the Premises and shall maintain such licenses, permits and approvals throughout the time it uses the Premises. Upon request, the Operator shall provide the City with copies of any and all licenses, permits and/or approvals necessary for its performance of the services described in this Agreement.

33. **Compliance with Laws:** Operator, at Operator's sole cost and expense, shall comply with all applicable municipal, state and federal statutes, ordinances, rules and regulations in effect during the Term of this Agreement regulating the use by Operator of the Premises. The storage, preparation and service of all food and beverages provided by the Operator pursuant to this Agreement shall comply with all applicable federal, state and/or local health laws, ordinances, codes or regulations.

34. **Relationship of Parties:** Nothing within any of the provisions of this Agreement shall be deemed in any way to create between the parties any relationship of partnership, joint venture or other association. The parties hereto disclaim any such relationship and declare that their relationship is that of a contract between independent parties and that Operator is considered an independent contractor at all times in the performance of the services described herein. Neither Operator nor its employees are considered to be employees of the City of Birmingham for any purpose whatsoever. Operator further agrees that neither it nor its employees are entitled to any benefits from the City under the provisions of the Workers' Compensation Act of the State of Alabama, or to any of the benefits granted to employees of the City under the provisions of the Jefferson County Personnel Board Merit System, as now enacted or hereafter amended.

The City and Operator do not intend that any right or benefit be created or inure to any third party by the terms of this Agreement, either expressed or implied.

35. **Default:**

(a) Each of the following shall constitute an event of default by Operator:

(i) Operator's failure to pay any fee or other amount due to the City under this Agreement more than ten (10) calendar days after Operator's receipt of written notice of the failure to pay.

(ii) Operator's failure to obtain or keep in full force and effect the insurance required by this Agreement.

(iii) Operator's failure to perform any of its duties under this Agreement, other than a failure to pay described in Section 37(a)(i) above or a failure to obtain or keep in full force and effect the insurance required by this Agreement described in Section 37(a)(ii) above, for more than thirty (30) calendar days after Operator receives written notice of the failure, except that, if more than thirty (30) calendar days are required because of the nature of the breach, a default shall not be deemed to have occurred if Operator has commenced and diligently proceeded to cure the breach within thirty (30) calendar days after receiving written notice.

- (iv) Operator's failure to obtain or keep in full force and effect the insurance required by this Agreement.
 - (v) Operator's failure to perform any of its duties under this Agreement, other than a failure to pay described in Section 37(a)(i) above or a failure to obtain or keep in full force and effect the insurance required by this Agreement described in Section 37(a)(ii) above, for more than thirty (30) calendar days after Operator receives written notice of the failure, except that, if more than thirty (30) calendar days are required because of the nature of the breach, a default shall not be deemed to have occurred if Operator has commenced and diligently proceeded to cure the breach within thirty (30) calendar days after receiving written notice.
 - (vi) To the extent permitted by the United States Bankruptcy Code, Operator's insolvency; Operator's assignment for the benefit of creditors; Operator's filing of a voluntary petition in bankruptcy; an adjudication that Operator is bankrupt or the appointment of a receiver for Operator's properties who is not discharged within forty-five (45) days; the filing of an involuntary petition of bankruptcy and Operator's failure to secure a dismissal of the petition within thirty (30) days after filing; attachment of or the levying of execution on any interest in this Agreement and Operator's failure to secure discharge of the attachment or release of the levy of execution within ten (10) days.
 - (vii) Operator's discontinuation of its operations in the cafeteria for more than one (1) calendar day, unless such discontinuation is in response to a request by the City, is authorized as provided in Section 4 above, or is due to casualty, condemnation, emergency or closure of City Hall or the Premises, and Operator recommences operations as soon as practicable under the circumstances.
 - (viii) Operator's failure to provide staffing sufficient to service its operations and meet customer demand by more than one (1) calendar day after written notice of the failure.
- (b) In the event of a default under the provisions of Section 36(a) the City may, at its option, terminate this Agreement and at any time may exercise any other remedy or remedies available under law or equity for such default. Any notice to terminate may be given before or within the grace period for default and may be included in a notice of failure of compliance.

(c) Following a default by Operator, suit(s) or action(s) for the recovery of the Concession Fee payments and other amounts and damages, or for the removal of Operator or Operator's property from the Premises, may be brought by the City, from time to time, at the City's election, and nothing in this Agreement will be deemed to require the City to await the date on which the Agreement expires. Each right and remedy in this Agreement will be cumulative and will be in addition to every other right or remedy in this Agreement or existing at law or inequity or by statute or otherwise, including, without limitation, suits for injunctive relief and specific performance. The exercise or beginning of exercise by the City of any such rights or remedies will not preclude the simultaneous or later exercise by the City of any other such rights or remedies. All such rights and remedies are cumulative and nonexclusive.

36. **Termination for Convenience:** Either party may terminate this Agreement for its own convenience at any time upon forty-five (45) days' written notice to the other party.

37. **Abandonment of Premises:** Operator shall not vacate or abandon the Premises at any time during the Term of this Agreement; and if Operator shall abandon, vacate or surrender the Premises or be dispossessed by process of law, or otherwise, any personal property belonging to Operator and left on the Premises shall be deemed to be abandoned, at the option of the City.

38. **Notices:** Any notice given under this Agreement by either party to the other shall be sufficient if sent by hand delivery, or by United States registered or certified mail, postage prepaid, addressed as follows:

To the City: City Hall Cafeteria Committee
c/o Office of the Mayor
City of Birmingham
710 20th Street North, Third Floor
Birmingham, Alabama 35203
Attention: Chaz Mitchell

With a copy to: Office of City Attorney
Room 600, Birmingham
710 20th Street North- City Hall
Birmingham, Alabama 35203
Attention: Melissa Smiley

To the Operator: _____
Attn: _____

Birmingham, Alabama 35_____

39. **Assignment:** The Operator shall have no right to assign any interest in this Agreement.
40. **Section Titles and Headings:** The section titles and headings in this Agreement are for convenience only and do not define, modify or limit any of the terms and provisions hereof.

41. **Damage and Destruction of Premises:** In the event of partial destruction of the Premises or of City Hall during the Term of this Agreement, which requires repairs to either the Premises or City Hall, or the Premises or City Hall being declared unsafe or unfit for occupancy by any authorized public authority for any reason, which declaration requires repairs to either the Premises or City Hall, the City may elect to make the repairs. No such partial destruction (including any destruction necessary in order to make repairs required by any declaration made by any public authority) shall in any way annul or void this Agreement except that Operator shall be entitled to a proportionate reduction of the Concession Fee while such repairs are being made, such proportionate reduction to be based upon the extent to which the making of such repairs shall prevent or substantially interfere with the business carried on by Operator in the Premises. If the City elects not to make the repairs, this Agreement shall be terminated, and the Concession Fee shall be prorated between the City and Operator as of the date of such destruction.

42. **No Guarantee:** The City makes no promises or guarantees relating to the Operator's success or earnings from the operations and managing the cafeteria. The City does not guarantee Operator's level of success or income.

43. **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama.

44. **Severability:** If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other part of this Agreement.

45. **Binding Effect:** This Agreement and all terms, provisions and obligations set forth herein shall be binding upon and shall inure to the benefit of Operator and its successors and assigns and shall be binding upon and shall inure to the benefit of the City and its successors and assigns.

46. **Entire Agreement and Exhibits:** This Agreement, including any exhibits or schedules attached hereto, shall constitute the entire Agreement between the City and Operator with respect to the subject matter hereof and may not be amended or modified in any respect or to any extent whatsoever, except by an instrument in writing executed by each of the parties hereto.

IN WITNESS WHEREOF the parties hereto executed this Agreement under seal on the dates set out below.

WITNESS:

OWNER:

AUTHORIZED SIGNATURE

OFFICIAL TITLE

DATE:

DATE:

ATTEST:

CITY OF BIRMINGHAM, ALABAMA

Lee Frazier, City Clerk

By: _____
Randall L. Woodfin, Mayor

Approved as to form by
Legal Department:
By:

Assistant City Attorney/Date

EXHIBIT "A"

Operator acknowledges the City's Holiday Calendar and the City's closing on the following days. In addition, the City reserves the right to close at any such time as the Mayor deems appropriate.

CITY OF BIRMINGHAM RECOGNIZED HOLIDAYS

NEW YEAR'S DAY

MARTIN L. KING DAY

GOOD FRIDAY

MEMORIAL DAY

JUNETEENTH

FOURTH OF JULY (May be more than one day)

LABOR DAY

VETERAN'S DAY

THANKSGIVING DAY (4th THURSDAY & FRIDAY of each year)

CHRISTMAS HOLIDAY (May be more than one day)