

**INSTRUCTION TO PROPOSERS, PROPOSAL FORMS
BUSINESS QUESTIONNAIRE, CONTRACT, AFFIDAVIT,
AND OTHER PROPOSAL DOCUMENTS**

Prepared By:

**THE BIRMINGHAM JEFFERSON CONVENTION COMPLEX
BIRMINGHAM, ALABAMA**

For the:

FOOD/BEVERAGE OPERATIONS MANAGEMENT CONTRACT

July 2017

**FOOD/BEVERAGE OPERATIONS MANAGEMENT SERVICES
THE BIRMINGHAM JEFFERSON CONVENTION COMPLEX
BIRMINGHAM, ALABAMA**

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INTRODUCTION AND THE PROJECT

1. PURPOSE AND BACKGROUND

The Birmingham Jefferson Civic Center Authority (AUTHORITY) which currently operates the BJCC, hereafter referred to as the “CENTER” is initiating a Request for Proposal (RFP) to solicit proposals from firms interested in providing food and beverage concession and catering services at the Center pursuant to an exclusive contract.

The AUTHORITY presently manages the food and beverage services throughout a commission based fee contract with Spectra Food Services. The current contractor’s contract will expire on January 31st, 2018. The AUTHORITY will be issuing a new commission based contract pursuant to this RFP (“Contract”). NOTE: This Request for Proposal covers only the Food and Beverage Services at the Center as defined herein.

The Birmingham-Jefferson Convention Complex is a multipurpose facility conveniently located in downtown Birmingham that includes the Sheraton Birmingham Hotel. There is 220,000 plus square feet of Exhibition Space, 74 meeting rooms totaling 100,000 plus square feet of flexible space, a 19,000 seat Arena, 1,000 seat Theater, 3,000 seat Concert Hall, a connected Hotel that has 756 guest rooms including 18 suites, 2 elegant ballrooms, Forum Building Conference Center, Telecommunication Facilities for distance learning, complete Audio/Production with studio and ample parking.

Additionally, the AUTHORITY owns two hotels with a combined room total of 1065 and a mixed use retail market place, with restaurants and limited retail locations for the enjoyment of the guests of the Center.

2. SERVICES TO BE PROVIDED

The Successful PROPOSER shall provide the AUTHORITY with those food and beverage services normally associated with Public Venue Operations. These services are primarily concession, food and beverage, and catering related functions. Additionally, specialized services consisting of, but not limited to the following, will be required (brief descriptions of the locations in which services are to be provided by the Successful PROPOSER are provided below).

2.1.ARENA, THEATER, CONCERT HALL

1. **Catering Services** - Catering Services will be provided in the Arena, Concert Hall, and Theater as requested by the Event Promoters or AUTHORITY representative. Services required may range from snacks to elaborate catered meals. Hosted service, which requires constant attention to ensure re-supply and freshness, must often be provided at specific times and/or subject to other constraints imposed by AUTHORITY.

2. **Portable Thematic Food Service** for events held in the Arena, Theater and Concert Hall, the clients may require portable concession areas for public shows and competitions.
3. **Concession Services Specifically for the Arena**
 - a. **Permanent Locations**

The Successful PROPOSER will be required to operate all concession outlets in accordance with the rules set out by the AUTHORITY. The AUTHORITY shall have the right to approve the Successful PROPOSER's plan of operation, including, but not limited to menu selections, pricing, staffing, hours of operation and portion sizes.
 - b. **Portable Outlets**

The Successful PROPOSER will be required to operate portable Food and/or Beverage carts, as may be required by the AUTHORITY. These operations typically are required on larger events that occur at the CENTER. However, the AUTHORITY may require, in its sole discretion, that these carts be operated at other times.
 - c. **Vending Services**

The Successful PROPOSER will be required to operate a vendor "hawking" operation for all events as necessary. The service includes individual vendors or "hawkers" roaming the Center stands with beverages, snacks and other food items, at the discretion and/or approval of the Center.
4. **Concession Stands** – The Successful PROPOSER will be required to staff, supply and operate all limited menu concession stands in the Arena, Theater and Concert Hall.
5. **Provision of Personnel** – The Successful PROPOSER may be called upon to provide hosts, hostesses, bartenders, waiters, and waitresses for specialized functions. The provision of this staff will be in addition to the normal services and staffing for which the Successful PROPOSER is responsible, and shall not result in a reduction of the staff available for the other services required to be provided by the Successful PROPOSER. The AUTHORITY shall approve rates for such services. The AUTHORITY requires the following staff available for Successful PROPOSER's overall operations staffing standards, and is provided for, and included in all menu prices proposed.
 - 1 server per 12 seated guests
 - 1 server per 25 guests (buffet style)

- 1 bartender per 75 hosted attendees
 - 1 bartender per 60 cash bar attendees
 - 1 porter per 5 bars
 - 1 food runner per 3 stations
 - 1 porter per 250 attendees
6. **Linen Service** – The Successful PROPOSER shall provide linen services for all catered functions, food courts, and any tables provided for the purpose of facilitating food service in the CENTER at no additional cost.

2.2.EXHIBIT HALLS & MEETING ROOMS

1. **Booth Services** – This service must be provided to exhibitors at conventions or trade shows. Food and/or beverage items are served directly at the booth/display location(s). The AUTHORITY shall approve price and service agreements between the Successful PROPOSER and the exhibitor.
2. **Exhibit Hall Concession Stands** – Successful PROPOSER will be required to staff, supply and operate all fixed and mobile concession stands and kiosks.
3. **Portable Thematic Food Service & Cash sales** for certain events held at the CENTER will require specialized set up and ethnic foods and beverage with related thematic presentations and displays. This includes but is not limited to portable concession areas for public shows and tradeshow, food courts and/or, portable carts and kiosks that may need to be managed in common areas and/or lobby spaces.
4. **Bar Service** – The Successful PROPOSER will be called upon to provide bartenders, waiters, and waitresses for specialized functions. The provision of this staff will be in addition to the normal services and staffing for which the Successful PROPOSER is responsible, and shall not result in a reduction of the staff available for the other services required to be provided by the Successful PROPOSER. The AUTHORITY shall approve rates for such services.
5. **Linen Service** – The Successful PROPOSER shall provide linen services for all tables associated with the operations of the concession stands, food courts, and portable thematic food service in the CENTER at no additional cost.

2.3.FUTURE SERVICES - While the above is a comprehensive list of services currently offered at CENTER, it is expected that the Successful PROPOSER will provide input and suggestions on new trends and offerings at comparable public venues, and implement those future services at the CENTER within this contract.

OBJECTIVE – The scope of work consists of professional services to provide the highest quality obtainable food and beverage concessions and catering services for CENTER events and visitors, using the facilities and equipment provided by the Successful PROPOSER and the AUTHORITY.

INFORMATION TO PROPOSERS

TIME, PLACE AND DEFINITIONS OF PROPOSAL SUBMISSION

1.01 The proposer shall complete and submit one (1) original and three (3) copies of the proposal documents consisting of the schedules under Clause 2.

1.02 To be considered, sealed proposals must be received at the offices of The Birmingham Jefferson Convention Complex ("the Center") to the attention of the Mr. Matt Wilson, Director of Operations, 2100 Richard Arrington Jr. Blvd North, Birmingham, Alabama 35203; phone: 205-458-8491; email: Matt.Wilson@bjcc.org not later than 5:00 p.m. Birmingham time on Friday, September 1, 2017.

1.03 The proposer(s) shall identify his proposal on the outside of the envelope by writing the words:

"Contract for Food and Beverage Management Services
at the Birmingham Jefferson Convention Complex"

1.04 The envelope containing the proposal shall be the one provided by the Proposer and if mailed, must be received by the Center no later than the time and date noted in 1.02 above.

1.05 Questions regarding any aspect of the proposal documents or any other matter to this document shall be directed in writing to:

William J. Caruso
WC & Partners, Inc.
8055 East Tufts Avenue, Suite 1320
Denver, CO 80237
Email: wcaruso@wcandpartners.com

1.06 Definitions

The following definitions will apply to the document herein:

A. Proposal - the document or documents submitted by proposers in answer to the RFP package questions and information requested by The Birmingham Jefferson Convention Complex (the "Center") relative to the food/beverage operational management contract at the Center.

B. Proposer - that party or parties responding to the Center's RFP, in written form, regarding the above referenced contract.

- C. Contract - shall mean a binding agreement to provide the food/beverage service for the Center as provided herein. The contract will be between the Birmingham Jefferson Civic Center Authority ("the Authority") and the selected Proposer.
- D. Proposer - shall mean the corporation, company, partnership, firm or individual named and designated in the contract as the "Proposer," and its, his or their employees, agents and legal representatives.
- E. Consultant - the designated project food service consultant to the Center: WC & Partners, Inc., 8055 East Tufts Avenue, Denver, Colorado 80237.
- F. Catered Services - pre-arranged food/beverage related functions provided for guests of the Center.
- G. Concession Services - over the counter cash sales at fixed and mobile food/beverage areas at the Center.
- H. Portable Lounge/bar Services - alcoholic/non-alcoholic beverage and light food menu services provided by portable beverage facilities.
- I. Third Party Sales - subcontracted source sales provided by Proposers not associated with the Center's exclusive caterer in any contractual manner.
- J. Gross Sales - all revenues less applicable sales fees.
- K. RFP - Request for Proposal.
- L. Senior Management - Personnel from the Proposer's firm assigned to this project and relating to the following positions.
- General Manager (located at the Center's facility in Birmingham).
 - Corporate, district and regional management personnel.
 - Corporate, marketing and financial liaison personnel.
- Note: The term Corporate shall mean any person(s) located at the Proposer's Corporate Headquarters or reporting directly to Corporate Headquarters personnel.
- M. Food Service Equipment - All equipment used in the storage, preparation, cooking, serving, holding and warewashing areas of the manual food service operations. Defined as Section 11400 equipment by the Construction Specification Institute.
- N. Commissions- the commission rate paid by the Proposer to the Authority for the exclusive food/beverage operating rights at the Center.

- O. Net Operating Profit - profit after all expenses, taxes, depreciation, and fees have been deducted.

FORM OF PROPOSAL

- 2.01 Proposals shall be properly executed by duly authorized officers of the Proposer(s). If the Proposer(s) is/are a Corporation or Joint Venture, the Proposal must be signed in its home office(s) and on its behalf and under seal by two (2) duly authorized signing officers of the Corporation(s). The Offices held by the signing officers must be shown and all forms shall be duly notarized by a registered Notary Public.
- 2.02 Proposals shall consist of Schedules A through G and Appendices A through D attached hereto completed in every detail. Additional pages may be used where necessary.
- 2.03 Schedule A - Foodservice Proposal.
- 2.04 Schedule B - Business Questionnaire.
- 2.05 Schedule C - Proposed Commission Schedule for the Foodservice Facilities.
- 2.06 Schedule D - Details of Menus for the Foodservice Facilities.
- 2.07 Schedule E - Additional Information.
- 2.08 Schedule F - Comments on Food/Beverage Operations Contract.
- 2.09 Schedule G - Food/Beverage Operations Contract with Attached Schedules 1, 2, 3, 4, 5, 6 and 7.
- 2.10 Appendix A - Tentative Schedule of Events.
- 2.11 Appendix B - Foodservice Area (Equipped Space) Drawings.
- 2.12 Appendix C – Facility Use Data.
- 2.13 Appendix D – Other Miscellaneous Data.

PROPOSAL CONDITIONS

3.01 Acceptance of Proposals

Proposals shall remain open for acceptance and be irrevocable for a period of ninety (90) calendar days from the proposal opening date. The Center reserves the right to reject any or all proposals. The lowest proposal will not necessarily be accepted, nor will any reason for the rejection of any proposal be indicated. The Center will review the overall qualifications and business proposals of the bidders and in its judgment, select the best qualified. After submission of a Proposal, and before acceptance of any Proposal by the Center, the Center may request, and Proposer shall furnish, such additional information related to the Proposer as the Center may reasonably request.

No formal contact shall be initiated by Proposers with members of the Center's staff and/or Selection Committee from the date of distribution of the RFP until after the closing date and time for the submission of proposals. All questions concerning or issues related to the RFP shall be presented in writing to the Director of Operations of the Center.

3.02 Award of Contract

- A. As promptly as possible after the receipt and review of proposals, the Center will notify proposers and assign a time for selected "short-listed" proposers to appear before the Center's selection committee to present their proposals. Once chosen, the successful proposer shall then be required to negotiate the final terms and conditions of a contract and provide all documentation, including surety bond or irrevocable letter of credit required.
- B. In the event that the successful proposer does not execute the contract as herein required, the award of the contract may then be made to another proposer or the Center may decide to call for new proposals.
- C. In the event that the successful proposer fails or refuses to sign the contract on the forms provided within the time specified, the bond submitted as part of the proposal shall be forfeited as liquidated damages.
- D. Immediately after the notice of award, the Proposer or his Foodservice Manager shall begin planning in conjunction with the staff to insure fulfillment of all its obligations. The Proposer will be expected to provide professional coordination services upon execution of the contract, the expenses of which will be borne by the Proposer. The Proposer will be expected to attend meetings as required by the Center or its designee to assist in the preparation for the contract transition.

3.03 Expenses in Preparation of Proposals

Neither the Center, nor its Consultants will be responsible for, nor pay for, any expenses incurred by the Proposer in the preparation of the proposal.

3.04 Examining Documents

The Proposer will be deemed to have studied and examined all facilities and all relevant documents before proposing.

ADDITIONAL INFORMATION

4.01 Content of Proposals

A. In selecting a Proposer for the Center, studied consideration will be given to the contents of Proposals. Proposers should describe in great detail how they propose to meet the Specifications for Contract for food and beverage services at the Center including:

1. Number, qualifications, and duties of full time personnel and managers, number and source of part time personnel, proposed dress for employees.
2. How the proposer proposes to continue to, and participate in the total effort of making the Center a successful food/beverage operation.
3. Any other information the proposer believes will be helpful to the Center in making a selection.

B. Detail and comprehensiveness of the Proposal are important to the Center and will be considered in making the selection.

C. **FORMAT** – Proposals must be submitted on eight and one-half by eleven (8 ½ by 11) inch paper with tabs separating the major sections of the proposal. The five major sections of the proposal are to be submitted in the order noted below:

1. **LETTER OF SUBMITTAL** – The Letter of Submittal must be signed and dated by the person authorized to legally bind the Successful PROPOSER to a contractual relationship, e.g., the President or Chief Executive Officer in a corporation, the managing partner if a partnership, or the proprietor if a sole proprietorship. Along with introductory remarks, the Letter of Submittal is to include by attachment the following information about the PROPOSER and any proposed subcontractors.
 - a. Name, address, principal place of business, telephone number, and fax number/e-mail address of legal entity or individual with whom contract would be written.

- i. Name, address and telephone number of each principal officer (President, Vice President, Treasurer, Chairperson of the Board of Directors, etc.)
 - ii. Legal status of the PROPOSER (sole proprietorship, partnership, corporation, etc.) and the year the entity was organized to do business, as the entity now substantially exists.
 - iii. Federal Employer Tax Identification number of the PROPOSER.

- 2. TECHNICAL PROPOSAL – Proposal must contain a comprehensive work plan, complete with time schedule to accomplish the work defined in this RFP. The plan must be in sufficient detail to convey to members of the Evaluation Committee the PROPOSER’s knowledge of the subjects and skills necessary to accomplish the tasks and to produce the deliverables. The Technical Proposal must contain specific areas in the work plan and a comprehensive description of services including the following elements:
 - a. Transition Plan – Include a “Transition” plan to demonstrate smooth and timely transition for staff and transparent changeover for the CENTER user’s comfort. The detail for this plan should be presented in both a narrative form and detailed on a time line, and should include the following information at a minimum:
 - i. Staff Notification Plan
 - ii. Meeting Planner Notification Plan
 - iii. Training and familiarization of facilities, equipment, services
 - iv. Management on-site full time
 - v. Initiate Sales and Marketing Plan
 - vi. Vendor Notification Plan
 - vii. Inventory of Food and Beverage Facilities, fixed equipment and small wares
 - viii. Licenses and fees
 - ix. Any and all additional “Transition” procedures your company would implement.

 - b. Description of your Company – A succinct description of why your company is the best-qualified choice to manage the food service operations at this unique CENTER.

 - c. Capital Investment by PROPOSER – The AUTHORITY is interested in seeking investment into the food service areas that will lead to increased food and beverage sales and that will ensure the delivery of and supports the concepts that you propose. Successful PROPOSERS will be required to invest a minimum of \$500,000 within the first 18 months after the start of the contract. PROPOSERS shall indicate the source of the financing and provide proof that they have the capability to provide investment funds. PROPOSERS shall detail how they plan to depreciate the investment. Should the contract end early, any investment that has not been fully

depreciated (the unamortized amount) will be due and payable to the Successful PROPOSER (the Buyback amount). PROPOSERS should detail the type, quality, pricing, quantity, and adequacy of the food and beverage handling equipment and graphics that will be provided by the PROPOSER to implement the proposed food and beverage concepts. Layouts of the existing food service areas will be provided to all firms at the pre-proposal conference.

3. TECHNICAL OPERATIONS

- a. Operating Plan – Provide a proposed operating plan for this CENTER, and include as a minimum in this Operating Plan the following items:
 - i. Organizational chart detailing all proposed management and hourly positions. Include proposed management salaries, hourly wages and benefits.
 - ii. Staff and menus for a three-day Consumer Show with an average attendance of 3,600, two permanent concession stands, one coffee cart, and two portable stands, hours of operation to be determined by event.
 - iii. Staff and menus for a three-day Trade Show with an average daily attendance of 4,500, each day set for a sit-down luncheon for 450 people one day and a continental breakfast service for 1,500 people on one day. Special note must be made to show a wide range of menus available, including a meaningful “healthy foods” emphasis in all menus whether retail or catered products.
 - iv. Please provide details of all front and back-of-house staffing for all areas of service, for each example above. Complete an Event Staffing plan, including a Product Cost Summary for each sample event.
 - v. Describe your firms projected use of Non-profit groups in the operation, and standard terms of payments to those groups. This is an important consideration so provide studied thought in this area.
 - vi. Accounting Policies and Procedures, showing detailed forms and any proposed software that will be used in the control of the Food and Beverage services for both catering and public foods.
 - vii. Training Programs: include a sample outline of a Quality Service Program that is currently used by your company and the on-going training offered to staff to assure that programs are implemented consistently by staff and management.
 - viii. Purchasing Procedures: include the name of your major suppliers, both national and local firms. (Company Name, Address, Telephone Number and Contact.) List any and all national rebate programs that you have with these suppliers.

- ix. Per capita Results and Sales Generated by Square Foot: Provide both the per capita revenue and average dollars generated per square foot for three (3) similar civic Centers which you currently operate. These Results shall be broken out by venue type. (Arena, Concert Hall, Theater, Exhibit Halls).
- x. Liquor License Control Procedures including training of personnel in the proper techniques of serving patrons in a safe manner, i.e. TIPS and TEAM training. Fully describe the alcohol management program that will be utilized to train employees in the services of alcoholic beverages.
- xi. Fully describe all safety and sanitation practices and the anticipated program(s) to train and reinforce standards in the food service CENTER. Outline the sanitation and safety and inspection procedures, including, but not limited to Hazard Analysis of Critical Control Points (HACCP), for the operations of the CENTER.

D. Specific factors will be applied to proposal information to assist the Center in its task of selecting the most qualified candidate for this contract. General guidelines for review are as follows:

1. Financial capability to perform the contract.
2. Background in high-volume, quality oriented food/beverage services in similar civic center facilities, with an emphasis on concessions and special events services.
3. Management qualifications, especially background of proposed senior management proposed for this facility.
4. Merchandising and sales creativity proposed, including mobile food court ideas, use of common pre-function areas, potentials of mobile cafe operation, use of outdoor seating serviced by themed portables, etc.
5. Operational expertise as evidence in this proposal, i.e., staff training/manual procedures, provision of (availability of) financial data to Center daily, ability to provide back-up management expertise on short notice.
6. A successful, detailed interview with the proposer's General Manager and Concessions Manager candidate(s).

4.02 General Scope

A. The Center will award to the best qualified and responsible proposers(s) a contract for the right to provide exclusive catering services as specified herein; sell alcoholic beverages under certain conditions, operate concession stands, cater food and beverage to meeting

functions and VIP areas, vend various refreshments, and other items as approved by the Center and provide wardrobe checking services at the Center, as required. In addition, the Center will require the successful proposer to operate mobile thematic food services and other foodservice operations as required.

- B. The Center's food/beverage facilities and equipment shall be used solely for the conduct of the described contract. The areas to be occupied by the Proposer may be subject to increase or decrease from time to time. The Center will designate which space or areas the Proposer may use in the performance of the responsibilities as set forth herein to conform to the priorities established by the Center. These specifications will become part of the contract and be binding upon the parties thereto.

4.03 Center Activities

- A. The Center brings a broad range of events to its facilities. Its goal is to have as many event days a year in actual operation as possible and on some days to have more than one event or simultaneous events.
- B. The Center will provide facilities for a large number of conventions, trade shows, consumer shows, and commercial exhibitions. Continuous efforts will be made to expand the use of the facilities. To-date sales activity projected into the future and preliminary approximation of initial facility usage have been set out in Appendix A.
- C. A potential Arena renovation project exists and may occur over the next 2-3 years. Should this occur and if this necessitates a business interruption, the Center will negotiate a fair and mutually agreeable commission relief plan with the Contractor when and if this occurs. Contractor shall assist Center in the operational and conceptual planning of this project, if such occurs.

4.04 Review of Plans and Analysis of Potential

- A. Each Proposer shall visit the Center to inspect the facilities and to familiarize themselves with the Center's potential opportunities.
- B. The Center will schedule a mandatory pre-proposal meeting to answer questions and clarify contract points by proposers prior to the final date of submission of proposals. This meeting will be scheduled at the Center in Birmingham, Alabama on August 10, 2017 at 10:00 a.m. local time, at the Executive Board Room located on the 4th Floor of the North Complex located at 2100 Richard Arrington Jr. Blvd North, Birmingham, Alabama 35203. A one-time facility tour will be scheduled for all attendees at the conclusion of this meeting.

4.05 Proposer's Qualifications

- A. In order to qualify for the award of the contract, proposers must meet the following minimum qualifications. Further, the qualifications as set forth herein are designed to establish experience criteria with which the proposer demonstrates his capability to provide food and beverage service in a major convention facility similar to the Center. The Center will be particularly interested in reviewing the following proposal information:
1. Evidence in the form of answers to the enclosed business questionnaire or additional evidence in affidavit form: (a) that proposer has experience in major places of public assembly such as a trade center, arena and performing arts center, which all have multi-purpose facilities including exhibition halls, and various sized meeting rooms, citing the number of years and the locations at which such operations are conducted; (b) proposer has conducted a first-class restaurant, bar/lounge, and/or cafe involving the purchase, preparation, and serving of food and drink to the public on a mass scale; and (c) proposer has experience in serving food and drink in concessions to at least ten thousand persons (10,000) at one event and an average of two thousand meals (2,000) for five consecutive days. Proposer must cite location of operation(s) and number of years operated.
 2. Operating experience (minimum past 5 years) and reputation for quality of service and cooperation satisfactory to the Center.
 3. Financial resources which, in the opinion of the Center, are adequate to insure full and proper performance of the contract. A proposer must submit a current financial statement which is not to be older than one (1) year after the close of the accounting period. Said statement is to be certified by a certified public accountant.
 4. Demonstrated ability to develop maximum gross receipts and potential from similar type operations.
 5. Demonstration of a "good faith" effort to meet or exceed any Affirmative Action Plan developed by the Center for this contract.
 6. Demonstration of a "meaningful" effort to include local vendor participation through the use of suppliers and primarily, joint venture equity partners, etc.
 7. Demonstrated abilities in other convention and trade show centers, Arenas and performing arts centers in the areas of:
 - Quality control measures to be undertaken;
 - Institution of safety/emergency management programs;

- Positive results of recycling programs and plans for this type of program for this contract; and
 - Use of MBE/WBE subcontractors as vendors and joint venture equity partners.
8. Of critical importance in the evaluation of proposers will be the ability to provide resident experienced, professional management and support services to insure a quality program satisfactory to the Center. Resumes of all management candidates to be ultimately interviewed and selected are to be submitted to the Center.
 9. Literature, brochures, etc., describing the operations(s) of the firm and such other material(s) that may be useful in determining the operating experience and reputation for quality and cooperation of the proposer and ability to begin operations as noted.
 10. Proposer shall provide a plan to replace staff expediently or provide additional personnel to handle large events.
 11. A proposer must submit an organizational chart of the proposed operation to include a manual of operational procedures for the Center's food and beverage program.
 12. A proposer should detail and submit with the proposal an evaluation of proposed sales including its work papers evidencing evaluation of market needs and definition, as well as its marketing and promotional programs for the term of the agreement. The program will be aimed at generating food and beverage business for the Center by way of banquets, food functions, receptions, concessions operations, mobile beverage outlets, etc. Additionally, proposer should detail how it will develop and maximize vendor sponsorship programs to activate concession outlets with vendor branded sponsorships and events – provide examples and propose various ways this will be provided.
 13. Proposer shall describe improvements that can be made to the existing concession stands or other areas proposer envisions that would better serve facility customers, as well as generate more revenue for both the proposer and The Birmingham Jefferson Convention Complex.
 14. Proposer should outline in great detail the following programs:
 - Alcohol awareness, i.e., "TIPS", "TEAMS" training programs, systems and philosophy.
 - Branded name product usage - products, themes, system and formats proposed for this project.

- A sample questionnaire for use by the Center and its guests in evaluating services. Discuss how a continuing program of this nature will be instituted and the overall program goals/objectives.
 - Compliance with the American Disabilities Act in all services performed for and on behalf of the Center.
 - Type style and details of proposed recycling program for the Center.
 - Proposer shall describe all available training programs including proposer's current Alcohol Management, Customer Service, Safety/Risk Management and HAACP Programs that are regularly used at other accounts. Indicate the proposed general manager's experience in administering these training programs and the frequency employees receive formal training. Indicate all mandatory and required training programs, including the mandatory and required training hours for all part-time and casual employees.
15. How the proposer will meet and exceed all incentive program goals and objectives relating to ongoing excellence in product quality, superior service, and ongoing excellent client relations.
- B. The Center may require such other information as deemed necessary to ascertain the qualifications of a proposer.
- C. The decision of the Center and its staff as to the acceptable qualifications of the proposer shall be final.
- D. The contract under which the services as a whole shall be granted will be for a term of five (5) years with a renewable two (2) year option renewable one year at a time, commencing upon February 1, 2018 and terminating on January 31, 2023.

EQUIPMENT

- 5.01 The Proposer and Center respectively will provide the equipment and fixtures as outlined in Schedules 1 and 2 of the attached Agreement. Proposer warrants that no liens or other encumbrances exist on any equipment it supplies and/or installs for this contract.
- 5.02 If the Proposer wishes to add equipment beyond that which is provided or requested by the Center, any items then purchased and installed by the Proposer shall be of a type and class approved by the Center's Director of Operations and in sufficient quantities to provide proper service to the patrons of the Center.
- 5.03 All Proposer purchased equipment, furnishings and installations shall be new, of modern design, and of first-class material and construction. The furnishings and equipment shall be of such quality, design, and finish as will be in keeping, in the opinion of the Center's

Director of Operations, with the general decor of the Center. All such expenditures by the Proposer must be approved in writing by the Center's Director of Operations before purchase and installation, and such equipment shall become the property of the Center at Contract expiration. All Proposer investments will be buy-back protected.

- 5.04 Proposer shall use a computerized point-of-sale cash register system at all sales locations. The Birmingham Jefferson Convention Complex requires that debit and credit be accepted at all concessions and bar locations. The Birmingham Jefferson Convention Complex shall have access to all such sales and management reports on a "real-time" basis.

GENERAL

- 6.01 Submission of a Proposal shall constitute agreement by the Proposer to the terms incorporated in this "Information to Proposers." Which agreement, in case of the "Successful Proposer", shall remain in effect during the life of the Foodservice Operations Contract.
- 6.02 Proposers must submit with their proposals the required Proposer's qualification statement including a written statement attesting that the firm will provide all required services to the Center if selected for this contract, as well as any Affirmative Action Program qualifying information with supporting documentation as required.
- 6.03 A bid bond, cash or a certified or cashier's check for Five percent (5%) of the Contract Value up to \$10,000 payable to the Center, to guarantee the execution of the contract, shall be submitted with proposals. No proposal will be considered unless it is accompanied by the proposal deposit. The certified or cashier's check for this amount will be returned to Proposer at such time as the contract has been executed, transition planning has taken place, and normal operations are underway as determined by the Center. An irrevocable letter of credit for all funds noted above, issued by a bank domiciled in the State of Alabama will be viewed as an acceptable alternative to the above proposal deposit (surety bond). Unsuccessful proposers will be notified and proposal deposits returned within 30 days of the notice of contract execution with the successful proposer.

To reiterate, payment will be required in the form of a bid bond, or cash, or a certified check or a treasurer's or cashier's check issued by, a responsible bank or trust company, payable to the Center. A bid bond shall be (a) in a form satisfactory to the Center; (b) with a surety company qualified to do business in the State of Alabama and satisfactory to the Center; and (c) conditioned upon the faithful performance by the principal of the agreements contained in the bid.

- 6.04 The proposal documents include the instruction to Proposers, sample forms and other contract documents including general and supplementary conditions, drawings and equipment lists.

Each Proposer must certify under penalties of perjury that its proposal is in all respects bona fide, fair and made without collusion or fraud with any other person. The Center reserves the right to waive and informality in or to reject any or all proposals.

It shall be the responsibility of proposers to thoroughly familiarize themselves with the provisions of these specifications and the Center's facilities. The Center is not required to give consideration to any claim of misunderstanding.

- 6.05 The Center reserves the right to reject any and all proposals and to waive any irregularities or informality with respect to any proposal.
- 6.06 No proposal will be accepted from, or contract awarded to, any person, firm or corporation that is in arrears or in default to any government entity for delinquent taxes or assessments or any debt or contract whether as defaulter or bondsman.
- 6.07 The contract with the successful Proposer will be drawn by the Center's Attorney and may contain such other provisions as are deemed necessary to protect the Center's interest therein.
- 6.08 The Proposer agrees to abide by the rules and regulations as prescribed herein and as prescribed by the Center as the same now exists or may hereafter from time to time be changed in writing.
- 6.09 The Proposer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age or national origin. The Proposer will take affirmative action to ensure that minority and/or women applicants and employees are treated without regard to their race, color, religion, sex, age or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Proposer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Center setting forth the provisions of this nondiscrimination clause. The Proposer will, in all solicitations or advertisements for employees placed by or on behalf of the Proposer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age or national origin.

In connection with the performance of work under this contract, the Proposer shall undertake in good faith, affirmative action measures designed to eliminate any discriminatory barriers in the terms and conditions of employment on the grounds of race, color, religions creed, national origin, age or sex, and to eliminate and remedy any effects of such discrimination in the past. Such affirmative action shall entail positive and aggressive measures to ensure equal opportunity in the areas of hiring, upgrading, demotion or age, transfer, recruitment, layoff or termination, rate of compensation, and in service or apprenticeship training programs. This affirmative action shall include all action required to guarantee equal employment opportunity for all persons, regardless of race, color, religious creed, national origin, age or sex.

Proposers are requested to provide detailed information concerning its efforts and positive results pertaining to an Affirmative Action program for the Center in a written format to the Center, as an important part of this proposal. Participation should include operating equity partners, suppliers, and utilization of subcontractors and/or other parties germane to the operation of the Center. A written statement of proposer's goals, objectives, percentage results and action plan pertaining to this Affirmative Action Plan should be provided within proposal responses to this RFP.

- 6.10 Should any question arise as to the proper interpretation of the terms and conditions of these specifications, the decisions of the duly designated representatives of the Center shall be final.

INTERPRETATION OF DOCUMENTS

- 7.01 Reference back to the pre-proposal Conference previously described - please note that during the proposal period and for all questions arising out of the pre-proposal conference that require further written interpretation, these will be in the form of written Addendum(s) duly issued and a copy of such Addendum(s) will be mailed or delivered to each person receiving a set of proposal documents. No verbal rulings or interpretations will be held binding upon the Center. Addendum or Addenda so issued will become part of the proposal documents and receipt thereof by the proposer shall be acknowledged in the Proposal Form.

No change will be made to proposal documents by written Addendum during the four (4) full working days immediately preceding the established time for receipt of proposals.

CRITERIA FOR EVALUATION

- 8.01 Although the economic issue will be considered in the award process, a very high degree of emphasis will also be placed on the quality of service offered, proven experience on similar

projects that are approximately the same in size and scope, sales and marketing program creativity, as well as all other proposal requirements, submittals, etc.

The weighted criteria for evaluation are:

A Technical Proposal

- Quality and creativity of the PROPOSER's Operational Plan including details of any take over plans, sample staffing plans, training plans and quality assurance plans.
- Demonstration of how the PROPOSER's Operational Plans show understanding of the diversity of the CENTER clientele and supports those clients' objectives.
- Quality and detail of the PROPOSER's Investment Plan and how it supports both the clientele's goals and the achievement of financial projections.

B Management Proposal

- Quality of the PROPOSER's Management Team, especially local and regional management strength and how the PROPOSER's Team will support all events, especially larger events.
- Quality, Success and Experience of the PROPOSER's firm in operating a large multi-faceted facility such as this CENTER.
- Quality of References for the proposed work and verifiable examples of similar successful programs.

C Financial Proposal

- Quality of the PROPOSER's five (5) year projections supported by sustainable and realistic operating plans.
- Financial Return to the AUTHORITY
- The PROPOSER's Financial Ability to perform all aspects of the contract.
- Quality of the PROPOSER's Accounting and Controls Systems.

D Quality of PROPOSER's plan to include meaningful Local and Minority participation.

E Additional, unsolicited enhancements of this Proposal.

8.02 Proposal Evaluation – The Authority reserves the right to select the one proposal which in the judgement of the AUTHORITY is most advantageous.

8.03 Evaluation Process for the Evaluation Committee – In responding to this Request for Proposal, the PROPOSER is cautioned to address each of the evaluation factors in as much detail as possible. The Evaluation Committee will use the PROPOSER's information indicated in the Request for Proposals to evaluate each proposal received.

- A Clarification of Proposal – the AUTHORITY staff may contact PROPOSERS with questions to clarify items in their proposal. Oral Presentations will also be scheduled.
 - B Oral Presentation – PROPOSERS will be required to give an oral presentation of their proposal to the Evaluation Committee. This will provide an opportunity for the PROPOSER to clarify and/or elaborate on their proposal, but not change the PROPOSER’s original proposal.
 - C The AUTHORITY’s staff shall not allow any information contained in any proposal to be disseminated to any other PROPOSER.
 - D If the AUTHORITY decides to award a Contract to an acceptable PROPOSER, the terms and conditions of the Contract will be made a matter of public record at the time of award.
- 8.04 Method of Award – The award of the Contract(s), if awarded, may be to the responsive and responsible PROPOSER whose proposal complies with all of the requirements prescribed in the Request for Proposal and is most advantageous to the AUTHORITY, all factors considered. The Successful PROPOSER(s) will be notified in writing, by a letter mailed to the address shown on the proposal, that their proposal has been accepted and that it has been awarded the contract. The Successful PROPOSER will be required to comply with all instructions in that letter.
- 8.05 Cancellation of Award – The AUTHORITY reserves the right, without any liability, to cancel the award of any proposal at any time before the execution of the contract documents by all parties or as a result of the rejection of such award by the AUTHORITY;s Board of Directors.
- 8.06 Time of Award – The subject matter of this Request for Proposal is critical to the AUTHORITY and prospective PROPOSERS are notified that the recommendation for award to the Board of Directors is contemplated to be made on October 18, 2017, and thus, time is of the essence in this Contract.
- 8.07 Notice to Proceed – After receipt of all required post-proposal submittals the AUTHORITY’s Operations Department will issue a written Notice to Proceed. The commencement of work date will be given in this Notice to Proceed and is considered day number one of the allowed completion time.
- 8.08 Physical Notice to Proceed – The Successful PROPOSER agrees to conform to the following which shall govern the “Physical Notice to Proceed” for this project:

- A The actual start date shall be determined by the AUTHORITY.
- B The authorization to commence any actual physical work shall be issued by the AUTHORITY.
- C The authorization to proceed shall be given verbally to the Successful PROPOSER by the Director of Operation and/or the Purchasing Coordinator. The AUTHORITY shall confirm this authorization in writing.
- D The verbal authorization to proceed shall have an actual start date for any physical work to commence and a scheduled completion date.
- E Failure of the Successful PROPOSER to commence work by the actual start date shall be grounds for breach of contract.

No change will be made to proposal documents by written Addendum during the four (4) full working days immediately preceding the established time for receipt of proposals.

WITHDRAWAL OF PROPOSALS

- 9.01 At any time prior to the hour and date set for the opening of proposals, a proposer may withdraw his proposal. This will not preclude the submission of another proposal by such proposer prior to the hour and date set for the opening of bids.

SCHEDULE OF PROJECT

10.01 The following is the anticipated schedule for this project. This may be altered in writing to all proposers at the discretion of the Center.

**ESTIMATED PROJECT COMPLETION SCHEDULE -
FOOD SERVICE OPERATOR SELECTION**

<u>ELEMENT</u>	<u>DATE</u>
Project Kickoff Meeting	May 8, 2017
Final Draft of RFP/Contract Documents to BJCC.....	July 6, 2017
RFP out to Bidders	July 21, 2017
Mandatory Pre-Proposal Meeting and Site Visit.....	August 10, 2017
Proposal Due	September 1, 2017
Short List Finalists Announced	September 14, 2017
Oral Presentations	September 29, 2017
Finalist Selection.....	October 11, 2017
BJCC BOD Approval of Finalist and Notifications.....	October 18, 2017
Begin Contract Work	February 1, 2018

*Above are preliminary estimated dates – these are subject to change.

SCHEDULE "A"
THE BIRMINGHAM JEFFERSON CONVENTION COMPLEX
FOOD AND BEVERAGE FACILITIES
FOOD/BEVERAGE OPERATIONS MANAGEMENT PROPOSAL

WE _____
Having examined the Specification and Contract Terms and Conditions do hereby offer and agree to furnish the Foodservice as hereinafter described in the Specifications hereunto enumerated in Schedules "A" through "G" inclusive at the prices stated therein.

_____ has received,
reviewed, and agrees to Addenda _____.
If successful, _____ Agrees to sign the
attached Food/Beverage Operations Agreement in its present form.

Submitted by: _____
(Company Name)

Address: _____

(Authorized Agent or Officer)

(Authorized Officer)

SECRETARY'S CERTIFICATE
(Applicable of all Corporations)

I, _____ Being the secretary
of _____, Hereby certify that
the proposal submitted hereby, has been authorized by the board of directors of said corporation,
and that the above signatures are those of the duly authorized agents and/or officers of same _____
_____ 2017.

Secretary

(CORPORATE SEAL)

SPECIAL INSTRUCTIONS TO CORPORATE PROPOSERS

1. Corporate Resolution

All corporate proposals shall include a duly executed resolution of the Board of Directors, either approving the particular proposal being submitted, or specifically authorizing and empowering a designated agent of said corporation to bind the corporation in all matters involving, related to, or incidental to the submission of a proposal hereunder and, if accepted by the Center, the corporation's full performance under the terms of the food/beverage operations management contract.

2. Foreign (non-Alabama) Corporations

In the event that the proposer selected to provide food services hereunder is a foreign corporation, it shall file to conduct business in the State of Alabama prior to their conducting any business in the State. Although the Center does not require foreign corporate proposers to qualify in Alabama prior to submitting a proposal, it is specifically understood and agreed that any such corporation will promptly take all necessary measures to become authorized to conduct business in Alabama at their own expense, upon the written request of the Center without regard to whether such corporation is actually awarded the contract, and, in the event that the award is made, prior to conducting any business in the State.

SCHEDULE "B"
CONTRACT FOR MANAGEMENT OF THE FOOD AND BEVERAGE OPERATION
AT THE BIRMINGHAM JEFFERSON CONVENTION COMPLEX
BIRMINGHAM, ALABAMA
BUSINESS QUESTIONNAIRE

INSTRUCTIONS:

Proposer must present evidence that they are fully competent and have the necessary facilities, experience and financial resources to fulfill the conditions of the Food/Beverage Operations Contract. To provide the Center with information on these points, proposers must submit, as part of their proposals, information stipulated in this questionnaire. In addition, certain minimum financial and experience requirements are set forth herein which must be met in order for a proposal to be considered. Proposers unable to satisfy the minimum requirements shall be disqualified.

Failure to submit this Business Questionnaire with all questions completely answered may disqualify the proposer, in accordance with conditions stipulated in the "Instructions to Proposers." The information in this Business Questionnaire will be held confidential.

Minimum Financial and Experience Requirements:

The proposer submitting this proposal warrants that said proposer has the following qualifications:

1. That the principal firm, partnership or corporation or its parent company making application has been in continuous existence for a period of the past five (5) years, or more.
2. That the principal proposer or its parent company has, for at least the past five (5) consecutive years, operated a catering and/or food or beverage concession, as a major concessionaire or caterer, or both, in one or more exhibition and convention halls, arenas, theaters, and concert halls or similar facilities with gross sales of at least Five Million Dollars (\$5,000,000.00) or more per year in at least one (1) location.
3. That the principal proposer or its parent company can satisfy all requirements as noted under Applicant Qualifications in the Instructions to Proposers Section of this package. Additional information (over and above that noted in this Qualification Form) should be attached with this form as Addendum information.

INFORMATION TO BE FURNISHED WITH PROPOSAL:
PLEASE PRINT OR TYPE IN BLANK SPACES

1. Date Submitted: _____
Submitted by: _____

2. Proposer is: (a) _____
(Full Name)

If proposer is an individual, fill in Para. (a) only. _____

(Street, City and Zip)

and is sole owner of, and doing business as: _____
(Trade Name)

OR (b) A commercial partnership composed of the following partners:
If proposer is a partnership, fill in Para. (b) only. _____

(Give Names and Address of all Proposers)

doing business as: _____
(Trade Name)

domiciled at: _____

(Street, City and Zip)

In the State of: _____

and which contract will be signed by:

(Name of Partner)

A member of the co-partnership.

OR (c) A corporation organized under the laws of the State of

_____, domiciled

if bidder is a
corporation fill
in Para (c) only.

at: _____

(Street, City and Zip)

and authorized to do business in the State of Alabama and which Contract will be signed by:

(Name of Officer)

Officer who signs contract for successful bidder must furnish Notary with an extract of minutes of corporation's Board of Directors showing his authority to act for the corporation.

3. The following named surety company authorized to do and doing business in the State of Alabama will execute the bond as surety for the proposer:

(Name and Address of Surety)

The following named bank domiciled in Alabama will furnish an irrevocable letter of credit in lieu of surety bond:

 (Name and Address of Surety)

4. Number of years' experience of the proposer making this proposal in the operation of the required concessions:

<u>TYPE OF OPERATION</u>	<u>YEARS OF EXPERIENCE</u>
First Class Restaurant/Cafeteria	_____
First Class Cocktail Lounge/Bar	_____
Exhibition Hall Food Services	_____
Meeting Room Facilities	_____
Catering/Banquet Facilities	_____
Convention Center Facilities	_____
Concessions (Arena, Concert Hall, Theater, Meeting Room and Exhibit Hall)	_____

5. Give the names and locations of places at which your organization has operated above mentioned businesses, together with the dates of operation (attach additional pages as necessary):

<u>Type of Operation:</u>	<u>Name:</u>	<u>Location:</u>	<u>Dates:</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

6. State approximately the largest gross receipts your organization has realized from the operation of the aforesaid facilities at any one place in one (1) year:

\$ _____ (Year)

 (Location)

7. List below the names and addresses of your landlords for the operations listed in Item 5 above:

<u>Operation</u>	<u>Landlord</u>	<u>Address</u>
------------------	-----------------	----------------

8. Have any leases for the operation of convention centers, theaters, arenas, concert halls, restaurants/cafeterias, cocktail lounges, exhibit halls, auditoriums, etc., held by your organization ever been canceled? Yes () No (). If yes, please explain in detail.

9. Bank References:

Bank:

Address:

10. Annual financial statements for each proposer (each joint venture partner) for the most recent fiscal year period, certified by an independent certified public accountant, must be furnished. Please complete the following balance sheet, which need not be audited. The date thereof shall not be more than twelve (12) months prior to the date of this questionnaire. Your own format may be substituted on a separate sheet, if you wish to do so.

LIABILITIES

a)	Notes Payable – Current Portion	\$ _____
b)	Accounts Payable	\$ _____
c)	Real Estate Encumbrances	\$ _____
d)	Judgments	\$ _____
e)	Other Liabilities:	\$ _____
		\$ _____
		\$ _____
		\$ _____
		\$ _____
f)	Surplus Reserves Capital Surplus	\$ _____
g)	Capital Stock Paid Up	\$ _____
h)	Surplus (Net Worth)	\$ _____
	Total Liabilities	\$ _____

Proposer: _____

By: _____

Title: _____

Signature: _____

SCHEDULE "C"
PROPOSAL FORM

Proposal of: _____

Address: _____

Date: _____

TO: THE BIRMINGHAM JEFFERSON CONVENTION COMPLEX ("The Center")

The undersigned hereby offers to enter into the Food/Beverage Operations Contract, at The Birmingham Jefferson Convention Complex, Birmingham, Alabama, under the terms and conditions set forth in said contract, in this Proposal Form, and in the Instructions to Bidders, for a term of five (5) years, commencing February 1, 2018, with a renewable two (2) year option renewable one year at a time, and to provide to The Birmingham Jefferson Convention Complex the full extent of services requested under this profit/loss commission format in accordance with the Food/Beverage Operations Contract, and this Proposal Form.

The undersigned proposer takes cognizance of the fact and warrants under its signed and sealed proposal that the following fees will be charged for its provision of services as follows:

PROPOSAL FORM

We propose to provide all of the services set out herein as follows:

1. **COMMISSIONS**

a) As consideration for rights granted to Proposer hereunder, Proposer shall pay Authority a percentage of Gross Receipts, in accordance with the following schedule:

<u>Category</u>	<u>Gross Receipts per Year</u>	<u>Commission on Gross Receipts</u>
(i) Concession Food Sales	\$0 to \$1,000,000	_____ %
	\$1,000,001 to \$1,500,000	_____ %
	In excess of \$1,500,000	_____ %
(ii) Concession Alcohol Sales	\$0 to \$750,000	_____ %
	\$750,001 to \$1,250,000	_____ %
	In excess of \$1,250,000	_____ %
(iii) Catering Food	\$0 to \$100,000	_____ %
	In excess of \$100,000	_____ %
(iv) Catering Alcohol	\$0 to \$250,000	_____ %
	In excess of \$250,000	_____ %

The foregoing concessions shall be calculated in an incremental, step-scale basis, as opposed to being retroactive back to dollar 1.

2. **QUALITY SERVICE AND PROFIT INCENTIVE BONUS**

As an incentive set out to insure top quality service, products and net operating profitability, a maximum annual bonus of up to 2.0% (see standards) of Gross Sales will be paid by the Center to the Food Service Proposer for exemplary performance as follows:

- 0.5% of Operating Net Profit (O.N.P.) of achieving certain food quality standards
- 0.5% of O.N.P. for achieving certain exemplary service performance standards
- 0.75 % of O.N.P. for achieving certain financial performance standards
- 0.25% of O.N.P. for achieving certain customer feedback standards

3. **NON-ALLOWABLE EXPENSES** (In the Calculation of Net Operating Profits)

The following costs are Non-Allowable Expenses and are not to be charged to the profit and loss statement for Food Services, but rather are to be considered as part of the Proposer's corporate overhead and administrative costs, i.e. the cost of doing business:

- Proposer's off-site supervision and support services (accounting and payroll services, facility planning and design, auditing, legal, purchasing, personnel, public relations, etc.)
- Payments to management recruiting companies
- Business Profit Taxes including any Possessory Interest Tax assessed by the County Assessor
- Other general corporate administrative and overhead expenses
- Bad debt expense
- Replacement of Smallwares
- Performance and payment bonds
- Fees and costs related to RFP Preparation and the Securing of this Contract

4. INCLUDED PRO FORMA EXPENSES

Pro Forma expenses shall include without limitation of the following:

- Cost of goods sold, less discounts directly attributable to The Birmingham Jefferson Convention Complex (list all discounts and rebates in detail)
- Direct labor paid; including applicable taxes, workers' compensation, fringe benefits for on-site management staff and employees as approved by the Director of Operations.
- Direct Expenses paid for supplies including but not limited to liability insurance, telephone, postage, cleaning supplies, pest control, permits, printing, decorating, repair and maintenance, uniforms, bank charges, and annual audit.
- Bad debt allowance of up to an amount equal to One Quarter of One Percent (.25%) of Gross Receipts from Catered and Banquet Services
- Amortization of the Equipment Improvements
- Amortization of any Prior Investment
- Accruals for Reserves

ANNUAL INCENTIVE STANDARDS

- Food Quality – as evidenced by a detailed audit checklist of no less than 30 areas that denote food quality issues in all areas of delivery, storage, preparation, cooking, serving, and clean-up. An annual weighted average of 90 points or more (out of a maximum total of 100 possible), over the course of 2 semi-annual audits per year, will earn the incentive bonus in this category.
- Service Performance– as evidenced by a detailed audit checklist of no less than 35 areas that denote service issues in all areas of delivery, storage, preparation, cooking, serving, and clean-up. An annual weighted average of 90 points or more (out of a maximum total of 100 possible), over the course of 2 semi-annual audits per year, will earn the incentive bonus in this category.
- Financial Performance – financial performance at the close of each operating year will be reviewed. If all expense cap centers meet the incentive criteria and net

operating profit exceeds the mutually approved (by Center and Proposer) budget by 10.0% or more, then the Proposer shall be allowed 1.0% of gross sales as the financial incentive bonus.

- Verifiable Customer Feedback Program – to be administered by an independent third party source mutually acceptable to both parties. Such program to include but not be limited to such tools as:
 - a) Periodic Customer Satisfaction Surveys
 - b) Meeting Planner Feedback Questionnaires
 - c) Focus Group Meetings (with selected major show attendees)An annual weighted average of 90 points or more (out of a maximum score of 100 possible) over the course of each operating year, will earn the incentive bonus in this category.
- All Incentives Met – if the four (4) above incentives are all met, then the Proposer shall be entitled to 2.0% of annual gross sales, the maximum incentive share obtainable by the Proposer in any given operating (fiscal) year.

NOTE

A mutually agreeable professional independent, fee-paid, foodservice consulting firm shall undertake semi-annual foodservice system audits during the contract term to arrive at the incentive award amount due. The annual fee cost for audit preparation shall be split equally between Proposer and Center and shall not be classified as an allowable expense under this contract. Recommended audit forms shall be approved by both parties and the cost of these consulting services shall be equally split annually by both parties.

We agree to provide all services under the conditions so stated above.

Signed and sealed this _____ day of _____, 2017 at _____.

Attest: _____

By: _____

Written Name: _____

Signature: _____

Title: _____

(Seal)

Company: _____

SCHEDULE "D"
MENU DETAILS - FOOD/BEVERAGE FUNCTIONS AND FACILITIES

The response of the Proposer to this Schedule D should be subject to and consistent with the facility provisions of the project. Proposer to provide details of the following menus based on the criteria noted:

1. Concessions (List by area and item i.e. Arena, Concert Hall, Theater, and Exhibit Hall)

<u>Area</u>	<u>Item</u>	<u>Selling Price</u>	<u>Portion Size</u>	<u>Product Cost</u>
-------------	-------------	----------------------	---------------------	---------------------

[PLEASE LIST PRODUCTS PROPOSED IN DETAIL INCLUDING PRICES AND COSTS]

2. Mobile Liquor Bar Concessions (List by area and item i.e. Arena, Concert Hall, Theater, and Exhibit Hall)

The mobile locations of these facilities will require a very high quality service to be maintained. Please detail your plans in this area keeping in mind the requirement that popular drink selections should be stressed in all cases.

<u>Area</u>	<u>Item</u>	<u>Selling Price</u>	<u>Portion Size</u>	<u>Product Cost</u>
-------------	-------------	----------------------	---------------------	---------------------

- Assorted Wines (2 sizes - cups)
- Mixed Alcoholic Drinks (1-1/4 oz. shots)
- Other Assorted (list)
- Soft Drinks (carbonated and non-carbonated) - 12 and 18 oz. cups
- Etc.

3. Catered Menus for Banquets and Meeting Room Meal Functions
Refer to requirement section in No. 1 above.

4. Cocktail Reception Menu

Proposers to quote prices for 100 pieces, 100 persons or specific amount, as noted - refer to requirement section in No. 1.

5. Liquor Functions

Proposer to quote prices per person and per name brand bottle based upon inclusion of mixes, liquor, beer and wine plus bartender charge, with the following criteria:

- Length of Party and
- Bar only, and
- With assorted hot/cold hors d'oeuvres
- Well, call and premium

6. Meeting Room Beverage/Snack Service

Same requirements as No. 1

7. V.I.P. Services

Proposer to list and quote prices on three (3) sample pre-plated breakfast, luncheon, dinner and reception menus (mid-range style/pricing).

PRICING INFORMATION

1. Prices for catered food and/or beverage, banquet, meeting room, reception or liquor functions are to be quoted "banquet style", that is to include all costs of menu, preparation, warewashing and supervision.

2. For sections 1-4 and 7 on Schedule D, proposers must supply detailed information on a sample day menu for all products noted, i.e. breakfast, lunch and dinner, then one sample menu for each meal taken during a sample day, should be provided.

Information required on sample day menus should include:

- Recipe and itemized costing sheets for all items offered on that day's menus;
- Recipes for all items will include, but not be limited to a total per-portion cost, a per-portion cost plus 10% figure and the date of costing using the most recent metro-Birmingham area cost figures;
- Recipe costings should reflect the Center's purchasing requirements as stated in the applicable sections of the Food/Beverage Management Contract; and
- Based upon demand projections noted for the Center and the types and styles of food/beverage service required, estimate your potential revenues, operating costs and profit margins for Years 1 through 5 on separate sheets of paper and include as proposal attachments for evaluation. This Profit and Loss Statement must be detailed in every regard and should follow the standard format as approved by the

Third Party Sales

- Concessions

OTHER COSTS

TOTAL FOOD, BEVERAGE &
VENDING COST OF SALES

TOTAL GROSS PROFIT

TOTAL INCOME

CONTROLLABLE EXPENSES

Payroll

Employee Benefits

Employee Meals

Direct Operating Expenses

- Replacement
- Insurances
- Extermination
- Janitorial & Paper
- Laundry & Uniforms
- Telephone & Office
- Ice
- Miscellaneous

Music and Entertainment

Advertising and Sales Promotion

Utilities

Administrative and General

Repairs and Maintenance

Miscellaneous Expenses

=====

TOTAL CONTROLLABLE EXPENSES

Profit before Commissions

Commissions

Profit Before Depreciation

Depreciation (minor pieces of
equipment Proposer may
provide)

OPERATING PROFIT

Additions to or Deductions from Profit

NET PROFIT

=====

SCHEDULE "E"
ADDITIONAL INFORMATION

Proposer to provide details of other compensation arrangements which it would like to be considered.

SCHEDULE "F"
COMMENTS ON FOOD/BEVERAGE OPERATIONS CONTRACT

The Center will be pleased to consider the Proposer's suggestions which might result in a greater volume of sales, higher per caps and net operating profits, more efficient operations, etc., from production, facilities, mix and flow of goods/service standpoints.

SCHEDULE "G"
FOOD/BEVERAGE OPERATIONS MANAGEMENT CONTRACT

THIS AGREEMENT made in triplicate as of the ____ day of _____, 2017, between the Birmingham Jefferson Civic Center Authority ("Authority") and _____ ("Contractor").

WHEREAS, the Authority desires to contract for food/beverage operations management services for The Birmingham Jefferson Convention Complex (the "Center") in Birmingham, Alabama.

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

1 Term

1.1 This Food Service Operations Management Contract shall be in effect for five (5) years from February 1, 2018 and terminating on January 31, 2022.

2 Performance

2.1 The Contractor shall, at the time this agreement is signed, deposit with the Center a Performance Bond Acceptable to the Authority, issued to a company authorized by law to conduct business in the State of Alabama and having an office in the metropolitan Birmingham area. Such bond shall be for Five Hundred Thousand Dollars (\$500,000.00), which will be held by the Center as security for the due performance of this Agreement.

3 Control

3.1 The Center shall, through its designated officer, manager or agent, be the final authority with regard to all aspects of the control, management and performance of the foodservice herein provided for all requests, procedures, approvals or changes shall be submitted through the Center. Liaison between the Center and the Contractor will be through the Center's Director of Operations designated in writing by the Center (hereinafter referred to as the "Center's Manager").

4 Exclusive

4.1 The Contractor shall have the exclusive right to operate all designated foodservice areas, bars refreshment stands and vending operations selling food and beverages (non-alcoholic), except as herein otherwise provided. The specific areas are as follows:

- Arena, Theater, Concert Hall
 - i. Catering Services (except for selected backstage catering)
 - ii. Portable Thematic Food Service

- iii. Permanent locations
 - iv. Portable Outlets
 - v. Vending Services
 - vi. Concession stands
 - vii. Provision of Personnel
 - viii. Linen Service
- Exhibit Halls & Meeting Rooms
 - i. Booth Services
 - ii. Exhibit Hall Concession Stands
 - iii. Portable Thematic Food Service & Cash Sales
 - iv. Bar Service
 - v. Linen Service

Failure to provide any service essential to the operation of the Center as determined by the Center will be considered a breach of contract and the Contractor will be considered in default of the contract.

- 4.2 The exclusive rights granted herein shall not include the sale at the Center premises of alcoholic beverages, phonograph records, non-food sundry items, to include by not be limited to: film, flash bulbs, aspirin, postcards, etc., programs, souvenir books, and other printed matter of a like nature and copyright novelties. However, the Center's Manager may require the Contractor to sell such items or may develop a separate contract granting exclusive rights for the sales of such items.
- 4.3 The Center's Manager shall give the Contractor advance notice of the nature of scheduled events and such information as is available regarding the probable attendance at each event. Every effort will be made by the Center's Manager to notify the Contractor of cancellation of previously scheduled events to which due notice has been given the Center, but not liability shall evolve upon the Center for failure to deliver notice of cancellation. The Contractor on the other hand shall be held strictly accountable for furnishing full and adequate service for the full period of time required for any event of which he has had notice. Further, nothing contained herein shall be interpreted to limit the Contractor in taking the initiative to obtain event information from the Center in a timely manner.
- 4.4 In operation of the contract, it shall be understood and agreed that the Contractor is an independent Contractor and not an agent, servant or employee of the Center or the-Center.
- 4.5 Should the Contractor utilize the Center foodservice facilities for off-site food functions, approval of the Center's Manager must first be obtained in writing and such off-site foodservice will be subject to restrictions imposed at that time, all such services to be considered as part of gross sales except where furnished by the Sheraton Hotel through their catering contract with the Center, and as such be included under the commission fee as per the set out schedule. Further, the Center's

Manager may negotiate with the successful Contractor an appropriate fee for the specific activity as described herein.

5 Foodservice Provision

5.1 The Contractor shall organize, put into service and manage efficiently the following Center beverage and catering operations to provide excellent food, beverage and related vending services within a clean, attractive and pleasant environment.

5.1.1 Food and Non-alcoholic Beverage Fixed and Mobile Concession Facilities (Arena, Concert Hall, Theater and Exhibit Hall)

5.1.2 Food Service Pantries/Meeting Rooms

5.1.3 Main Production Kitchen – for Catering and Banquets

5.1.4 Vending Services/Areas

6 Types of Service

6.1 The Contractor, to satisfy the demands of the various tenant needs for food services, will be required to adapt its operation to meet the challenges of various service categories.

6.2 In addition to the normal concession and catering functions the Contractor will provide in the Center, there will be a need for various specialized services which the Contractor will be required to provide. These services are normally associated with convention/trade show activities. These specialized services shall include, but not be limited to, the following:

6.2.1 Room Service - This activity involves the distribution of various snack-type and catered meals in the meeting room areas utilized by tenants. This type of service is similar in function to the room service normally associated with hotels. Characteristics of this service are similar to the following:

6.2.1.1 Food items ordered by quantity, i.e. dozens, as opposed to number of individuals to be served.

6.2.1.2 Service usually requires constant and frequent attention by Contractor to insure food and non-alcoholic beverage items are fresh and in adequate supply.

6.2.1.3 The Center's Manager will impose certain transportation and storage requirements and restriction so as not to conflict with function traffic access/egress. Above to apply before, during and after scheduled events.

6.2.1.4 Coffee service at stations located within a show office or in meeting room areas, normally sold in quantity amounts, i.e. per gallon, etc.

6.2.1.5 Table cloth service.

6.2.1.6 VIP Lounge Service if needed will require specialized pre-plated and buffet meals for a small number of guests on an ongoing

basis. Service will also be provided for receptions and other special functions scheduled by the Center and/or Contractor.

- 6.2.2 Exhibitor Services - This function is usually associated with convention/trade shows in which various areas within the Center are utilized for display purposes. Exhibitor services, chargeable at an agreed upon rate with the Center's Manager, normally fall into the following areas:
 - 6.2.2.1 Food/non-alcoholic beverage items provided to exhibitors as method of entertaining clients.
 - 6.2.2.2 Product storage and/or refrigeration and delivery of same.
 - 6.2.2.3 Product preparation: This area would involve the preparation, i.e. cooking, assembly, etc., of exhibitor product(s) with appropriate delivery where required.
- 6.2.3 Personnel Service - On various occasions the Contractor may be called upon to provide personnel for special purposes such as bartending, waiter/waitress, host/hostess or other activities. The special personnel services are not to be confused with the normal personnel required by the Contractor to meet the Contractor's responsibilities to provide reasonable good quality and efficient service to the tenant in fulfillment of the obligations as set out within this document.

7 Operating Conditions

- 7.1 The Center will furnish to the Contractor for the period of the food/beverage contract, storage areas, kitchens, concession facilities, pantries and foodservice equipment.
- 7.2 The Center will furnish spaces for office, money counting, and record keeping purposes of the Contractor for the contract period. The use of this office space for purposes other than the operation of this concession, without prior approval of the Center's Manager, shall result in the revocation of this space.
- 7.3 Location of all mobile concession stands, certain mobile food carts and location of auxiliary storage space required by the Contractor shall be approved by the Center's Manager. The Contractor shall acquire no rights to such locations once assigned, and the Center reserves the right to require the Contractor to move temporary or permanent stands and equipment when needs of other events require the use of them.
 - 7.3.1 Contractor shall be responsible for coordinating the final hookup of electricity, gas, water, or drainage on all portable (temporary) stands. Hookups will be made by the Center's staff unless otherwise determined by the Center's Manager.
- 7.4 The Center shall furnish all electricity and gas, and the Center may supply labor required to make temporary connections at the discretion of the duly designated Owner's representative of the Center. Anything herein to the contrary notwithstanding, the Center shall not be liable or responsible for any failure to furnish the services set forth above occasioned by strike or other work stoppage,

- federal, state or local government action, breakdown, or failure of apparatus, equipment or machinery employed in supplying the said service, and temporary stoppage for repair, improvement or enlargement thereof, or any act or condition beyond its reasonable control.
- 7.5 Contractor is required to have its next senior level of management to the Food and Beverage General Manager, visit the Center a minimum of once every calendar quarter (four times per year).
- 7.6 The Contractor shall furnish at his own expense all common and skilled labor for the setting up and dismantling or moving of temporary food/refreshment facilities in such locations as may be agreed upon between the Contractor and the Center.
- 7.7 The Contractor and its employees shall be entitled to enter upon and remain in the premises with access at designated areas for work purposes only during events at the Center and for a reasonable time prior to and subsequent to events; and only for the purpose of exercising the rights and privileges mentioned herein. This paragraph shall not exclude the Contractor reasonable access to office areas for the conduct of normal business activities associated with this concession.
- 7.8 The Contractor agrees that nothing in these specifications shall be construed as to prohibit a tenant of the Center from exhibiting any merchandise or article in connection with the exhibit or other type of event, or from dispensing free samples of merchandise. Such sampling is subject to approval of the Center but normally will be restricted to the following:
- Food – 3.5 oz. portion
 - Beverage – 3.5 oz. portion
- 7.9 The Contractor shall have all facilities open and in operation a reasonable time before, during and after all events as may be requested or approved by the Center's Manager. The facilities shall not be in operation when there are no events, except as may be approved by the Center.
- 7.10 When and if a restaurant/cafe or a temporary food service, i.e. mobile "special emphasis" food service area is in operation, food served must be cooked and prepared by the chef on the premises of the Center, with the exception of baked goods and standard canned and packaged items. Deviation from this requirement must be approved in writing by the Center.
- 7.11 The public's right shall not be infringed upon by any activity of the Contractor or any of his employees. The activities of the Contractor shall be such as to render service to the public in a dignified manner and no pressure, coercion or persuasion shall be used by the vendor in an attempt to influence the public to use the services or product of the vendor. All concession sales shall be conducted and operated under the supervision of the Center's Manager and shall in no way interfere with the orderly operation on any event. The sales shall be conducted at such times from and at locations designated by the Center's Manager and for such purpose, and no vendors will be permitted to circulate throughout the premises for the sale of any merchandise, except with the permission of the Center's Manager. Neither the

- Contractor nor his employees shall distribute campaign or political literature or any literature of any kind at any time in or on the premises of the Center.
- 7.12 The Center reserves the right to direct the Contractor to partially or completely suspend service during those events with which full Contractor operation may be incompatible in the opinion of the Center's Manager.
 - 7.13 The Center shall not be responsible for any food, merchandise or equipment used, maintained or stored at the Center nor will it be responsible for damage resulting from a power failure, flood, fire, explosion, vandalism and/or other causes.
 - 7.14 Nothing herein contained shall be held to limit or qualify the right of the Center to a free and unobstructed use, occupation and control of the Center and ingress and egress for itself, its tenants and the public.
 - 7.15 Representatives of the Center shall have the right to enter upon and have access to all occupied areas of the Contractor during the time that events are in operation and at all times when Contractor's employees are present, and in an emergency situation.
 - 7.16 Contractor shall be responsible for ensuring regular inspections by the Jefferson County Health Department occur each year. Copies of the inspections shall be forwarded to the Center's Manager for review with the Food and Beverage General Manager.

8 Personnel

- 8.1 The Contractor shall select, employ, train, furnish and deploy in the optimum number (to match work requirements), in each work classification, employees who are proficient, productive, and courteous to patrons and shall discipline, and if necessary, discharge any and all personnel working in this operation. The Contractor shall also provide adequately trained relief personnel in the event of absences.
- 8.2 The Contractor shall furnish all necessary qualified supervision for the performance of the food and beverage service and agrees to assign to his operation a highly competent, full-time resident manager who shall have no duties other than direction of this operation. The Contractor shall secure the Center's approval in advance as to the qualification of the manager for this assignment and, once assigned to this operation, such manager shall not be replaced without the approval of the Center.
- 8.3 Should the Contractor's Manager, Assistant General Manager, Executive Chef or Director of Sales be changed in less than two (2) years' time from the date of his/her work commencement (other than voluntarily leaving the employ of the company and/or the parent company), the Contractor will pay to the Center a vacated management penalty fee of \$50,000.00 per infraction. If the Center determines that the removal of any of these management positions is in its best interest for any reason, then Contractor shall remove and promptly replace this position with a new employee approved by the Center.
- 8.4 The Contractor's management should be available at all food/beverage functions/operations and said Contractor will set up a travel fund through a reserve

account to permit travel/sales of Center's food/beverage sales management staff for purpose of promoting and selling future events to prospective clients of the Center. A minimum of one (1) management level FTE shall be designated as a full time sales professional for this contract.

- 8.5 If at any time the Center finds that the Contractor's manager or his/her alternate is unsatisfactory, and such causes and reasons are duly reported in writing by the Center to the Contractor, the Contractor shall, within ten (10) days, replace him/her with one who is satisfactory to the Center. At any time Contractor's Management desires to leave the Center, Contractor's current Manager will provide to the replacement Manager such detailed training as necessary and required before changing his/her position.
- 8.6 The Contractor agrees that there shall be no discrimination by it against any person, with respect to opportunity for employment or conditions of employment, because of race, color, religion, national origin, age or sex and warrants that he will comply with all applicable local, state and federal laws relating to employment practices.
- 8.7 Personnel supplied by the Contractor will be deemed employees of the Contractor and will not for any purpose be considered employees or agents of the Center.
- 8.8 The Contractor assumes full responsibility for the actions of such personnel while performing services pursuant to this Agreement, and shall be solely responsible for their supervision, daily direction and control, payment of salary (including withholding and income taxes, Unemployment Insurance, Workers' Compensation and Social Security) and the like, as required by the law.
- 8.9 The Center shall have the right to refuse access to its facilities at any time to any employee of the Contractor, its agents, sub-contractors or suppliers' employees. The exercise of its right shall not diminish the Contractor's obligation of performance arising under the Agreement, provided that the Center shall allow the Contractor to have access to said facilities at times sufficient to fulfill said obligation. The rights of access for personnel shall be limited to those parts of the Center's premises available for common use (e.g. entrances, hallways, stairways, concession areas, lounges, kitchens, banquet area(s) and food preparation areas), but shall not include a right of access to other parts of the Center unless specifically otherwise requested by the Center. The Contractor will be responsible for requiring employees to abide by all instruction, regulation and codes as specified by the Center.
- 8.10 The Center requires that all full time Contractors' employees engaged in the preparation, handling, serving and storage of food/beverage, meet both State and Local Health Department requirements. The minimum health requirement for full time food/beverage service employees of the Center will consist of satisfactory results of:
 - 8.10.1 Chest X-ray (14" x 17").
 - 8.10.2 Serological tests for venereal diseases.
 - 8.10.3 Stool examination for ova and parasites.

- 8.10.4 Examination of the skin for lesions or rashes.
- 8.10.5 Appropriate alcohol and drug testing.
- 8.11 Examinations are to be conducted and satisfactory results reported by a competent physician or clinic, and are to be forwarded to the Center's Manager for approval prior to the employees reporting to work in the Center. These tests are to be repeated on an annual basis. All costs related to such tests shall be borne by the Contractor. All employees' medical reports shall be kept on file in the Center by the Center's Human Resources Manager and kept up to date.
- 8.12 In the event that any of the employees refuse health inspections, the Center's Manager reserves the right to have such employee removed from the foodservice operations.
- 8.13 The Contractor shall remove from the foodservice facilities any employee whom the Center's Manager considers detrimental to the best interests of the Center.

9 Unit Staffing, Labor and Personnel Training Practices

- 9.1 Prior to commencement of work in the Center, the Contractor shall furnish to the Center a written statement setting forth Training Practices, the names of all employees, the commencement date of the employment at the Center for each such employee, and the duties to be performed by each. The Contractor shall also furnish to the Center a written statement setting forth the names of persons being hired and ceasing to be employed in the Center.
- 9.2 In addition, the Contractor shall:
 - 9.2.1 Describe its Affirmative Action Plan prepared expressly for the Center.
 - 9.2.2 Provide the number of entry level employee man hours to be devoted to formal training for the staff at the Center.
 - 9.2.3 Submit a copy of the Employee Handbook.
 - 9.2.4 Describe recruiting techniques and sources of non-management labor.
 - 9.2.5 Describe personnel policies and practices.
- 9.3 The minimum staffing requirements are as follows:
 - 9.3.1 Full-Time Personnel/ Minimum Staffing Levels:
 - Full-Time Director of Food and Beverage
 - Full-Time Assistant Director of Food and Beverage/Sales Manager
 - Part-Time Sales Manager/Administrative Assistant
 - Executive Chef
 - Sous Chef
 - Full-Time Banquet Managers – two (2)
 - 9.3.2 Hourly Personnel/Minimum Staffing Levels:
 - Banquet Servers – one (1) per 12 guests
 - Banquet Captains – one (1) per six waiters
 - Host Bar – minimum of one (1) bartender per 75 guests
 - Cash Bar – minimum of one (1) per 60 guests

9.4 The use of non-profit organization labor is a requirement wherever and whenever available.

10 Uniforms and Linens

10.1 The Contractor or its agent will provide and maintain linens and uniforms for all employees. Selection type, color, style and dress code of uniforms will be at the discretion and approval of the Center's Manager. The Contractor must provide a choice of uniform styles and availability at the Center's request. The Center will consider the Contractor to be the sole contact and responsible for the services it or its agents provide. Additionally, the condition of the hygiene and appearance of employees is the Contractor's sole responsibility.

11 Menus

11.1 The Contractor shall plan and prepare imaginative menus in consultation and coordination with the Center's Manager and in accordance with its specification. Quantities, portions, prices of banquet/meeting meals and prices of concession snack items from all food and beverages shall be approved by the Center according to its requirements. Only foods and beverages which are wholesome and of the best quality shall be purchased and served. Both retail and catered/banquet menus shall include a variety of healthy "farm to fork" product selections of only the highest quality.

12 Food Handling

12.1 All merchandise shall be checked upon delivery for quality and quantity compliance with the original order and shall be stored in proper areas in sanitary containers which are dated for effective rotation of stock on a first-in, first-out basis. All refreshments and food exhibited for sale shall be covered in showcases or other suitable containers. All pre-packaged sandwiches, cakes and other similar products shall be wrapped in approved cellophane or similar transparent wrapping.

12.2 The Contractor agrees to operate the foodservice facilities and perform all work in connection here within a professional and resourceful manner, complying with all public health regulations to the satisfaction of authorized Department of Health Officers and the appropriate agencies.

13 Food Quality

13.1 The Contractor shall sell only foods that comply with all applicable Federal, State and Center laws, acts, orders, or regulation including, without limitation on the generality of the foregoing, the applicable sections of the following laws, acts and regulations.

13.1.1 The Food and Drug Act.

13.1.2 Applicable Meat Inspection Regulations.

13.1.3 The Humane Slaughter of Animals Act and Humane Slaughter

Regulations.

- 13.1.4 The Official Methods of Analysis and Association of Official Analytical Chemists.
- 13.1.5 The Federal Department of Agriculture - Products Regulations.
- 13.1.6 The Fish Inspection Act and Regulations.
- 13.1.7 Meat and Canned Foods Act.
- 13.1.8 Fresh and Processed Fruit and Vegetable Regulations.
- 13.1.9 The U.S. Grain and Grain Regulations.
- 13.1.10 The Birmingham Alcoholic Beverage Control Ordinance.

14 Items to be Sold

- 14.1 The Contractor shall sell those products, commodities and articles normally found in operations of this type. The Center may require the Contractor to sell items which, in the Center's discretion, are necessary for the Operation of the foodservice facilities and may limit or require discontinuance of the sale of any products, commodities or articles which the Center deems to be not in the best interest of the operation of the food services.
 - 14.1.1 As a matter of general policy, prices shall not be higher than those charged at comparable restaurants, bars, snack stand facilities, hotels, stadiums, convention centers, arenas, etc., for the same quality merchandise and services within the Southeastern region of the United States. Prices must be posted in displays permanently on all stands and vendor's equipment.
 - 14.1.2 The Contractor shall submit a detailed price schedule based on current market conditions for all items he proposes to sell showing size, weight, and amount of items. This includes items sold in concession stands, by vendors, at any mobile food courts, catered affairs, mobile "special emphasis" food service areas, in vending machines, etc. All prices finally adopted will require approval of the Center's Manager.
 - 14.1.3 The Center's Manager and the Contractor shall, on a quarterly basis, or as deemed necessary, review the general price structure of all commodities sold and may, by agreement in writing with the approval of the Center's Manager for good cause, increase or decrease the maximum price or size of any article or articles offered for sale.
 - 14.1.4 If the Contractor desires to offer for sale any article not included in the price schedule, menu, and alcoholic beverage list, then the Contractor may be allowed to do so after first obtaining written approval of the Center's Manager to sell such articles, but in such case the Center's Manager must approve the maximum price or prices at which said articles may be offered for sale. If the Contractor desires to substitute an article listed in the schedule, written approval must be obtained from the

Center's Manager as to the quality, amount and maximum price of such substitute article.

- 14.1.5 No product of inferior quality will be permitted and all items to be sold will require the approval of the Center's Manager. This requirement shall not be deemed to require the Contractor to rely exclusively on one seller or manufacturer's item(s), but several manufacturers or sellers may be used or the Contractor's original source may be changed in the interest of quality, competition and public appeal, as required by the Center's Manager.
- 14.1.6 All merchandise kept for sale shall be subject to inspection and approval or rejection by the Center's Manager during all times that the concession is in operation. Rejected merchandise shall be immediately removed from the Center and shall not be returned for sale.
- 14.1.7 The Contractor will be required to purchase, sell and feature locally (Alabama) - produced products whenever possible with the understanding that said wholesale prices are competitive with other products available on the open market. Such foods and beverages are to have preference to include craft beers, wines, distilled liquors, meat, produce, dairy and the like.
- 14.1.8 The Center's Manager will require the Contractor to offer for sale locally unique, well known and popular food and beverage items in the Center, as it has been determined that the sale of such items is in the best interest of the Center and local community.
- 14.1.9 The Contractor shall exert its best efforts to donate all wholesome, leftover products which could not otherwise be utilized, to local charities and other similar agencies having as their objective the feeding of the needy.
- 14.1.10 The Birmingham Jefferson Convention Complex strongly supports "green" practices such as recycling of packaging, food waste reduction, third party food donation programs, composting, use of earth friendly disposable products, energy conservation and responsible use of water. The absence of such a general commitment would be probable cause for dissatisfaction.

15 Alcoholic Beverages

- 15.1 The types of functions at which wine, beer, or other alcoholic beverages are sold shall be subject to regulations established by the Center. Such sales are the exclusive right of the Center and its staff. If any tenant with the prior approval of the Center's Manager, requires that its patrons be allowed to bring alcoholic beverages upon the premises, then the Contractor shall have the right to sell ice, cups, and beverages, commonly referred to as set-ups, as well as levy an appropriate corkage

charge agreeable to the Center's Manager during such functions at a price agreeable to the Contractor and the Center.

- 15.2 The Center will provide all licenses and permits required for the legal sale of alcoholic beverages by its staff.
- 15.3 The Contractor will provide an Alcohol Awareness Training Program for its staff, i.e. TIPS, TEAMS, etc., with complete information regarding same.

16 Procurement Policy

- 16.1 The Contractor shall purchase food, beverages and operating supplies, such as uniforms, laundry service, paper goods and detergents needed for the foodservices to be supplied hereunder from whatever source or sources that will establish and effect procedures which assure the quality and quantity required at the most economical prices, it being understood that the Contractor shall avail itself of all lawful trade, cash, quantity discounts and rebates and all such discounts and rebates shall inure to the benefit of the foodservice operations herein. A list of Minimum Purchase Specification Requirements of the Center is provided in Schedule 6 of this document. All such purchases shall be in the Contractor name, and payment shall be made directly to the Supplier.
- 16.2 Suppliers will permit no liens whatsoever to be placed against the property of the Center as a result of the failure of the Contractor, his agents, Contractors and/or sub-Contractors to make all payments required of them in this connection.

17 Operations Warewashing

- 17.1 The Contractor will wash after each use, all non-disposable serviceware, plateware, glassware and cutlery to achieve maximum cleanliness and sanitation and with respect to glassware and cutlery, produce spotless drying.

18 Equipment

- 18.1 The Center will provide for the use of the Contractor certain fixed equipment located in the foodservice areas. The said equipment shall remain the property of the Center. This equipment will not include designated cash register systems specified by the Center and provided by the Contractor. Tie-in computer systems will be specified and also provided by Contractor.
- 18.2 The Center shall be responsible for the maintenance and repair of said equipment during the term of this Agreement and any renewal thereof. A listing of said equipment for the facilities is enclosed as a separate attachment to this RFP and will be provided as shown on Plans.
- 18.3 Any other equipment such as office equipment, safe, etc., is to be provided by the Contractor.
- 18.4 In addition to Center's normal equipment maintenance schedule, Contractor shall notify the Center's Manager relative to the needs for repair or replacement of the Center's equipment, utensils and/or fixtures used in the handling, preparation and

service of all foods and beverages in connection with the foodservices, for written approval before undertaking repair or maintenance. The Contractor will cooperate with the Center's maintenance personnel in the development and institution of a comprehensive preventative maintenance program.

- 18.5 The Contractor hereby agrees to accept the food/beverage concession equipment, in the condition in which it is found by the Contractor, at the commencement of this Agreement. The Contractor shall keep the foodservice facilities in first-class condition and shall maintain the said foodservice equipment (except ordinary wear and tear) and conduct the business generally at a high level of cleanliness and neat appearance (the Center or its Manager to be sole judge as to the sufficiency of the cleanliness and neatness of appearance of the said premises and of any equipment at any phase of the said business with the power to order any changes or alterations thereto that it may deem desirable) and to leave the said facilities and equipment in a neat and tidy condition and in good operating order at the expiration or other termination of this Agreement.
- 18.6 The Contractor shall, from time to time and with the written approval of the Center, furnish additional supplies as required for the proper operation of the foodservices, including but not limited to the replacement per exact specifications of the existing stock of china, glassware, cutlery, utensils and so forth damaged or lost by use in the conduct of the operations. The Contractor will at all times take proper care of these supplies and strive to minimize losses and shall provide the initial par stock inventory of smallwares if termination takes place.

19 Cleaning, Inspection and Sanitation

- 19.1 The Contractor will provide all applicable inventories of Center specified china, glassware, flatware, cooking utensils, and sundry items. These and any replacement costs will be funded from an equipment and maintenance escrow account whereby 1.0% of all sales will be deposited monthly by the Contractor therein to offset equipment maintenance and repair and smallwares replacement costs. Such account will be in the Center's name and such deposits will be verified by the Center's Manager upon monthly written notification by Contractor. Appropriate records of serviceware replacement costs will be maintained by the Operator and made available to the Center or its Manager upon request. The Contractor will maintain, at all times, the kitchens and food preparation areas and all equipment, fixtures, paraphernalia, material, utensils and other items therein, in a clean and sanitary manner; and comply with all applicable health and sanitation laws and regulations in effect where the foodservices areas are located. The Contractor shall permit and facilitate inspection of the foodservice operation by the Center and its representatives and by public authorities so authorized at all times.
- 19.2 The Center shall supply all smallwares necessary to accommodate up to 250 guests during its operation under this Agreement. The Contractor shall maintain these smallwares in good and presentable condition, including ensuring that said

smallwares are washed after each use to achieve maximum cleanliness and sanitation. The Contractor's washing of glassware and cutlery must produce spotless drying. Contractor shall perform, at its expense, a physical inventory of said smallwares on a quarterly basis. Contractor shall provide the Center with the results of each smallwares inventory within five (5) calendar days after the inventory is completed. Contractor shall at all times maintain appropriate inventories of smallwares and equipment to insure high quality provision of services.

19.3 The Contractor shall provide the Center with the following:

20.3.1 A description of the Contractor's approach to sanitation practices.

20.3.2 A description of the Contractor's program used to train employees in proper sanitation procedures.

19.4 All refuse and waste materials created by Contractor's operations in all foodservice areas including café(s) and portable cafeteria(s) shall be promptly disposed of after each event by Contractor directly into a compactor designated and paid for by the Center, from which it shall be removed by the Center.

19.5 Center shall be responsible for the regular servicing of fire protection and fire extinguishing systems in the kitchen and food preparation areas to ensure they are fully operable.

20 Rodent Control

20.1 The Contractor will contract for rodent and other vermin prevention and extermination as is necessary or required by law. The Contractor shall exert the utmost vigilance in detecting signs of rodent and other vermin and insect infestation, and when discovered take immediate action to eradicate such infestation.

21 Maintenance

21.1 Notwithstanding the Contractor's responsibility to maintain the foodservice facilities at a high level of neatness and cleanliness, the Contractor shall provide standard building janitorial and maintenance services in the food/beverage service areas. Should these services be deemed unsatisfactory by the Center, Center reserves the right to contract for such service and bill the Contractor back for such costs. Nothing contained herein however, shall be construed to alter or affect any duty which Contractor has or may have toward the general public under applicable local, State and Federal law.

22 Deliveries

22.1 The movement of products in and out of the foodservice areas must be carefully monitored to avoid all conflicts with other Center functions. Any containers being moved through public areas must be covered or otherwise protected.

23 Garbage

- 23.1 The Contractor shall transport all waste materials including grease from the various locations to the food service garbage compaction/pick-up areas, in a manner and by a route designated by the Center. Such removal shall be made during and after each event. Contractor shall also maintain the food service trash/compaction area in a neat and clean condition at all times.
- 23.2 The entire areas, except permanent seating areas within a radius of twenty-five feet of each concession stand, kitchen area and work areas shall be kept clean and free from all rubbish. The Contractor shall keep such twenty-five feet radius of each stand and other concession areas free and clear of all debris. Repair of damage done to floors, walls, windows, or other property in said radius and other foodservice areas by reason of operation of said stand and other foodservice areas, will be the responsibility of the Contractor. The Contractor must employ the necessary cleaning personnel before, during and after the hours of each event to comply with these provisions subject to approval of the manager. These personnel will provide cleaning services only during designated times.
- 23.3 The Contractor shall provide sufficient waste receptacles at each location and make certain that they are of the same design and style, kept clean, and promptly serviced during and after each event.

24 Grease

- 24.1 The Contractor must not discharge any grease into the building drains and must keep grease in containers for disposal by the Contractor. If the Contractor fails to comply with this provision, any cost, charge or expense involved in opening, cleaning or repairing drains will be paid by the Contractor.

25 Hours of Operation

- 25.1 Contractor's hours of operation shall be determined by mutual agreement of the Contractor and Center, subject to certain restrictions as provided in Section 30 below ("Restrictions on Sales").
- 25.2 All concession sales shall be conducted and operated in such manner as not to interfere with the orderly operation of events held within the Center. Sales shall be conducted only from and at locations approved by the Center's Manager.
- 25.3 Without invalidating this Agreement the Center may, from time to time by written advice to Contractor, change the hours of operation substituting a new schedule for that specified above. Such specified schedule or schedules shall be binding on the above parties hereto when signed by the Center's Manager.

26 Use of Premises By Others

26.1 Contractor shall not permit the private use of any part of the premises without in each case the prior written approval of the Center's Manager.

26.2 It is also understood that the Center may lease space for certain major functions which have as their primary purpose the preparation and consumption of food and beverage of a specific geographical derivation, in which case the Center's Manager may grant a tenant permission to sell or otherwise dispense food and beverage products. (Without limiting the generality of the above, examples could include such events as the International Culinary Olympics). In such cases, the Contractor may charge a reasonable fee for the tenant's use of the premises and equipment used by Contractor pursuant to this agreement (which fee shall be subject to the prior written approval of the Center's Manager) with the revenues thus gained by the Contractor to be accounted for as gross revenues.

27 Removal of Subcontractor

27.1 The Center or its Manager reserves the right to remove any subcontractor from the premises whose background, performance and/or general methodologies are deemed by the Center or its Manager, not in the best interests of the overall Center operation.

28 Take-Out Sales

28.1 It is understood that any items prepared on the Center's premise on a "take-out" or "off-site" use basis for sale or delivery directly to the consumer shall be considered as sales to be included in the gross receipts of the food service operation.

29 Restriction on Sales

29.1 Contractor understands and agrees that the Center's contracts with tenants for particular functions may stipulate reasonable restrictions on the sale of food, beverages and concession items, where necessary, to protect the goods on display or where necessary because of the nature of the function. For example, without limiting the generality of the foregoing such items as snow-cones and cotton candy may not be sold at shows displaying boats, campers, automobiles and the like; at functions such as meetings, as opposed to public exhibitions, the tenant may require that no food, beverages or concession items be sold in tenant's area of occupancy; or the sale of alcoholic beverages (outside of the concession stands as determined by the Center's Manager) may not be permitted.

29.2 Chewing gum may not be sold in the Center by Contractor whether from vending machines or otherwise.

29.3 Upon expiration or early termination of this Agreement, Contractor shall provide to the Center a minimum of four (4) years of customer service contractual requirements inclusive of details related to food and beverage service rendered.

29.4 Contractor agrees to offer food and beverage products and services to certain Center sponsored events on a "Cost plus 10% fee basis". Center will provide a list of these annually to the Contractor.

30 Sampling

- 30.1 Contractor understands and agrees that food or beverage may be germane to the function itself, and in such cases the Center's contract with the tenant may permit to dispense samples of foods and beverages, in quantities smaller than normally offered for sale. (See aforementioned definitions.)
- 30.2 The Center's Manager reserves the right to examine and/or sample Contractor's products at any time for the purposes of assessing quality and portion controls.

31 Taxes Due and Commission Fees

- 31.1 The Contractor shall pay the Center on the 20th day of each calendar month of the term of this agreement, taxes due and commission fees which shall be computed and stated separately pursuant to the following provisions of this Section:
- 31.2 The first such payment shall be due on March 20, 2018, covering the period from commencement of this agreement through that date, and the last or final payment shall be due no later than twenty (20) days after expiration or termination.
- 31.3 Each year's fees shall be treated as an isolated event and a separate charge for accounting purposes. No previous payment or credit from any prior or past year shall be credited or subtracted from the amount of the annual license charge as required herein.
- 31.4 Service charges on products and services should not exceed 18.0% of the published cost of retail and catered/banquet food and beverage. Fifty (50%) percent of such charges shall be passed through directly to employees by the Contractor. The remainder of such service fees is commissionable within the service classification that they fall under.

32 Cash Receipts

- 32.1 Each operating day the Contractor shall deposit into a specified account the total revenues received from the day's foodservice operations. Each week the Food Service General Manager will provide food and beverage summary sheets with copies of validated bank deposit slips and cash register tape totals, to include: cash received, cash sales, catering sales (cash and receivables) to the Center's Manager.
- 32.2 Monthly Report - Contractor agrees to furnish Center by the tenth (10th) day of the next month following each month a detailed profit and loss statement signed by an officer showing all revenues and expenses derived during said month.

33 Payment of Bills, Other Payroll

- 33.1 The Contractor will pay promptly all authorized bills, payroll and expenses incurred in the normal operation of the food/beverage services as set out in Section 32.

34 Audit and Accounting Services

- 34.1 The Contractor shall keep an accurate and complete set of books and records of the operation of the food/beverage service facilities on the premises in accordance with generally accepted accounting principles as the Center's auditors may require, and allow the Center's auditors and/or other designate at all reasonable times to inspect the said books and records.
- 34.2 The Contractor will submit an annual budget forecast for food/beverage operations for the Center four (4) months prior to the beginning of each operating year. For the purposes of this Agreement, operating year will be designated as September 1 to August 31. The budget will be submitted to the Center for review and approval. Detailed revenue derivation, food cost and labor cost controls should be included.
- 34.3 Audit - Throughout the term of this Lease, Contractor shall submit to the Center within one hundred twenty (120) days of the close of Contractor's fiscal year a certified audit report from a certified public accountant for the business conducted in the leased premises. Such audit as herein provided for shall be at the sole expense of the Contractor and not considered as an operating expense of this Contract.
- 34.3.1 Failure to comply with the aforementioned clause shall result in the Contractor paying to the Center as a penalty, the amount of One Thousand Dollars (\$1,000.00) for each and every day exceeding the 120 day deadline.
- 34.3.2 The Contractor must submit the following information:
- An explanation of income and expense reporting practice procedures and controls utilized by its accounting department.
- 34.4 In addition, the Contractor shall use an inventory system to determine sales, to be approved by the Center's Manager. The Contractor will not permit any of his employees (with the exception of roving vendors) to make change from pockets of clothing in any concession areas.
- 34.5 The Contractor shall agree to use cash registers to show total sales of a type approved by the Center's Manager.
- 34.6 Inventory systems to determine sales and product usage must be approved by the Center's Manager. The Contractor will not permit any of his/her employees (with the exception of roving vendors), to make change from boxes, containers, or from pockets of clothing.
- 34.7 Records - Contractor will keep within the confines of the Center, proper, adequate, and accurate accounting books and records prepared in accordance with an accounting system satisfactory to Center, of all business and transactions engaged in under this Contract, for all periods included within the term of this Contract, said records to include without limitation the daily receipts, the daily bank deposits, the daily sales and business done by the Contractor and shall preserve and make available for audit and examination by the Center as hereinafter provided, such books and records as well as a copy of all business tax returns to the State of Alabama and of Federal income tax returns.

35 Taxes and Fees in Lieu of Taxes

35.1 The Contractor shall pay all license fees, taxes and all retail sales fees in lieu of taxes on the products or services which the Contractor provides hereunder, including but not limited to all federal, state and local taxes, workmen's compensation payments, unemployment insurance, payroll and other taxes with respect to services provided under this Agreement, and all other taxes arising from the Contractor's operation hereunder. Fees in lieu of taxes consist of all retail sales and liquor taxes that are remitted to the Authority twenty (20) days after the end of each month.

36 Business Ethics

36.1 The Contractor shall strictly comply with all City, State and Federal Laws, Ordinances and Regulations applicable to and governing this operation, and shall procure all necessary licenses and permits, which are to be displayed at an appropriate part of the food services areas in the Center as designated by the Center.

36.2 The Contractor agrees that all financial settlements, reports and billings rendered to the Center under this Agreement shall properly reflect the facts of all activities and transactions handled for the Center's account, and may be relied upon as being complete and accurate in any further recording or reporting made by the Center for any purpose.

36.3 The Contractor shall notify the Center in writing promptly upon discovery of any failure to comply with the above mentioned sections.

37 Liability and Indemnification

37.1 The Contractor shall:

37.1.1 Be liable to the Center for all losses, costs, damages, expenses, fines, penalties and attorney's fees whatsoever which the Center may suffer, sustain, pay or incur; and, in addition,

37.1.2 Indemnify and hold harmless the Center against all actions, proceedings, claims, demands, loss, costs, damages and expenses whatsoever which may be brought against or suffered by the Center or which it may sustain, pay or incur, by reasons of, or on account of, any injury, illness or death of persons and/or damage to property arising out of, or incidental to, the Contractor's provision of the food/beverage services herein provided and the Contractor's right of way over any portion of their premises demised and any negligence, act or omission by its employees, licensees or invitees.

38 Indemnity, Release, Insurance and Security

38.1 Contractor shall at all times enforce by adequate supervision and training of supervisory personnel a safe working environment for all employees including the supervision of all services which relate to the general safety and welfare of any persons exposed to the services performed under this Agreement by the Contractor

- 38.2 Contractor agrees to fully cooperate with the Center in any employee and public safety program sponsored by Center. Contractor agrees to conduct all of its operations with due diligence and care for the safety of all persons at all times.
- 38.3 A certificate of insurance, in the form satisfactory to the Center, evidencing said coverage shall be provided to Center prior to the Commencement Date. Throughout the term of the Agreement, Contractor shall provide an updated certificate of insurance as requested upon expiration of the current certificate.
- 38.4 Contractor shall provide and maintain throughout the term of this Agreement and any extension thereof the following insurance (including the provision of risk prevention programs):
- 38.4.1 Commercial General Liability Insurance on the “occurrence” form (not claims made basis) covering all operations by or on behalf of the Contractor providing insurance for bodily injury and property damage liability for the limits of liability indicated below and including coverage for:
- 38.4.1.1 Premises and operations.
- 38.4.1.2 Products and completed operations.
- 38.4.1.3 Contractual liability for bodily injury or property damage assumed by the Contractor under the save harmless and indemnification provisions of this Agreement for losses covered under such policies.
- 38.4.1.4 Personal injury liability – with the contractual exclusion deleted.
- 38.4.1.5 Employees of the Contractor as additional insureds.
- 38.4.1.6 Liquor law (common or statutory) liability including any liability there may be under any Dram-Shop law.
- 38.4.1.7 Broad form property damage (including completed operations).
- 38.4.1.8 Explosion, collapse, and underground hazards.
- 38.4.1.9 Cross liability or separation of insureds clause.
- 38.4.1.10 Automobile liability insurance (body injury and property damage liability) including coverage for all owned, hired and non-owned automobiles. The limits of liability shall be \$1,000,000 combined single limit for each accident.
- 38.4.1.11 Workers’ compensation insurance shall be provided as required by any applicable law or regulation.
- 38.4.1.12 Employer’s liability insurance shall be provided in the following amounts: \$3,000,000 each accident for bodily injury by accident, \$3,000,000 policy limit for bodily injury by disease, and \$3,000,000 each employee for bodily injury by disease.
- 38.5 The limits of liability for the commercial general liability policy in combination with excess liability shall be:
- 38.5.1 \$3,000,000 each occurrence (combined single limit) for bodily injury, personal injury, and property damage liability.

- 38.5.2 \$5,000,000 aggregate for products-completed operations.
- 38.5.3 \$5,000,000 general aggregate.
- 38.5.4 \$50,000 fire damage (any one fire)
- 38.5.5 \$10,000 Medical Expenses (any one person)
- 38.5.6 \$5,000,000 Errors and Omissions Professional Liability (per occurrence)
- 38.6 The workers' compensation policy shall be endorsed to provide that the insurance company waives its rights of subrogation against the Center, the Authority and its Board of Directors, and the officers, representatives, agents and employees of the Center.
- 38.7 All insurance shall be provided by companies licensed/admitted in Alabama and financially responsible.
- 38.8 The Authority, its Board, the Center, its Board of Directors and the officers, representatives, agents, and employees shall have no responsibility whatsoever to the Contractor with respect to any insurance coverage required herein, its procurement or absence thereof. The policies of insurance procured and maintained hereunder shall not affect the Contractor's liability to the Authority, its Board, the Center, its Board of Directors and the representatives, agents, and employees, for the performance of any obligation assumed by the Contractor under this Agreement.
- 38.9 The commercial general liability policy shall include the Center and its Board of Directors, the officers, representatives, agents and employees, as additional insured with respect to the liability arising out of the performance of the Contractor's work under this Agreement.
- 38.10 The Contractor's insurance for the Center, the Authority and its Board and the officers, representatives, agents and employees, shall apply as primary insurance and other insurance including Self Insurance and Self-Insured Retention and shall be excess insurance only and shall not be called upon to contribute with this insurance with respect to losses arising from the sole negligence of the Contractor.
- 38.11 Each required insurance policy shall be evidenced by Proof of Insurance Coverage in the form of properly endorsed certificates of insurance and shall require that thirty (30) days written notice be given the Center prior to cancellation of such policy. All such notices must identify the Contractor as the vendor. Proof of all required insurance coverage shall be submitted to:

Director of Operations
The Birmingham Jefferson Convention Complex
2100 Richard Arrington Jr. Blvd. North
Birmingham, Alabama 35203

- 38.12 Insurance Applicable to Subcontractors:
 - 38.12.1 The Contractor shall secure certificates of insurance as evidence that each subcontractor has in force and will maintain in effect at all times during the performance of work for the Contractor not less than the following

coverages and limits of insurance which shall be maintained with insurers and under forms of policies satisfactory to the Contractor and the Center.

- 38.12.2 Each contract between the Contractor and a subcontractor shall also contain the following “Save Harmless and Indemnification” clause:

“Subcontractor agrees to protect, defend, indemnify and hold the Contractor, the Authority and its Board, and the Center and the officers, representatives, agents and employees of the Contractor, the Authority and the Center, free and harmless from and against any and all penalties, costs, losses, damages, expenses, cause of action, or judgments, including attorney’s fees or liability of every kind and character (“claims”) in connection with or arising, directly or indirectly, out of this agreement and/or the performance hereof. Without limiting the generality of the foregoing, any and all such “claims” relating to injury or death (including injury or death sustained by Subcontractor’s employees), damage to property, defects in materials or workmanship, actual or alleged infringement of any patent, trade work, copyright (or application of any thereof) or of any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court, shall be included in the indemnity hereunder. Subcontractor’s aforesaid obligation to hold harmless and indemnify under this Agreement shall apply to any acts or omissions, or negligent conduct, whether active or passive, on the part of subcontractor (its subcontractors or employees) or the Contractor, the Authority, the Center or any other party indemnified hereunder except that sub consultant’s obligation to hold harmless and indemnify shall not be applicable to “Claims” arising from the sole negligence or willful misconduct of the Contractor, the Authority, the Center or any other party indemnified hereunder.”

- 38.12.3 Subcontractor further agrees to investigate, handle, respond to, provide defense for and defend any such “Claim” at its sole expense and agrees to bear all other cost and expenses related thereto even if such “Claim” is groundless, false or fraudulent.

- 38.12.4 Commercial general liability insurance on the “occurrence” form (not claims made basis) covering all operations by or on behalf of subcontractor providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:

- 38.12.4.1 Premises and operations.
- 38.12.4.2 Products and completed operations.
- 38.12.4.3 Contractual liability insuring the obligations assumed by subcontractor under its contract with the Contractor.

- 38.12.4.4 Broad form property damage (including completed operations)
- 38.12.4.5 Explosion, collapse and underground hazards.
- 38.12.4.6 Personal injury liability with the contractual exclusion deleted.
- 38.12.4.7 Automobile liability insurance (bodily injury and property damage liability) including coverage for all owned hired and non-owned automobiles. The limits shall be \$1,000,000 combined single limit for each accident.
- 38.12.4.8 Workers compensation insurance shall be provided as required by any applicable law or regulations.
- 38.12.4.9 Employer's liability insurance shall be provided in the following amounts; \$3,000,000 each accident for bodily injury by accident, \$3,000,000 policy limit for bodily injury by disease, and \$3,000,000 each employee for bodily injury by disease.
- 38.12.5 The limits of liability for the commercial general liability policy shall not be less than:
 - 38.12.5.1 \$5,000,000 each occurrence (combined single limit) for bodily injury and property damage
 - 38.12.5.2 \$3,000,000 for personal injury liability
 - 38.12.5.3 \$5,000,000 aggregate for products-completed operations
 - 38.12.5.4 \$5,000,000 general aggregate.
- 38.12.6 All subcontractors' policies shall contain an endorsement providing that written notice shall be given to the Contractor and the Center at least sixty (60) days prior to cancellation or reduction of coverage in the policy.
- 38.12.7 The commercial general liability policy shall be endorsed with the following endorsement:

“Who is Insured (Section ___) is amended to include as an insured the person or organizations shown in the Schedule of this endorsement but only with respect to liability arising out of work or work operation by or on behalf of (show name of subcontractor) for the Contractor. The insurance extended by this endorsement for the persons or organizations shown in the Schedule shall apply as primary insurance and any other insurance including Self Insurance and Self-Insured Retention for such person or organization shall be excess insurance only and shall not be called upon to contribute with this insurance.”
- 38.12.8 Promptly, upon execution of a contract with the Contractor and prior to commencement of work, the subcontractor shall return to the Contractor certificates of Insurance properly executed a signed by an Authorized representative on behalf of the insurer(s) evidencing the above coverages and conditions. The Contractor shall also require that, upon request, the

- subcontractor will furnish copies of such policies, certified by an authorized representative of the insurer(s).
- 38.13 The Contractor shall furnish to Center at the time of execution of the Agreement a performance bond or such other form a security as may be agreed to, in the amount of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) for the term of the Agreement, guaranteeing the faithful performance of all conditions contained in the Agreement and for prompt payment of all contractual indebtedness. The bonds shall be with a surety company authorized to write bonds in the State of Alabama, and acceptable to the Center, subject to approval as to form and content, by the Center.
- 38.14 The Contractor shall indemnify and hold harmless the Authority and its Board, the Center and its Board, and the officers, agents and employees of each from:
- 38.14.1 Any claims, damages, costs and attorney fees for injuries or damages arising directly from the negligent or intentional acts or omissions of the Contractor, its officers, employees and/or agents, including its sub or independent contractors, in connection with the performance of this Agreement.
- 38.14.2 Any claims, damages, penalties, costs and attorney fees arising from any failure of the Contractor, its officers, employees and/or agents including its sub or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
- 38.14.3 Center will not indemnify, defend or hold harmless in any fashion the Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that the Contractor may provide. Center agrees to immediately notify the Contractor of all losses or claims for which it will seek indemnity under this Agreement. Center agrees not to incur any cost or expense with respect to any such loss or claim without the approval of the Contractor and further agrees to fully cooperate with the Contractor and the Contractor's authorized representatives in the investigation, defense and settlement of all such claims.
- 38.14.4 The Contractor shall pay Center any expenses incurred as a result of the Contractor's failure to fulfill any obligation in a professional and timely manner under this Agreement.
- 38.15 In general, the Contractor shall comply with all applicable insurance and fire prevention regulations of the Center, the State of Alabama and of all legally constituted insurance authorities.
- 38.16 At the time of the execution of this Agreement, the Contractor is to furnish and deposit with the Center sufficient copies of all required insurance policies designated herein. All coverages shall be issued by an insurance company authorized by law to carry on business in the State of Alabama, and having an A.M. Best rating of A:X11

or better. Such policies are subject to the approval of the Center. Coverages are to include the following:

- 38.16.1 Comprehensive General Liability coverages shall be provided with limits of not less than Two Million Dollars (\$5,000,000) for any one occurrence. Coverages are to include Premises-Operations, Personal Injury, Contractors Protective, Products, Liquor Law, and Contractual Liability coverages.
- 38.16.2 Automobile Liability coverages shall be provided with limits of not less than One Million Dollars (\$1,000,000) for any one occurrence. Coverages are to include all owned, hired and non-owned automobiles.
- 38.16.3 Workers' Compensation and Employers Liability coverages shall be provided with Alabama Statutory limits and limits of not less than One Hundred Thousand Dollars (\$100,000) for Employer's Liability.
- 38.16.4 Commercial Umbrella Liability coverages shall be provided in excess of the coverages described above. Limits of not less than Ten Million Dollars (\$10,000,000) and self-insured retention of no more than \$10,000 shall be provided.
- 38.16.5 The coverages described above shall also include the following:
 - 38.16.5.1 Ninety days written notice of cancellation, material reduction of coverage or non-renewal shall be given to the Center.
 - 38.16.5.2 The Authority and the Center shall be added as an Additional Insureds.
 - 38.16.5.3 The Contractor's employees shall be added as Additional Insureds.
 - 38.16.5.4 The following Waiver of Subrogation in favor of The Birmingham Jefferson Convention Complex shall be added - Contractor, its agents, employees and insurer(s) hereby releases the Center, its agents, and assigns from any and all liability or responsibility including anyone claiming through or under them by way of subrogation or otherwise for any loss or damage which Contractor, its agents or insures may sustain incidental to or in any way related to Contractor's operation under this contract.
 - 38.16.5.5 Furthermore, the Contractor is responsible for and shall require all servicemen, delivery men, and sub-contractors to provide to him a Certificate of Insurance on their Comprehensive General Liability, Automobile Liability, and Workers' Compensation Coverages as described above and with written notice of cancellation and Waiver of Subrogation in favor of the Contractor, and the Center. Also the Contractor, and the Center shall be added as Additional Insureds.
- 38.16.6 Standard all-risk coverage covering the equipment and furnishings on the premises covered by this Agreement shall be provided. Limits shall be carried equal to an amount not less than one hundred (100%) percent of the

complete inventory value of the Contractor and Center supplied foodservice equipment and furnishings.

38.16.6.1 A deductible of no more than \$5,000 per occurrence shall be provided. Any loss under any deductible amount is the sole responsibility of the Contractor.

38.16.7 Standard all-risk coverage covering the fixed equipment shall be carried by the Center. Any loss under any deductible amount is the sole responsibility of the Contractor.

38.16.8 Standard all-risk coverage covering improvements put in by the Contractor shall be provided. Limits shall be carried equal to an amount not less than one hundred (100%) percent of the replacement cost of the improvements.

38.16.8.1 A deductible of no more than \$5,000 per occurrence shall be provided. Any loss under any deductible amount is the sole responsibility of the Contractor.

38.16.9 Fidelity Insurance - for employee dishonesty - \$500,000 per occurrence, \$1,000,000 aggregate.

39 Waiver of Subrogation

39.1 Contractor, its agents, employees and insurer(s) hereby releases the Center, its agents and assigns from any and all liability or responsibility including anyone claiming through or under them by way of subrogation or otherwise for any loss or damage which Contractor, as its agent or insurers may sustain incidental to or in any way related to Contractor's operation under this contract.

40 Quality and Value

40.1 The Contractor shall provide a first class standard of service and value to the guests patronizing the foodservice facilities and the Center or its Manager may request such changes or alterations as it may deem desirable. Such requests will not be unreasonably denied.

40.2 In particular, the Contractor shall provide at all times a sufficient number of employees to serve promptly and efficiently and in a courteous manner satisfactory to the Center. All such employees shall be clad in clean and neat uniforms satisfactory to and approved by the Center.

40.3 It is the intention of the Center that its food/beverage services be of the highest quality attainable. All food/beverage service areas are to be kept clean, orderly and sanitary at all times and in strict accordance with all applicable laws, ordinances, and rules regulations.

40.4 All food, drinks, beverages, confectionery, refreshments and the like sold or kept for sale shall be first quality, wholesome and pure and shall conform in all respects to the federal, state and municipal food and other laws, ordinances and regulations. No imitation, adulterated or misbranded article shall be sold or kept for sale. All merchandise kept on hand shall be stored and handled with due regard for sanitation.

Leftover perishable merchandise which is not fresh and wholesome shall not be sold at any time.

- 40.5 The Center's Manager shall have the right to reject the character of service and require that undesirable practices be discontinued or remedied.
- 40.6 The Contractor will be responsible for cleaning of table tops, floors, emptying waste receptacles, and other related sanitation functions during events, and following each event in the various foodservice areas.
- 40.7 The Contractor shall constantly endeavor to improve the operation with a view toward developing maximum gross receipts potential and service to the Center's patrons.
- 40.8 The Contractor will maintain on a continuing basis the section of the receiving dock where food and beverages are delivered and will be responsible for the return of all pallets, storage containers, linens and other equipment used in the conduct of operating the food service that belongs to suppliers. All trash and garbage receptacles and food service dock compactor will be cleaned and sanitized daily by Contractor to insure a high standard of sanitation.

41 Altering Facilities

- 41.1 The Contractor agrees not to alter, add to or in any way vary the foodservice facilities or make any alterations or installation without having first obtained the consent in writing of the Center or its Manager provided that payment of all such alteration and/or additions be negotiated between the Center and the Contractor and shall inure to the benefit of and become the absolute property of the Center.
- 41.2 The Contractor shall have entry to the premises not less than thirty (30) days prior to or upon commencement of Contractor's operations and the parties shall conduct a joint inventory and condition survey of the equipment, furnishings and fixtures included with the aforesaid premises and make a written record thereof, with each party indicating by authorized signature its acceptance of said written record. Should the Contractor add any additional equipment for use in the food/beverage service areas, the Center will require written approval and documentation to the nature of equipment added.

42 Menus

- 42.1 The Contractor shall first submit for the Center's approval and shall keep posted one day in advance in a place conspicuous to users of the Center, a full list of all items, with their prices, offered for consumption on a given day.
- 42.2 Contractor upon request of Center shall prepare appropriate sample menus for distribution to prospective users of the Center. All menus shall include the courses available, prices and date of distribution; all menus shall be approved by the Center's Manager prior to distribution.
- 42.3 Should the Contractor or its representative directly contract with a tenant for a meal function, buffet and/or cocktail party or for providing any services in the Center,

Contractor shall forward one copy of the completed agreement to the Center's Manager. Such agreement shall list the various dishes to be served, the approximate number of people involved, the services to be provided and the prices of the various services.

43 Fair Wages and Hours

43.1 The Contractor shall comply with all Wage practices and laws of the government of the United States and shall also comply with all Alabama and Federal laws and regulations governing employment and conditions of employment. Wages payable to any personnel hereunder shall at the commencement of this Agreement be in accordance with Schedule '3' attached hereto.

44 Workers' Compensation

44.1 The Contractor will comply with the terms of the Workers' Compensation Act of the State of Alabama and any amendments thereto insofar as they are applicable to the food service operations hereunder.

45 Utilities

45.1 The Center agrees to contract with the local public service agencies, for the furnishing of electricity and natural gas for Contractor's operations under this agreement at Center's own cost.

45.2 Center shall also furnish water, sewerage and drainage, and solid waste removal as Center shall determine shall be necessary and required, subject to applicable federal and local regulations.

45.3 Notwithstanding anything to the contrary, Center shall not be liable to Contractor or anyone in damages or otherwise, for failure to furnish or delay in furnishing any service which Center may be obligated to furnish or cause to be furnished under any circumstances, including any failure to furnish or delay in furnishing occasioned by needful repairs, renewals of services or improvements; by any labor controversy; by any failure or inability to secure water, electricity, natural gas or other utilities at the building from public utility companies as aforesaid; by any accident or casualty; by any act or default of Contractor or other parties; or by any other cause.

45.4 The Center shall furnish tables and chairs to tenants for catered events, up to the quantity actually owned by the Center and available. All fee charges for the use of Center's tables and chairs at a catered event shall be retained by the Center and directly billed by the Center to the tenant(s). The fee shall include labor (furnished by Center) for set-up and dismantling the tables and chairs and cleaning thereof.

45.5 The Contractor shall develop an effective and continuous energy management and conservation program.

46 Emergency

46.1 The obligation of any party to perform any acts hereunder shall be suspended during the period such performance is prevented by acts of God, war, riot, invasion, fire, accident, strike or walkout, or by government interference, regulation, appropriation, or rationing or by inability to secure goods or materials or shipments or because of other conditions similar to those enumerated above, beyond the control of the party obligated to perform.

46.2 In the event that the Contractor is unable to provide the services or a portion of the services covered by this Agreement, for any reasons specified in the preceding paragraph, the Center is duly authorized to provide such service or portion thereof, in such manner as it may deem proper.

47 Sale of Alcoholic Beverages

47.1 The Contractor shall not sell or allow the sale or consumption of any intoxicating or alcoholic beverages or any fermented ale, wine, liquor or spirits in any part of the food/beverage service facilities, at any event, unless such part is licensed by the State and City Liquor Control Board, and the sales or consumption of such beverages is specifically approved in writing by the Center. The Center shall have the exclusive rights to all sales of alcoholic beverages.

48 Unlawful Pursuits

48.1 The Contractor shall preserve the foodservice facilities in good order and prevent gambling or other pursuits thereof.

49 Advertising

49.1 The Contractor shall not advertise in any manner other than as approved by the Center and the Contractor shall have no right to use the trademarks, symbols or trade name or names of Center directly or indirectly, in connection with any production, promotion, service or publication, without the prior written approval of the Center.

50 Bankruptcy

50.1 Should the Contractor during the term of this Agreement make any authorized assignment for the benefit of its creditors or voluntarily or involuntarily be declared bankrupt or terminated or if a receiver or liquidator shall be appointed to administer the Contractor's affairs, this Agreement shall, at the sole discretion of the Center, be automatically and without notice canceled and terminated as of the date of such assignment or as of the date upon which a custodian receiver, trustee or liquidator is appointed.

51 Sanitation Regulations and Job Inspection

51.1 The Contractor shall comply with the Sanitation Regulation Job Inspect requirements attached hereto as Schedule "7".

52 Termination for Cause

- 52.1 Should Contractor at any time violate any conditions of this Agreement or fail to comply with any of Contractor's obligations hereto under, and should such violation or failure persist for thirty (30) days after written notice thereof given by the Center (unless, with respect to those violations or failures which cannot be reasonably corrected or remedied within such thirty (30) day period, Contractor must commence to correct or remedy same within such thirty (30) day period and thereafter proceed with all due diligence to correct or remedy same); or should Contractor fail to pay the charges imposed hereunder punctually when due and such failure to pay should persist for thirty (30) days after written notice thereof or upon the filing by or against Contractor of a bankruptcy, receivership, respite, reorganization or arrangement petition (if involuntary, the same not having been dismissed after 120 days from the date of filing). The Center shall have the option either to cancel this agreement, or to eject Contractor and enter into a contract with another party, on terms and conditions consistent with the purposes of this agreement and for such remuneration as may be obtainable either by public bidding or through negotiation, in the sole discretion of the Center, and to apply the net amount realized against Contractor's obligation for the payment as aforesaid; Contractor to remain responsible for all damages or losses suffered by Center, Contractor hereby assenting thereto and expressly waiving legal notice to vacate said premises. Failure strictly and promptly to enforce these conditions shall not operate as a waiver of the Center's rights, the Center expressly reserves the right always to enforce payment of charges due hereunder or to cancel this agreement, regardless of any indulgence previously granted.
- 52.2 If the Contractor should ever cease operations or abandon the premises during the term of the agreement, in addition to any other remedies under this agreement or under the law, the Center may at its option and without serving the notice otherwise required in this Section, take immediate possession of the premises and, in its discretion, enter into a food /beverage service contract with another party, and apply the net proceeds from such new agreement toward the Contractor's obligations.

53 Non-Waiver

- 53.1 No condoning, excusing or overlooking by the Center of any default, breach or non-observances by the Contractor at the time or times in respect of any covenant, proviso or condition herein contained shall operate as a waiver of the Center's rights hereunder in respect to any continuing or subsequent default, breach or non-observance, or operate so as to defeat or affect in any way the rights of the Center in respect of any such continuing or subsequent default or breach and no waiver shall be inferred from or implied by anything done or omitted by the Center save only an express waiver in writing. All rights and remedies of the Center in this Agreement contained shall be cumulative and not alternative.

54 Notice

54.1 Until written notice of change of address is given by either party to the other by registered letter properly addressed, any notice with reference to the subject matter of this Agreement shall be deemed to have been sufficiently given when, if given, the Notice shall be addressed to:

and when, if given to the Contractor, it shall be addressed to

and in any case sent by prepaid registered mail. Any notice given as aforesaid shall be deemed to have been received by the party to whom it is addressed on the third business day following the day upon which it is mailed as aforesaid.

55 Subordination

55.1 This Agreement and everything herein contained shall be subordinate to any ground and underlying lease or leases and to any charge or charges (including Deeds of Trusts, Mortgages, Bonds, and all instruments supplemental thereto) and all renewals, modification, consolidations, replacements and extensions thereof created by the Center in respect to the Center and the Contractor hereby covenants and agrees that it will at any time and from time to time as required by the Center during the term hereof and any extension or renewal, given all such further assurances relative to this proviso as may be reasonably required to evidence and effectuate this subordination of its rights and privileges hereunder to the holder or holders of any such ground and underlying lease or leases and charge or charges (including Deeds and Trust).

56 Successors and Assigns

56.1 The provisions hereof shall be binding upon and shall inure to the benefit of the parties hereto and each of their respective successors and assigns. This Agreement cannot be assigned by the Contractor without the prior written consent of the Center.

57 Amendment

57.1 No amendment or modification of the Agreement shall be valid or binding on the parties unless made in writing and signed on behalf of each of such parties by their respective representatives hereunto duly authorized.

58 Singular, Plural, Masculine and Feminine

58.1 Wherever the singular and masculine is used in the Contract it shall be construed as if the plural or feminine or neuter, as the case may be, had been used where the nature of the party or parties hereto so requires and the rest of any sentence, where such consultation is required, shall be construed as if the grammatical and terminological changes thereby rendered necessary had been made.

59 Headings

59.1 All section and paragraph headings are for quick reference and convenience only and do not alter, amend, explain or otherwise affect the terms and conditions appearing in this Agreement.

60 Surety

60.1 The performance bond as herein below provided shall be furnished throughout the life of this agreement, and all premiums for same shall be paid by the Contractor. Contractor agrees that in the event of cancellation or termination of said bond a new bond, or Letter of Credit as provided in Section 64 below (LETTER OF CREDIT), effecting the same guarantees to the Center shall be furnished by Contractor to Center prior to the effective date of such cancellation or termination.

60.2 TO THESE PRESENT NOW COMES AN INTERVENES:

a surety corporation organized and existing under and pursuant to the laws of the State of _____, having its principal office in the City of _____ State of _____, appearing herein though _____, herein duly authorized to act pursuant to Power of Attorney conferred upon him/her, a duly certified copy of which is annexed hereto and made part hereof, which corporation binds and obligates itself jointly, severally and in solido with said _____ TO AND IN FAVOR OF The Birmingham Jefferson Convention Complex for the faithful performance by said Contractor of all obligations assumed by, or imposed upon said Contractor by this agreement, including all payments due by Contractor to Center; provided, however, that the obligation of the aforesaid surety shall not exceed the sum of FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00). The condition of this agreement on the part of the aforesaid surety is such that if the said Contractor shall perform and abide by all of the obligations assumed by, or imposed upon, said Contractor by this agreement, including the payment of such charges as aforesaid, then this obligation shall be null and void and of no effect; otherwise it shall remain in full force and effect.

61 Letter of Credit

61.1 As an alternative to the furnishing of the Performance Bond as provided in Section 62 above (Surety), Center at its option may agree to accept an Irrevocable Letter of Credit of a bank organized pursuant to laws of the United States of America and domiciled in the State of Alabama which shall be for an amount not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00), available by draft of Center at sight to be accompanied by the signed statement of Center in duplicate certifying that _____ has failed to faithfully perform any obligation assumed by, or imposed upon said Contractor by this agreement, which letter of

credit shall be delivered to Center prior to the commencement date of this agreement as provided in Section 1 (TERM). Company agrees that in the event of cancellation or termination of said Letter of Credit a new Letter of Credit, or bond as provided in said Section 63 above, affecting the same guarantees to Center shall be furnished by Contractor to Center prior to the effective date of such cancellation or termination.

61.2 Company herein agrees that under no circumstances shall Center be liable in damages to Contractor in the event that Center should issue a draft or drafts against said Letter of Credit in an amount or amounts over and above that which may ultimately be declared to the actual liability of Contractor to Center.

62 Proposal

62.1 The proposal submitted by Contractor to obtain the award of this Food/Beverage Operations Service Contract, and all obligations of Contractor, as the successful Contractor, as well as all conditions of the award of contract, are hereby recognized and affirmed by Contractor, and are made part of this contract as written herein in extenso. A copy of said proposal documents with Company's proposal are annexed hereto and made a part hereof.

63 Alabama Contract

63.1 This is an Alabama contract and shall be governed, interpreted and enforced in accordance with the laws of the State of Alabama.

SCHEDULES '1', '2', '3', '4', '5', '6' and '7' and Appendices A, B, C, and D attached form an integral part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement under seal.

SIGNED, SEALED AND DELIVERED

THE BIRMINGHAM JEFFERSON
CONVENTION CENTER AUTHORITY

Witness

Per _____
Per _____
Date _____

(Name of Contractor)

Witness

Per _____
Per _____
Date _____

SCHEDULE '1'
SMALLWARES AND MISCELLANEOUS SERVICE EQUIPMENT

The following equipment, as specified by the Contractor with assistance and agreement by Center, shall be provided by the Center.

- Adequate supply of china to serve 250 people simultaneously, including but not limited to: plates, bowls, cups, saucers, etc.
- Beverage glassware.
- Adequate supply of trays.
- Supply of stainless steel and/or silver plated dining utensils, including but not limited to: knives, forks, spoons and soup spoons.
- Ample supplies of back-of-the-house servicewares, including but not limited to: Kitchen utensils, equipment cleaning aids, etc.
- State of the art menu boards/graphic signage (where required).
- Buffet and catering equipment, i.e.: chafing dishes, servicewares, etc.
- Salt and pepper shakers.
- Specialty thematic backdrop settings, etc.
- Linens.
- Point of sale cash and inventory control systems.

NOTE:

If an existing inventory of certain pieces of the above related equipment exists, and with written approval of the Center's Manager will be used of offset the above inventory.

SCHEDULE '2'
EQUIPMENT LIST

Equipment and fixtures shall be supplied by and remain the property of the Center unless otherwise specified by the Center. Refer to Center's foodservice plans and equipment enclosed separately to coordinate equipment item numbers with actual pieces of equipment and their location.

[PROVIDE EXISTING FOODSERVICE FIXED HEAVY DUTY AND SMALLWARES
EQUIPMENT INVENTORY LIST HERE]

SCHEDULE '4'
FINANCIAL FORMAT FOR OPERATIONAL SUBMITTAL PURPOSES
FOOD AND BEVERAGE SALES

<u>SALES</u>	<u>Amount (\$)</u>	<u>%</u>
<u>Food Service and Non-Alcoholic Beverages</u>		
• Mobile Food Services		
• Fixed Concessions Operations		
• Catered and Banqueting Services		
 <u>Alcoholic Beverage Services</u>		
• Mobile and Cash Bars		
• Fixed Concession Operations		
• Catered and Banqueting Services		
 <u>Third Party Sales</u>		
• Concessions		
 <u>OTHER SALES</u>		
	_____	_____
 TOTAL FOOD, BEVERAGE & VENDING SALES		
 <u>Food Service and Non-Alcoholic Beverages</u>		
• Mobile Food Services		
• Fixed Concessions Operations		
• Catered and Banqueting Services		
 <u>Alcoholic Beverage Services</u>		
• Mobile and Cash Bars		
• Fixed Concession Operations		
• Catered and Banqueting Services		

Third Party Sales

- Concessions

OTHER COSTS

TOTAL FOOD, BEVERAGE &
VENDING COST OF SALES

TOTAL GROSS PROFIT

TOTAL INCOME

CONTROLLABLE EXPENSES

Payroll

Employee Benefits

Employee Meals

Direct Operating Expenses

- Replacement
- Insurances
- Extermination
- Janitorial & Paper
- Laundry & Uniforms
- Telephone & Office
- Ice
- Miscellaneous

Music and Entertainment

Advertising and Sales Promotion

Utilities

Administrative and General

Repairs and Maintenance

Miscellaneous Expenses

TOTAL CONTROLLABLE EXPENSES

Profit before Commissions

Commission

Profit Before Depreciation

Depreciation (minor pieces of
equipment Contractor may
provide)

OPERATING PROFIT

Additions to or Deductions from Profit

NET PROFIT

=====

SCHEDULE "5"
PROPOSAL FORM

Proposal of: _____

Address: _____

Date: _____

TO: THE BIRMINGHAM JEFFERSON CONVENTION COMPLEX ("The Center")

The undersigned hereby offers to enter into the Food/Beverage Operations Contract, at The Birmingham Jefferson Convention Complex, Birmingham, Alabama, under the terms and conditions set forth in said contract, in this Proposal Form, and in the Instructions to Proposers, for a term of five (5) years, with a renewable two (2) year option renewable one year at a time, commencing February 1, 2018, and to provide to The Birmingham Jefferson Convention Complex the full extent of services requested under this profit/loss commission format in accordance with the Food/Beverage Operations Contract, and this Proposal Form.

The undersigned proposer takes cognizance of the fact and warrants under its signed and sealed proposal that the following fees will be charged for its provision of services as follows:

PROPOSAL FORM

We propose to provide all of the services set out herein as follows:

1. **COMMISSIONS**

a) As consideration for rights granted to Proposer hereunder, Proposer shall pay Authority a percentage of Gross Receipts, in accordance with the following schedule:

<u>Category</u>	<u>Gross Receipts per Year</u>	<u>Commission on Gross Receipts</u>
(i) Concession Food Sales	\$0 to \$1,000,000	_____ %
	\$1,000,001 to \$1,500,000	_____ %
	In excess of \$1,500,000	_____ %
(ii) Concession Alcohol Sales	\$0 to \$750,000	_____ %
	\$750,001 to \$1,250,000	_____ %
	In excess of \$1,250,000	_____ %
(iii) Catering Food	\$0 to \$100,000	_____ %
	In excess of \$100,000	_____ %
(iv) Catering Alcohol	\$0 to \$250,000	_____ %
	In excess of \$250,000	_____ %

The foregoing concessions shall be calculated in an incremental, step-scale basis, as opposed to being retroactive back to dollar 1.

2. **QUALITY SERVICE AND PROFIT INCENTIVE BONUS**

As an incentive set out to insure top quality service, products and net operating profitability, a maximum annual bonus of up to 2.0% (see standards) of Gross Sales will be paid by the Center to the Food Service Proposer for exemplary performance as follows:

- 0.5% of Operating Net Profit (O.N.P.) of achieving certain food quality standards
- 0.5% of O.N.P. for achieving certain exemplary service performance standards
- 0.75 % of O.N.P. for achieving certain financial performance standards
- 0.25% of O.N.P. for achieving certain customer feedback standards

3. **NON-ALLOWABLE EXPENSES** (In the Calculation of Net Operating Profits)

The following costs are Non-Allowable Expenses and are not to be charged to the profit and loss statement for Food Services, but rather are to be considered as part of the Proposer's corporate overhead and administrative costs, i.e. the cost of doing business:

- Proposer's off-site supervision and support services (accounting and payroll services, facility planning and design, auditing, legal, purchasing, personnel, public relations, etc.)
- Payments to management recruiting companies
- Business Profit Taxes including any Possessory Interest Tax assessed by the County Assessor
- Other general corporate administrative and overhead expenses
- Bad debt expense
- Replacement of Smallwares
- Performance and payment bonds
- Fees and costs related to RFP Preparation and the Securing of this Contract

4. INCLUDED PRO FORMA EXPENSES

Pro Forma expenses shall include without limitation of the following:

- Cost of goods sold, less discounts directly attributable to The Birmingham Jefferson Convention Complex (list all discounts and rebates in detail)
- Direct labor paid; including applicable taxes, workers' compensation, fringe benefits for on-site management staff and employees as approved by the Director of Operations.
- Direct Expenses paid for supplies including but not limited to liability insurance, telephone, postage, cleaning supplies, pest control, permits, printing, decorating, repair and maintenance, uniforms, bank charges, and annual audit.
- Bad debt allowance of up to an amount equal to One Quarter of One Percent (.25%) of Gross Receipts from Catered and Banquet Services
- Amortization of the Equipment Improvements
- Amortization of any Prior Investment
- Accruals for Reserves

ANNUAL INCENTIVE STANDARDS

- Food Quality – as evidenced by a detailed audit checklist of no less than 30 areas that denote food quality issues in all areas of delivery, storage, preparation, cooking, serving, and clean-up. An annual weighted average of 90 points or more (out of a maximum total of 100 possible), over the course of 2 semi-annual audits per year, will earn the incentive bonus in this category.
- Service Performance– as evidenced by a detailed audit checklist of no less than 35 areas that denote service issues in all areas of delivery, storage, preparation, cooking, serving, and clean-up. An annual weighted average of 90 points or more (out of a maximum total of 100 possible), over the course of 2 semi-annual audits per year, will earn the incentive bonus in this category.
- Financial Performance – financial performance at the close of each operating year will be reviewed. If all expense cap centers meet the incentive criteria and net

operating profit exceeds the mutually approved (by Center and Proposer) budget by 10.0% or more, then the Proposer shall be allowed 1.0% of gross sales as the financial incentive bonus.

- Verifiable Customer Feedback Program – to be administered by an independent third party source mutually acceptable to both parties. Such program to include but not be limited to such tools as:
 - d) Periodic Customer Satisfaction Surveys
 - e) Meeting Planner Feedback Questionnaires
 - f) Focus Group Meetings (with selected major show attendees)An annual weighted average of 90 points or more (out of a maximum score of 100 possible) over the course of each operating year, will earn the incentive bonus in this category.
- All Incentives Met – if the four (4) above incentives are all met, then the Proposer shall be entitled to 2.0% of annual gross sales, the maximum incentive share obtainable by the Proposer in any given operating (fiscal) year.

NOTE

A mutually agreeable professional, independent fee-paid, foodservice consulting firm shall undertake semi-annual foodservice system audits during the contract term to arrive at the incentive award amount due. The annual fee cost for audit preparation shall be split equally between Proposer and Center and shall not be classified as an allowable expense under this contract. Recommended audit forms shall be approved by both parties and the cost of these consulting services shall be equally split annually by both parties.

We agree to provide all services under the conditions so stated above.

Signed and sealed this _____ day of _____, 2017 at _____.

Attest: _____

By: _____

Written Name: _____

Signature: _____

Title: _____

(Seal)

Company: _____

SCHEDULE '6'
MINIMUM PURCHASE SPECIFICATION REQUIREMENTS

BEEF Heifer or Steer	GRADE: YIELD: CONDITION: GROUND BEEF:	USDA Top Choice 3 or under Fresh or Frozen Chuck, 20% fat content
PORK	GRADE: YIELD: CONDITION:	US No. 1 1 Fresh or Frozen
VEAL Calf	GRADE: CONDITION:	USDA Choice Fresh or Frozen
LAMB Under one year old	GRADE: CONDITION:	USDA Choice Fresh or Frozen
POULTRY	GRADE: CONDITION:	USDA Inspected Grade A Hens - Fresh or Frozen Fryers - Fresh or Frozen Duckling - Fresh or Frozen Turkey Breast - Fresh or Frozen
FISH & SHELLFISH	GRADE: CONDITION:	When graded - A, otherwise top quality Fresh when available, frozen if cost and availability warrant
EGGS	GRADE: SIZE: CONDITION:	USDA A, 100% candled Large Fresh
BUTTER	GRADE:	USDA AA
MILK & MILK PRODUCTS	GRADE:	US Grade A pasteurized
NONFAT DRY MILK	GRADE:	US Extra
BULK ICE CREAM		Minimum 12% milkfat, 80-100% overrun
FRESH VEGETABLES & FRUITS	GRADE:	US No. 1 or better

FROZEN VEGETABLES	GRADE:	A
CANNED FRUIT	GRADE:	US Grade A or Fancy in heavy syrup
CANNED VEGETABLES	GRADE:	US Grade A or Fancy
DRY GOODS	RICE: BEANS:	Fancy or US No. 2 Grade A
BAKED PRODUCTS	At the Center's approval	
PURCHASING SPECIFICATION	<p>Contractors must submit a written purchasing specification for each of the sample items listed below. At least three (3) of the meat specifications must be for meat items specified in the recipes to be submitted for this contract.</p> <ul style="list-style-type: none"> •Portion cut beef item •Beef roast item •Pork rib item •Poultry item •Lamb item •Veal (calf) item •Fresh fruit item •Frozen vegetable item •Canned fruit item •Non-food item 	

SCHEDULE '7'

SANITATION REGULATIONS AND JOB INSPECTION

REGULATIONS

The following shall establish the minimum sanitation guidelines for the Contractor:

1. The Sanitation Code of the U.S. Food Service Industry as published by the National Restaurant Association.
2. All State of Alabama Acts and Regulations governing foodservice operations.
3. All applicable Municipal Regulations.
4. All applicable Federal Government Acts and Regulations.
5. Appropriate voluntary codes and guidelines established by trade associations and other groups operating within the food industry.
6. Any specific guidelines established by the specific building.

JOB INSPECTION

1. Formal inspections of the foodservice facilities are to be conducted a minimum of four (4) times a year (January, April, July, October) by the Center or its Manager, accompanied by the Contractor.
2. Semi-formal inspections of the foodservice facilities are to be conducted weekly by the Contractor. An inspection checklist is to be prepared and completed by the Contractor and submitted to the Center not later than three (3) working days following the inspection. A complete report of corrective measures taken or to be taken for any deficiencies noted should accompany the inspection report.
3. Informal inspections of the foodservice facilities are to be conducted daily by the Contractor with immediate corrective measures taken for any deficiencies noted.

