

REQUEST FOR BUSINESS PROPOSALS
UNDER THE LAWS GOVERNING
COMPETITIVE CONTRACTING

East Brunswick Public Library
2 Jean Walling Civic Center
East Brunswick, New Jersey 08816

Primary Purpose to Operate a Café at The East Brunswick Public Library
2 Jean Walling Civic Center
East Brunswick, NJ 08816

REQUEST FOR PROPOSALS (RFP)

GENERAL INFORMATION - Five (5) Year Contract. The East Brunswick Public Library hereby is submitting a Request For Proposals to operate a café at the East Brunswick Public Library, 2 Jean Walling Civic Center, East Brunswick, New Jersey 08816.

In accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., and, in particular with the Competitive Contracting Sections of that law, N.J.S.A. 40A:11-4.1 through 40A:11-4.5, inclusive, and N.J.A.C. 5:34-4.3 and related provisions, the East Brunswick Public Library (“The Library”) wishes to receive proposals from vendors for the operation of a café at The Library. The Contract will give the vendor an exclusive right to operate the café.

All prospective bidders are informed that this Request For Proposals is subject to all approvals required by law.

This RFP and all attachments constitute the documentation required under N.J.S.A. 40A:11-4.4. The methodology of awarding of a competitive contract is developed in a way that is intended to meet the specific requirements of The Library. In accordance with N.J.S.A. 40A:11-4.4(d), all proposals and contracts shall be subject to the provisions of N.J.S.A. 52:25-24.2 requiring submission of a statement of corporate ownership and the provisions of N.J.S.A. 10:5-31 et seq., concerning equal employment opportunity and affirmative action.

In accordance with N.J.S.A. 40A:11-4.5, a notice of the availability of request for proposal documentation shall be published in an official newspaper of the Township of East Brunswick at least twenty (20) days prior to the date established for the submission of proposals.

In accordance with N.J.S.A. 40A:11-4.5(b), failure to meet the requirements of this RFP may result in The Library disqualifying the vendor from further consideration.

In accordance with N.J.S.A. 40A:11-4.5(d), The Library Board of Trustees reserves the right to reject all proposals for all legal reasons and further reserves the right to award the contract to the vendor, which contract is most advantageous, price and other factors considered.

The Library reserves the right to accept or reject any or all bids, to waive minor irregularities and technicalities, to request rebids on the items and award bids in part or whole as The Library deems it will best serve its interests. The Library reserves the right to waive minor details.

All of the competitive contracting provisions of Chapter 440 of the Laws of 1999 are incorporated herein by reference.

EAST BRUNSWICK PUBLIC LIBRARY

NOTICE TO BIDDERS

Sealed bids will be received and opened by the Manager of Administrative Services at The East Brunswick Public Library, 2 Jean Walling Civic Center, East Brunswick, New Jersey, to lease a portion of The Library for the operation of a café.

BID OPENING DATE: Monday, May 18, 2009 **TIME:** 10:00 a.m.

Specifications are on file in the office of the Manager of Administrative Services of The Library and may be obtained by prospective bidders during the hours of 9:00 a.m. to 5:00 p.m. Bids must be enclosed in a sealed envelope marked **LIBRARY CAFÉ PROPOSAL** and must have the **NAME AND ADDRESS** of the bidder on the outside of the envelope. Bids may be hand delivered or mailed by certified mail to the above-mentioned address. No other forms will be accepted.

The Library solicits Requests For Proposals (“RFP’s”) under the competitive contracting provisions of the Local Public Contracts Law, N.J.S.A. 40A:11-4.1 through 4.5. The competitive contracting process shall be administered by Carol Nersinger, Director of The East Brunswick Public Library, and by Bertram E. Busch, Esq., Legal Counsel for The East Brunswick Public Library. In accordance with N.J.A.C. 5:34-4.3(c)(2), Carol Nersinger may appoint a committee to assist in the evaluation of the Proposals.

Bidders are required to comply with the requirements of P.L. 1975, C.127 (N.J.S.A. 10:5-31). (An act relating to Affirmative Action in relation to discrimination in connection with certain public leases.)

Any entity other than a sole proprietorship submitting a bid, in response to this advertisement, shall accompany such bid with a resolution authorizing its proper officers to submit such a bid and authorize said officers to execute a Lease in the event its bid is accepted.

Please furnish the names, addresses and telephone numbers of three (3) references who can vouch for your honesty and ability to provide the services requested. Specifically, the successful bidder must have proven and demonstrated food service skills and must be able to provide high quality services for a successful café.

The Library reserves the right to reject any or all bids as in its judgment may be deemed to be most advantageous to The Library, price and other factors considered. The Library also reserves the right to waive any minor irregularity or technicality. In the case of tie bids, The Library shall have the authority to award the Lease to the bidder selected by The Library in its sole discretion.

The Library reserves the right to award a Contract to the bidder receiving the most favorable evaluation, subject to compliance with all Proposal documentation.

Carol Nersinger
Director, East Brunswick Public Library

EAST BRUNSWICK PUBLIC LIBRARY

INSTRUCTIONS TO BIDDERS

SECTION 1. COMPETITIVE CONTRACTING.

Sealed proposals will be received in accordance with public notice advertised as required by law, a copy of said notice being attached hereto and made a part of these Specifications.

The East Brunswick Public Library (“The Library”) is located at 2 Jean Walling Civic Center, East Brunswick, New Jersey 08816, on land owned by the Township of East Brunswick (“the Township”). The Township has authorized The Library to use the building and all improvements presently on the subject land.

In accordance with the competitive contract sections of the Local Public Contracts Law, N.J.S.A. 40A:11-4.1 through 40A:11-4.5 and N.J.A.C. 5:34-4.3 and related sections, The Library is requesting proposals to operate a café at The Library.

All bids shall be accompanied by a Statement of Ownership that satisfies the requirements of N.J.S.A. 52:25-24.2. Failure to provide a complete and accurate Statement of Ownership shall result in rejection of the bid.

The public notice sets out the conditions, restrictions and limitations upon the tenancy, as more particularly set forth in the Specifications and the proposed lease.

Bidders are responsible for carefully examining the attached Specifications as well as understanding the conditions under which the café service will be provided. Failure to offer a complete bid document responsive to all sections of this document may be deemed cause for rejection of the bid for being unresponsive.

Ambiguities, errors or omissions noted by bidder should be promptly reported in writing to the appropriate official. In the event the bidder fails to notify The Library of such ambiguities, errors or omissions, the bidder shall be bound by the bid.

The words “vendor”, “bidder” and “operator” may be used interchangeably in these bid specifications. The words “contract”, “lease”, and “agreement” may also be used interchangeably in these bid specifications. If an Evaluation Committee is appointed to evaluate the proposals which are submitted, reference may be made in these bid specifications

to the “Committee.” The Request For Proposal (“RFP”) Documentation includes all bid specifications and attachments.

No oral interpretation of the meaning of the specifications will be made to any bidder. Any and all interpretations and any supplemental instructions will be in the form of written addenda to the specifications, and will be distributed to all prospective bidders, in accordance with N.J.S.A. 40A:11-23. All addenda so issued shall become part of the Contract and shall be acknowledged by the bidder in the bid. The Library’s interpretations or corrections thereof shall be final.

Discrepancies in Bids.

1. If the amount shown in words and its equivalent in figures do not agree, the written words shall be binding. Ditto marks are not considered writing or printing and shall not be used.
2. In the event there is a discrepancy between the unit prices and the extended totals, the unit prices shall prevail. In the event there is an error of the summation of the extended totals, the computation by The Library of the extended totals shall govern.

Exceptions to Specifications.

For purpose of evaluation where an equivalent product is being furnished in place of one requested, bidder must indicate any variation to our specifications. If no variations are indicated, it will be construed that the bid fully complies with the specifications.

Exceptions, if any, to the bid specifications, shall be noted on the Bid Form. If exceptions are taken, the bidder shall furnish documentation to substantiate equivalency with the item specified. The burden of proof shall be on the bidder. The Library shall be the sole judge as to the equivalency of items bid to the specifications.

SECTION 2. PROPOSAL SUBMISSION.

Please submit three (3) copies of your proposal.

All bids must be received by The Library prior to the time and date set for the bid return, May 18 , 2009, at 10:00 a.m.

All bids must be placed in a sealed envelope, plainly marked on the outside, ***Library Café Proposal***. The sealed envelope should be addressed as follows:

Ms. Carol Nersinger
Library Director
East Brunswick Public Library
2 Jean Walling Civic Center
East Brunswick, New Jersey 08816

Bids may be hand delivered or mailed and must be marked as indicated in the preceding paragraph. The Library will not assume responsibility for bids forwarded by mail. It is the bidder's responsibility to see that bids are presented to The Library at the time and at the place designated.

The Library disclaims any responsibility for bids forwarded by regular or overnight mail. If the bid is sent by overnight mail, the name and address of the bidder and the title of bid must also appear on the outside of the delivery company envelope. The title of the bid shall be "Library Café Proposal." Bids received after the designated time and date for bid opening will be returned unopened.

Bidders or their authorized agents are invited to be present when the bids are opened and read publicly at the time specified. No bid may be withdrawn after the opening time and date. All bids become the property of The Library and will not be returned to bidders.

The Board of Trustees will award the bid within sixty (60) days after the opening date at its regular public meeting. The Contract will be awarded to the bidder whose Proposal is most advantageous to The Library, price and other factors considered.

The Library reserves the right to reject any or all of the bids or any part thereof and to waive any minor technicalities.

The bidder must submit pertinent descriptive literature and specifications fully describing all manufacturers' equipment and supplies that will be furnished in connection with this contract.

Any equipment supplied will be free of defective material or workmanship and any defect that may develop in normal use and service will be replaced or repaired without cost to The Library by the successful bidder.

All bidders must complete the attached required forms and return them along with the bid

document:

- Owner Disclosure Statement setting forth the names and addresses of all stockholders or partners owning 10% or more stock in the bidder's corporation or partnership;
- Affirmative Action Affidavit; and
- Non-Collusion Affidavit.

The bidder will state the number of days required to mobilize a crew and prepare for café service after the acceptance of the Contract.

Bidders are advised that bid and performance bonds are not required.

All prices and amounts must be written legibly in ink or printed or electronic type. Bids containing any conditions, omissions, unexplained erasures or alterations, items not called for in the bid proposal form, attachment of additive information not required by the specifications or irregularities of any kind, may be rejected by The Library. Any changes, white-outs, strike-outs, etc., on the proposal page must be initialed in ink by the person responsible for signing the bid.

SECTION 3. BID PRICES.

Bidders must insert prices for furnishing all of the materials and/or labor required by these specifications together with the rental to be paid for each year of the Lease. The Library will absorb the following costs: (1) property taxes; (2) utilities as defined in the bid documents. Prices shall be gross lease, but Tenant shall be responsible for any and all charges for packing, crating, containers, or any other labor or material required by these specifications. All transportation charges shall be fully prepaid by the bidder F.O.B. destination and placement at locations specified by The Library. As specified, placement may require inside deliveries. No additional charges will be allowed for any transportation costs resulting from partial shipments made at the bidder's convenience.

SECTION 4. SPECIFICATIONS, CONDITIONS, RESTRICTIONS AND LIMITATIONS.

The Library hereby sets forth Specifications, Conditions, Restrictions and Limitations for café service.

A. SERVICES REQUIRED:

1. REQUEST FOR A BUSINESS PROPOSAL:

The Library invites independent vendors to submit a business proposal for the operation of the café. This proposal should provide details about the monthly compensation The Library will receive in return for the lease of café space, information about your experience in the food services industry, the standards you have for ensuring quality service, ideas for promotion, advertising, and a proposed menu as well as information about your financial assets and ability to undertake this project. The Library counts on the café lease for a significant revenue stream to support library operations.

Library management and The Library Board of Trustees, who will approve the final award of the contract, will review café proposal submissions. Library staff and trustees look forward to identifying local vendors who share our vision of high quality food service in a comfortable library atmosphere.

2. MENU:

Library management expects a Library café that provides a comfortable, cozy atmosphere serving great coffee accompanied by a menu of high quality food entrees, beverages and snacks that can be served throughout the day and evening.

The bidder shall propose a menu showing items offered for sale and pricing, subject to approval by The Library. The bidder shall submit a menu specification by completing the Menu Specification Sheet showing prices for each item.. See pages P-2 and P-3 The Library reserves the right to reject all bids if it is not satisfied with the proposed menu.

The Library reserves the right to place limitations on the menu at the café. No alcoholic beverages are permitted.

Examples of menu items might include muffins, deli sandwiches, wraps, focaccia sandwiches, soups, salads, coffee, cappuccino, tea, Italian sodas, bottled water and juices, yogurt, cookies and nutritious “kid friendly” food. Vendors might also want to consider a speciality dessert or menu that is keyed to The Library theme, for example, cookies in the shape of books, etc.

3. EXAMINATION OF SITE:

The bidder(s) may examine the site and fully inform themselves as to the existing conditions. For further information and appointment to view the site, please contact Heidi Aigler, Manager of Administrative Services, at 732-390-6781, weekdays, between the hours of 9:00 a.m. and 5:00 p.m.

4. LOCATION OF LIBRARY:

The Library is located at the East Brunswick Municipal Complex. During the year 2008, approximately 573,000 patrons visited The Library. The Library has a current work force of 114 employees. There are approximately 410 apartments that surround the Library on Civic Center Drive. Approximately 308 of these apartments contain one bedroom, 70 of these apartments contain two bedrooms and 32 of these apartments are townhouses. The number of persons appearing at the East Brunswick Municipal Court in the Municipal Complex, including attorneys and other persons, during an annual period, is approximately 50,000. The East Brunswick Municipal Building, Senior Center and Police Buildings have a work force of 280 employees plus visitors. In addition, the Township regularly conducts meetings of the Township Council, Planning Board, Zoning Board of Adjustment and other Boards and Commissions. Because The Library is in the vicinity of all of the meetings, it can be anticipated that members of the public and the Township Official family might utilize the services of the Café.

The vendor will be responsible to provide all fixtures for the café, including a counter refrigerator case, beverage case, an under counter refrigerator in the main food preparation area and a full refrigerator and freezer, a dishwasher and ice maker. The café vendor is also responsible for providing countertop food preparation items such as coffee and espresso machines, toasters and grills. The seating area of The Library is described in the proposed Contract.

The café decor is already established. The vendor should include café style seating at small movable tables. The Library reserves the final decision on the signage associated with the café.

The Library is a customer-driven institution with a reputation for attentive, friendly interaction with Library patrons, and an instinctive desire to help people find what they need. We expect the same level of service to be available in the café. The café management should possess two major qualities: **a passion for food and zeal for customer service.**

5. CAFÉ VENDOR WILL PROVIDE:

- All necessary countertop food preparation equipment.
- Telephone service from the phone company.
- Counter signage and additional menu boards compatible with The Library's interior design standards purchased after consultation with The Library's Director.
- Day to day cleaning of the café preparation and back room storage areas.
- Off-site food preparation with daily deliveries to The Library café. There is no stove or oven associated with this space.
- Kitchen exhaust hood/duct system.

Please list all vendor-supplied countertop equipment that will be used in the café in your Proposal.

6. QUALITY CONTROL MEASURES:

The bidder will respond within respond within three (3) business days to all suggestions made by The Library, in the course of monitoring the food services provided by bidder. If the bidder fails to comply with the requirements of the Lease, The Library may give written notice terminating the Lease within thirty (30) days of the date such notice is received by the bidder.

The operator will make efforts to ensure that only the highest quality of food is sold at The Library, including, but not limited to:

- Premium coffee and tea;
- Butter, milk and milk products shall be USDA Grade A; and
- Pastries and breads fresh daily from a quality baker.

7. DELIVERIES:

Deliveries will be made between 9:00 a.m. and 5:00 p.m., and only through the designated delivery entrance. Deliveries will be carried or hand trucked into the café. The Library will not accept deliveries or assume responsibility for any products left in the delivery area.

8. EMPLOYEE STANDARDS:

Café service should be timely, attentive and friendly. Food and beverage orders will be taken promptly and in a friendly and courteous manner. The vendor/operator will recruit, train, supervise, direct and schedule the optimum number of employees to match the work requirements. Each employee should be clean, neat and well groomed; free from offensive body odor; be professional, courteous and friendly to the public; have a thorough health examination before employment in the café; not wear excessive amounts of jewelry, perfume or cologne. Employees must not be under the influence of alcohol or illegal drugs at work and may not smoke in The Library. Public restrooms will be available for use by café employees. The vendor will ensure that it employs best practices in food preparation, handling, storage and removal.

B. LEGAL REQUIREMENTS

1. UNIFORM CONSTRUCTION CODE (UCC):

The successful bidder will be responsible to obtain the necessary permits to comply with the Uniform Construction Code and inspections related thereto.

2. COMPLIANCE WITH HEALTH REGULATIONS:

The successful bidder shall comply with all regulations of the East Brunswick Township's Department of Health and all applicable New Jersey Health Regulations. For further information, call 732-390-6788.

3. TERM AND PAYMENTS:

The term of the Lease will be five (5) years.

Each bidder must fill in the Bidder's Form indicating the amount the bidder will pay over The Library's minimum base rental. The area to be enclosed and to be used as a café is rectangular with approximate dimensions of thirty-one feet (31') by twenty-eight feet (28'), consisting of eight hundred sixty-eight square feet (868'). The Vendor area is approximately fifteen feet (15') by fifteen feet (15') consisting of approximately two hundred twenty-five square feet (225'). The Vendor area is enclosed. The Café and the Vendor area are shown on the sketch annexed hereto and incorporated within these Bid Specifications. The Library's minimum base rent is One Thousand Five Hundred Dollars (\$1,500.00) per month, gross lease, for the first 12 months.

As a minimum, for the second year through the last year of the Lease, The Library requires that an increase in monthly rental shall be made equal to two-thirds ($2/3$) of the percentage increase in the Consumer Price Index for the New York/Northeastern New Jersey Region (CPI), adjusted on an annual basis. To the extent that your proposed rental after the first year does not equal two-thirds ($2/3$) of the percentage increase in the CPI after the first month of the Lease, the rental will be adjusted upwards accordingly. The same adjustment will be made for the third year, fourth year and fifth year and each year within the option period, based upon two-thirds ($2/3$) of the percentage increase in the CPI, adjusted on an annual basis.

- How much will you pay The Library for the first 12 months?
\$ _____ / per month

In addition to the increase equal to two thirds ($2/3$) of the percentage increase in the CPI:

1. How much will you pay The Library for the second year?
\$ _____ / per month
2. How much will you pay The Library for the third year?
\$ _____ / per month
3. How much will you pay The Library for the fourth year?
\$ _____ / per month
4. How much will you pay The Library for the fifth year?
\$ _____ / per month

The Library will schedule quarterly meetings with the operator to review the business arrangement and to address any concerns. At the end of the five (5) year period of the lease, the café Contract will be subject to public bidding. As set forth in the Contract Documents, The Library requires a security deposit of three (3) months of the base rent at the time that the lease is signed.

4. REPRESENTATIONS AND WARRANTIES:

By submitting a bid, the bidder represents and warrants to The Library that it has the financial capacity and the skills, experience, employees and references necessary to perform the contract, in full, for the entire term.

5. PERSONAL GUARANTEE:

In addition to the security deposit required under Section 15 of the Lease, the following individual signing the Bid Proposal and Personal Guarantee, who is a principal of the bidder, hereby personally guarantees performance of all requirements under the Lease and agrees to be subjected to the jurisdiction and venue of the Superior Court of New Jersey, Law Division, Middlesex County, for the resolution of all disputes arising between the parties. This provision is also binding on the bidder.

6. LEGAL FORMS:

All bidders must complete or furnish the required forms and return them along with the bid document:

- A. Owner Disclosure Statement;
- B. Affirmative Action Affidavit; and
- C. Business Registration Certificate.

7. FAILURE TO SIGN CONTRACT:

The failure of the successful bidder to sign the Contract within thirty (30) days of the award of the Contract to the successful bidder, shall be sufficient cause to rescind the award. The Library may then reject all bids or may award the bid

to another bidder, in accordance with the law.

8. SHAREHOLDER DISCLOSURE:

All proposals must include a shareholder disclosure form per N.J.S.A. 52:25-24.2 disclosing the names and addresses of all stockholders in the corporation or partnership who own ten percent or more of its stock or of all of the individual partners in the corporation who own a ten percent or greater interest. See Attachment 1 for the Disclosure Form.

9. EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION:

The Library will not discriminate against any contractor based on age, race, creed, color, natural origin, ancestry, marital status, gender, sexual orientation or any other reason prohibited by law. We also expect that the contractor will abide by all equal opportunity and affirmative action language required by N.J.S.A. 10:5-31 et. seq. And all State and Federal requirements set forth in the Law Against Discrimination (“LAD”) and related laws.

10. BUSINESS REGISTRATION CERTIFICATE:

The vendor should submit a copy of its Business Registration Certificate along with the Proposal. Any subcontractors that will be working as part of the café team should also submit their Business Registration Certificate.

11. WITHDRAWAL OF BIDS:

Bids may not be withdrawn after the opening of bids. Furthermore, the attachment of any conditions, limitations, or ancillary provisions by a bidder to the bid proposal will cause the bid to be classified as irregular and will render the bid subject to rejection.

Sealed bids forwarded to The Library before the time of opening of bids may be withdrawn before the time of opening of bids upon written application of the bidder who shall be required to produce evidence showing that the individual is or represents the principal or principals involved in the bid. Once bids have been opened, they must remain firm for a period of sixty (60) calendar days.

12. DISQUALIFICATION OF A BIDDER AND THE REJECTION OF BID:

Although not intended to be an exhaustive list of causes for disqualification, any one or more of the following causes, among others, may be considered sufficient for the disqualification of a bidder and the rejection of his/her/its bid:

- a. Evidence of collusion among bidders.
- b. Lack of competency as revealed by financial statements, experience, references, equipment statements or lack of proven ability to provide food services for a café, or other factors.
- c. Lack of responsibility as shown by past work, judged from the standpoint of the failure to demonstrate a quality food services operation as submitted.
- d. Default on a previous Library or Township contract/lease for failure to perform.
- e. Criminal record of principal of bidder within ten (10) years prior to opening of bids.

_____ 13. _____ POWER OF ATTORNEY:

Attorneys-in-fact who sign Contract documents must file with each Contract document/bond a certified and effectively dated copy of their power of attorney.

_____ 14. _____ CERTIFICATE OF PAYMENT:

The Contract awarded will require the successful bidder to provide on a monthly basis a certificate of payment that all sub-lessees, subcontractors, vendors, laborers, mechanics and trades have been paid per N.J.S.A. 2A:44-128 et seq.

C. _____ PROPOSAL EVALUATION PROCESS:

Vendors submitting a proposal should answer each of the questions listed below. Responses to each question will be scored up to the maximum point value indicated in parenthesis by a review team from The Library. Vendors receiving a score of 90 points or more will be invited for an in-person interview so they can be further evaluated. The panel will submit its final recommendation to the Board of Trustees for approval and award of the contract. The Library reserves the right to reject any and all proposals at its sole discretion.

Please respond to each of these questions in your proposal:

1. **Describe your experience and background in providing café service operations.** (10 points)
2. **Describe your concept for the operation of the café. What uniquely qualifies you to provide café service for the East Brunswick Public Library? What would your menu include?** (25 points)
3. **What standards do you have for ensuring a quality operation?** Include information about how you would go about ensuring quality and freshness standards for coffee, pastries and other food products. (10 points)
4. **What ideas (promotions, advertising, publicity, special events) do you have for the Library café to distinguish it from other food operations in the immediate vicinity?** (10 points)
5. **What is your management philosophy and how does it ensure that the Library café will be staffed with qualified employees?** (10 points)
6. **How do your financial assets allow you to undertake this project?** (15 points) Please provide the following:
 - a) a financial plan indicating the source of funding to be used for any space improvements and working capital;
 - b) the proposed discount for catering in-Library events; and
 - c) the names and telephone numbers of at least three credit references, including one banking reference.
7. **What amount of rent do you propose to pay The Library?** (20 points) The Library will structure the Lease Agreement based on a combination of base rent and increments as set forth in the Lease Contract incorporated in these specifications.

Total Points: 100

D. DEFAULT:

Vendor shall be in default on this Contract if:

1. Vendor shall fail to make timely and full payment of any sum of money required to be paid hereunder and such failure continues for thirty (30) days after written notice thereof from The Library.
2. Vendor shall fail to perform any other term, covenant or condition of Vendor contained in this Contract, and such failure continues for twenty (20) days after written notice thereof from The Library; provided, however, that if condition is impossible to correct within twenty (20) days Vendor shall not be deemed in default if Vendor commences correction within said twenty (20) day period, and diligently pursues such correction to completion.
3. Vendor should vacate or abandon the Premises or cease operations during the Contract term.
4. There is filed any petition in bankruptcy or Vendor is adjudicated as bankrupt or insolvent, or there is appointed a receiver or trustee to take possession of Vendor or of all or substantially all of the assets of Vendor, or there is a general assignment by Vendor for the benefit of creditors, or any action is taken by or against Vendor under any state or federal insolvency or bankruptcy act, or any similar law now or hereafter in effect; or
5. Notwithstanding anything to the contrary contained above, if Vendor shall breach any covenant hereof, or do or permit, or omit to do, any act or thing, which results in a nuisance or an offensive or illegal condition, or which causes or threatens serious damage or injury to life, limb or property, or in the event of a breach of Section 12.1, 12.2 or 15.1, then and in any such event, Vendor shall be automatically in default of this Contract, without any requirement of notice from The Library, unless The Library waives such default, in writing, in The Library's sole discretion.

E. RIGHTS AND REMEDIES

In the event of a default, in addition to any other rights or remedies provided for herein or at law or in equity, The Library, at its sole option,

shall have the following rights:

(1) The right to declare the Contract Term ended and to retake possession of the Premises, and to terminate all of the rights of Vendor in and to the Premises;

(2) The right, without declaring the Contract Term ended, to retake possession and/or relicense the Premises, or any portion thereof, for and on account of Vendor, applying any monies received first to the payments of such reasonable expenses as The Library may have incurred in retaking possession of the Premises, including, without limitation, costs and attorneys' fees, and then to the fulfillment of the covenants of Vendor. The Library may enter into any license concerning the Premises either in The Library's name or in the name of Vendor without expanding Vendor's obligations hereunder, or assume Vendor's interest in and to any existing sublicenses of the Premises, as The Library may see fit, and Vendor shall have no right whatsoever to collect any license fees from such licensees or sublicenses. In any case, Vendor, until the end of what would have been the Contract Term, shall remain liable to The Library for the payments due until the end of term of the Contract, subject to credits as allowed by law. The Library reserves the right to bring such actions for the recovery of any deficits remaining unpaid by Vendor to The Library hereunder as The Library may deem advisable from time to time without being obligated to await the end of the Contract Term or a final determination of Vendor's account, and the commencement or maintenance of one or more actions by The Library in this connection shall not bar The Library from bringing any subsequent actions for further accruals pursuant hereto; or

(3) The right, even though it may have relicensed all or any portion thereof of the Premises, to thereafter at any time terminate this Contract, and to terminate all of the rights of Vendor in and to the Premises. In the event of default, the Library can terminate Vendor's license of the Premises at any time. On termination, The Library has the right to recover from Vendor:

(a) All amounts due under the Contract;

(b) Any other reasonable amount, and court costs, necessary to compensate The Library for all detriment proximately caused by Vendor's default.

(4) Pursuant to its rights of re-entry, The Library may, but shall not be obligated to (I) remove all persons from the Premises, (ii) remove all property therefrom, and (iii) enforce any rights The Library may have against said property or store the same in any warehouse or elsewhere at the costs and for the account of Vendor. Vendor agrees to hold The Library free and harmless of any liability whatsoever for the removal and/or storage of any such property, whether of Vendor or any third party whomsoever, except for damage caused by the willful misconduct or gross negligence of The Library, its agents or subcontractors.

(5) Anything contained herein to the contrary notwithstanding, The Library shall not have deemed to have terminated this Contract or the liability of Vendor to pay any fees or other sum of money accruing hereunder, by any such re-entry, or by any action in unlawful detainer or otherwise to obtain possession of this Premises, unless The Library shall specifically notify Vendor in writing that it has elected to terminate this Contract.

(6) In any action brought by The Library to enforce any of its rights under or arising from this Contract, The Library shall be entitled to receive its reasonable costs and legal expenses, including reasonable attorneys' fees, whether such action is prosecuted to judgment or not.

(7) The waiver by The Library of any breach of this Contract by Vendor shall not be a waiver of any preceding or subsequent breach of this Contract by Vendor. The subsequent acceptance of license fees or any other payment hereunder by The Library shall not be construed to be a waiver of any preceding breach of this Contract. No payment by Vendor or receipt by The Library of a lesser amount than the license fees herein provided shall be deemed to be other than on account of the earlier license fees due

and payable hereunder.

F. TERMINATION OF CONTRACT

1. Subject to the remaining conditions of this Contract, if through any cause, the successful bidder shall fail to fulfill in a timely and proper manner obligations under this Contract or if the successful bidder shall violate any of the requirements of this Contract, The Library shall thereupon have the right to terminate this Contract by giving written notice to the successful bidder of such termination and specifying the effective date of termination. Such termination shall relieve The Library of any obligation for balances to the bidder of any sum or sums set forth in the Contract.
2. Notwithstanding the above, the bidder shall not be relieved of liability to The Library for damages sustained by The Library by virtue of any breach of the Contract by the bidder and The Library may withhold any payments to the bidder for the purpose of compensation until such time as the exact amount of the damage due to The Library from the bidder is determined.
3. The bidder agrees to indemnify and hold The Library harmless from any liability to bidder's subcontractors/suppliers concerning payment for work performed or goods supplied arising out of the lawful termination of the Contract by The Library under this provision.
4. In case of default by the successful bidder, The Library may procure the articles or services from other sources and hold the successful bidder responsible for any excess cost occasioned thereby.
5. The Township's Health Inspector will make a minimum of two (2) inspections per year. If The Library, the Health Inspector, or anyone else serves a Notice of Violation of Standards under the Health Code upon the bidder, the bidder shall have ten (10) days for remediation. If the bidder is in default or shall not have remediated within ten (10) days, The Library shall be permitted to terminate the Lease upon thirty (30) days notice.

G. ASSIGNMENT, TRANSFER, CONVEY, SUBLET OF DISPOSAL OF CONTRACT

The bidder shall not assign, transfer, convey, sublet or otherwise dispose of the

Contract or any part thereof to anyone without written consent of The Library. Such consent shall not be unreasonably withheld.

H. PAYMENT

Payment will be made with final written approval of authorized official within thirty (30) days of receipt of properly certified and tabulated invoice.

NOTE: The Library is tax exempt.

I. INSURANCE

The successful bidder shall provide insurance and furnish certificates of insurance to The Library which certificates may not be canceled without thirty (30) days notice given to The Library as follows:

- (a) Worker's Compensation as required by the State of New Jersey applicable to the work to be performed;
- (b) Comprehensive General Liability for bodily injury, personal injury and property damage, products liability and completed operations, including damages from collapse and explosion, if applicable, at a limit of not less than \$2 Million combined single limits for damages arising out of injury to or destruction of property; and
- (c) Contractual liability insurance indemnifying and holding The Library harmless from any and all claims for personal injury and property damage resulting from the Vendor's use of the Contract premises, or anyone working under its control at the Contract premises.

With the exception of worker's compensation, all insurance and the certificates of insurance shall name the East Brunswick Public Library as an additional insured.

J. BIDDER'S FINANCIAL REPRESENTATION

By submitting a bid, the bidder represents and warrants to The Library that it has the financial capacity to perform the Contract.

K. ACKNOWLEDGMENT

The bidder submitting a bid acknowledges that it has read the entire set of Bid Documents and understands the importance of complying with every provision of the documents. By submitting a bid, the bidder agrees to comply with each and every term and condition of the Bid Specifications and proposed Contract should the bidder be awarded the contract.

If you have any questions about this RFP or to schedule a walk-through of the café space, you can call Heidi Aigler, Manager of Administrative Services, at 732-390-6781.

EXHIBIT A

**P.L. 1975, C. 127, (N.J.S.A. 10:5-31)
MANDATORY AFFIRMATIVE ACTION LANGUAGE:**

PROCUREMENT, PROFESSIONAL AND SERVICE LEASE

During the performance of this Lease, the bidder agrees as follows:

The bidder or sub-bidder, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. The bidder will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. 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 bidder agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause;

The bidder or sub-bidder, where applicable, will in all solicitations or advertisements for employees placed by or on behalf of the bidder, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation;

The bidder or sub-bidder, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other Lease or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the bidder's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment;

The bidder or sub-bidder, where applicable, agrees to comply with the regulations promulgated by the Treasurer pursuant to P.L. 1975, C. 127, as amended and supplemented from time to time and the Americans with Disabilities Act;

The bidder or sub-bidder agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by N.J.A.C.

17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, C. 127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, C. 127, as amended and supplemented from time to time;

The bidder or sub-bidder agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices;

The bidder or sub-bidder agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions;

The bidder or sub-bidder agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey and applicable Federal law and applicable Federal court decisions;

The bidder and its sub-bidder shall furnish such reports or other documents to the Affirmative Action Office as may be requested by the office from time to time in order to carry out the purpose of these regulations, and public agencies shall furnish such information as may be requested by the Affirmative Action Office for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (N.J.A.C. 17:27).

In accordance with Public Law 1975, Chapter 127, (N.J.S.A. 10:5-31) all successful bidders must submit one of the following forms of evidence:

1. A photo copy of their Federal Letter of Affirmative Action Plan Approval,
or
2. A photo copy of their Certificate of Employee Information Report,
or
3. A completed Affirmative Action Employee Information Report (Form AA302)

Affirmative Action evidence must be submitted within 7 days after receipt of the notification of intent to award the Lease or receipt of the Lease, whichever is sooner.

The bidder's bid must be rejected as non-responsive if a bidder fails to submit (1), (2) or (3) above, within the time specified after the authority submits the Lease to the bidder for signing.

NOTE TO POTENTIAL BIDDERS

THE SPECIFICATIONS HEREIN PROVIDED ARE ILLUSTRATIVE IN REGARD TO THE MATERIALS DESIRED. IT IS NOT THE INTENTION OF THE LIBRARY TO PRECLUDE ANY QUALIFIED VENDOR FROM SUBMITTING A BID. THE LIBRARY WELCOMES BIDS WHICH SUBSTANTIALLY MEET AND ARE COMPARABLE TO THE CRITERIA DESCRIBED BY THE SPECIFICATIONS.

NON COLLUSION AFFIDAVIT. (To be supplied with Bid.)

OWNER DISCLOSURE STATEMENT
(To be submitted with Bid)

All corporate or partnership bidders shall complete this form which is in accordance with P.L. 1977 Ch. 33, N.J.S.A. 52:25-24.2

List of shareholders or partners with 10% or more of the stock or interest in said corporation or partnership (any listed stockholder or partner that is, itself, a corporation or partnership must also disclose its shareholders or partners as above provided.).

<u>Shareholder or partner</u>	<u>% Interest</u>	<u>Address</u>
-------------------------------	-------------------	----------------

() No stockholder or partner of the corporation or partnership holds 10% or more ownership.

() Bidder is not a corporation or partnership.

I hereby certify that the information given above is true and correct as of _____.
(Date of Bid)

Title and Signature of Authorized Representative

If there are any questions concerning this form or its completion, refer to Statute PL. 1977, CH. 33, N.J.S.A. 52:25-24.2

PROPOSAL

TO: The East Brunswick Public Library
2 Jean Walling Civic Center
East Brunswick, NJ 08816

PROPOSAL OF: _____

ADDRESS: _____

FOR: OPERATION OF CAFÉ AT EAST BRUNSWICK PUBLIC LIBRARY

Gentlemen/Ladies:

We hereby certify that we are the only person or persons interested in this Bid, that it is made without collusion with any person, firm, or corporation making another bid of the same Lease, that the Bid is in all respects fair and that no office of the East Brunswick Public Library (“The Library”) or any person in the employ is directly or indirectly interested in this Bid or in the supplies or work to which it relates, or in the profits or any portion thereof.

We further declare that we have carefully examined the Instructions to Bidders, Specifications and Lease Form, herein referred to propose to furnish and sell all necessary foods and beverages specified and in the manner and time prescribed. We understand that all quantities of food and beverages are to be furnished and sold as per the specified menu.

We hereby offer and agree to pay to The Library the base rent of One Thousand Five Hundred Dollars (\$1,500.00) per month for the first twelve months, plus an additional:

1. \$_____ per month for the first 12 months for a total of \$_____, per month;
2. A total of \$_____ per month for the second year, plus two-thirds (2/3) of the percentage increase in the Consumer Price Index (CPI);
3. A total of \$_____ per month for the third year, plus two-thirds (2/3) of the percentage increase in the CPI;
4. A total of \$_____ per month for the fourth year, plus two-thirds (2/3) of the percentage increase in the CPI;

5. A total of \$_____ per month for the fifth year, plus two-thirds (2/3) of the percentage increase in the CPI;

for the Lease of space at The Library to operate a café, as more particularly set forth in the Bid Specifications and Lease Documents.

The bidder has had experience in providing food services as follows: (Please feel free to respond on a separate sheet of paper).

The bidder submits the following references who have direct knowledge and/or experience with the bidder's provision of food services: (Please feel free to respond on a separate sheet of paper).

<u>Name</u>	<u>Address</u>	<u>Phone</u>	<u>Email or Fax</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Exceptions to Specifications are to be shown as follows:

Menu Items: Bidder is encouraged to submit an attachment or fill out the following:

	<u>Name/Description</u>	<u>Cost</u>
1.	_____	\$ _____
2.	_____	\$ _____
3.	_____	\$ _____
4.	_____	\$ _____

- 5. _____ \$ _____
- 6. _____ \$ _____
- 7. _____ \$ _____
- 8. _____ \$ _____
- 9. _____ \$ _____
- 10. _____ \$ _____

Bidder, agrees to execute the form of Lease within thirty (30) days after receiving notice from The Library that a Lease has been awarded.

- The bidder is a: (1) partnership
(circle one) (2) corporation
(3) individual or sole proprietorship
(4) limited liability company
(5) limited liability partnership

under the Laws of the State of _____

having its principal office at: _____,
in the _____ of _____,
County of _____
and State of _____.

This bid is submitted by: _____
(Zip Code)

(Signature of Individual, Partner or Officer Signing the Proposal)

(Title)

If a partnership, corporation, LLC or LLP, give the names of all partners or members or all other officers of the corporation with the address for each:

Prices offered are firm sixty (60) days after date of Bid opening.

(Circle one) YES
 NO

Number of delivery days after receipt of purchase order: _____

(SEAL) *(Seal required only if Bidder is a corporation.)*

Subscribed and sworn to before me this _____ day of _____, 200__.

Notary Public of

My Commission Expires: _____

PERSONAL GUARANTEE

The undersigned, being a principal of the Bidder, hereby personally guarantees that he/she will fulfill each and every requirement and obligation set forth in the Contract Documents, including, but not limited to, the Notice to Bidders, Instructions to Bidders, Bid Specifications and Lease Agreement.

The Undersigned personally maintains a bank account, bearing account # _____, at the following banking institution:

Name of Banking Institution

Address of Branch of Banking Institution

Witness: _____

Principal of Bidder

Date:

CONTRACT

This Contract is made as of the _____ day of _____, 2009, by and between the East Brunswick Public Library (“The Library”) or (“Landlord”) having its principal place of business at 2 Jean Walling Civic Center, East Brunswick, New Jersey 08816, and _____, (“Vendor” or “Tenant”), having its principal place of business at _____.

PREAMBLE:

WHEREAS, The Library is seeking a vendor to equip, outfit and operate a café located in The Library’s premises, which is intended to enhance The Library’s primary purpose of providing library services to diverse individuals; and

WHEREAS, Tenant submitted the successful bid in response to a Request For Business Proposals and Public Notice to Bidders, and Tenant is desirous of outfitting and operating the café in accordance with the terms set forth in this Contract; and

WHEREAS, all Specifications constituting the Request For Proposal Documentation are incorporated by reference into this Contract.

NOW, THEREFORE, IT IS AGREED between Landlord and Tenant as follows:

SECTION 1. CONTRACT PREMISES:

1.1. Location: The café will be located in space indicated on the sketch annexed to this Contract and incorporated herein.

1.1.2. The Contract space consists of a Café seating area of approximately eight

hundred sixty-eight square feet (868') in a roughly rectangular area thirty-one feet (31') by twenty-eight feet (28') (31' x 28') and a Vendor area of approximately two hundred twenty-five square feet (225') in a roughly rectangular area fifteen feet (15') by fifteen feet (15'). Landlord makes no representation or warranty as to the actual dimensions of the Contract space.

1.1.3. While the Tenant shall submit plans and proposals for design and decor, the Landlord has the right to veto all such proposals. The Tenant will be required to obtain all permits and shall otherwise be required to comply with all terms and conditions of the Uniform Construction Code (UCC) and will have a minimum of a microwave oven, refrigeration units and a three (3) basin sink, all subject to approval by the East Brunswick Health Department. The Tenant is obligated to maintain the floor and repair or replace, if so directed by The Library. Tenant will furnish all drawings, interior design, finishes and plans to Landlord prior to construction or installation. The Library reserves the right to approve all signage, which approval shall not be unreasonably withheld.

1.2. Hours of Operation: The café shall be open at all times that The Library is open to the public, but not when The Library is closed. The Tenant will be available to cater meetings of outside groups and all such catering will take place in the meeting rooms and will be done prior to regular closing hours. The Library's maintenance staff will clean up after the meeting is over and the Tenant will collect all trays, equipment and related materials not later than the morning following such meeting.

1.2.1. The hours of operation of The Library, subject to change, are as follows: Monday through Friday 9:00 a.m. to 9:00 p.m.; Saturday 10:00 a.m. to 9:00 p.m.; and Sunday 1:00 p.m. to 9:00 p.m. The Library may close due to inclement weather, emergencies and other scheduled events.

1.3. Parking: Included within the Contract premises are two (2) parking spaces on the lot adjacent to the side of The Library and the rear of the Senior Citizen Center.

SECTION 2. RENT:

3.1. Rent: During the first twelve (12) months of term, Tenant agrees to pay the Landlord as rent a fixed amount of \$_____, per month. This payment is based upon the minimum base rent of One Thousand Five Hundred Dollars (\$1,500.00) per month plus the amount bid by Tenant.

3.1.1. The rent for the second year of the Contract shall be \$_____, per month, plus an increase equal to two-thirds (2/3) of the percentage increase in the CPI for the New York/Northeastern New Jersey Region, adjusted annually.

3.1.2. The rent for the third year of the Contract shall be \$_____, per month, plus an increase equal to two-thirds (2/3) of the percentage increase in the CPI for the New York/Northeastern New Jersey Region, adjusted annually.

3.1.3. The rent for the fourth year of the Contract shall be \$_____, per month, plus an increase equal to two-thirds (2/3) of the percentage increase in the CPI for the New York/Northeastern New Jersey Region, adjusted annually.

3.1.4. The rent for the fifth year of the Contract shall be \$_____, per month, plus an increase equal to two-thirds (2/3) of the percentage increase in the CPI for the New York/Northeastern New Jersey Region, adjusted annually.

3.2. Late Payment: If Tenant is delinquent for thirty (30) days or longer in paying to Landlord any amounts owing to Landlord under this Contract, a late charge equal to one and one-half percent (1 ½%) of the rent shall be due thereafter, accrued monthly, until payment is made in full. In addition, Landlord may give thirty (30) days notice to terminate this Contract.

SECTION 4. UTILITIES:

4.1. The following utilities used by the Tenant for the operation of the café are to be paid by The Library: cold water, heat and electricity.

4.2. Tenant shall install a telephone line and jack in the café area. Tenant will be responsible for any activation and ongoing line charges.

SECTION 5. INSURANCE:

5.1. Tenant shall provide insurance and furnish certificates of insurance to The Library which certificates may not be canceled without thirty (30) days notice given to The Library as follows:

- (a) Worker's Compensation as required by the State of New Jersey applicable to the work to be performed;
- (b) Comprehensive General Liability for bodily injury, personal injury and

property damage, products liability and completed operations, including damages from collapse and explosion, if applicable, at a limit of not less than \$2 Million combined single limits for damages arising out of injury to or destruction of property; and

- (c) Contractual liability insurance indemnifying and holding The Library harmless from any and all claims for personal injury and property damage resulting from the Tenant's use of the Contract premises, or anyone working under its control at the Contract premises.

5.1.2. With the exception of worker's compensation, all insurance and the certificates of insurance shall name the East Brunswick Public Library as an additional insured.

SECTION 6. MAINTENANCE:

6.1. Tenant is responsible for keeping the café area neat, clean and in good repair. Tenant is also responsible for regularly clearing tables and other areas where food and beverages are consumed and shall immediately clean up spills and messes in that area.

6.1.2. Tenant will provide, at its own expense, adequate receptacles for trash and recycling and ensure that such receptacles are emptied regularly and not overflowing. At the close of each day, Tenant is responsible for clearing the area and emptying trash nightly.

6.1.3. Tenant will not allow boxes, cartons, barrels or other similar items to remain in view of the public areas.

6.1.4. Tenant may use the dumpsters owned by The Library, provided Tenant complies

with all Codes. In any event, Tenant must keep the site clean and sanitary in accordance with the Uniform Health Code.

6.1.5. Tenant shall maintain the café during the term of the Contract and shall make all minor repairs, electrical adjustments, plumbing adjustments and mechanical adjustments during the term of the Contract, leaving the premises in broom clean condition at the end of the Contract, subject to reasonable wear and tear.

SECTION 7. MENU:

7.1.1. In addition to food and beverages, Tenant may sell merchandise to support its food service, such as coffee mugs.

7.1.2. No alcoholic beverages are permitted to be sold.

7.1.3. Food preparation may not include any heating that results in smoke or odors, such as those caused by grilling, but hot beverages are excluded from this regulation.

SECTION 8. OPERATING STANDARDS:

8.1. Tenant shall have the opportunity (but not the obligation) to provide catering services for events sponsored by The Library, at the sole discretion of The Library. In such event, Tenant agrees to give The Library a discount from its standard costs.

SECTION 9. DELIVERIES:

9.1. Deliveries must be made only through the rear entrance to The Library, near the Senior Center. All deliveries must be carried directly to the café.

SECTION 10. EXCLUSIVITY:

10.1. Exclusive Café. Landlord grants to Tenant an exclusive right to provide a café on the premises.

10.2. Non-Exclusive Services. Notwithstanding the previous paragraph, Landlord does not grant Tenant exclusivity in offering catering services to The Library, and Landlord specifically reserves the right to utilize the services of another vendor or vendors in providing catering services on the premises, solely in the discretion of Landlord.

SECTION 11. EMPLOYEE STANDARDS:

11.1. A list of all employees, including names, addresses and telephone numbers, shall be furnished to The Library prior to such employees working at the café. All personnel shall be clean, neat and well groomed. They shall be professional, courteous and friendly to the public and conform to all customer service standards of The Library.

11.2. Anti-Discrimination. Tenant shall not directly or indirectly discriminate in its employment or as to users or visitors of the café on the basis of age, ancestry, color, disability, national origin, non job-related handicap, place of birth, race, religion, sex or sexual orientation.

SECTION 12. INDEMNIFICATION:

12.1. Tenant shall defend, indemnify and hold Landlord harmless from and against all claims, liability, loss and expense, including reasonable costs, collection expense and attorney's fees, which arise by reason of the acts or omissions of Tenant, its agents or

employees, in the performance of its obligations under this Contract. This clause shall survive the termination of this Contract.

SECTION 13. LIENS:

13.1. Tenant agrees that it will not cause or permit any claims in the nature of mechanic's liens for materials or labor placed or used under the terms of this Contract to be filed or served upon Landlord, and Tenant hereby guarantees to indemnify and save harmless Landlord against any and all such claims for liens which may be filed or asserted against any of the work performed in accordance with this Contract.

13.2 Vendor, at all times, whether by bond or otherwise, shall keep The Library, the Building, the Premises, the license created by this Contract, and any trade fixtures, equipment or personal property within the Premises, free and clear from any claim, lien or encumbrance (other than personal property, consensual security interests for lines of credit or inventory financing in the ordinary course of Vendor's business), tax lien or levy, mechanic's lien, attachment, garnishment or encumbrance arising directly or indirectly from any obligation, action or inaction of Vendor whatsoever.

13.3. Vendor shall give The Library at least ten (10) business days' prior written notice before the commencement of any work, construction, alteration or repair on the Premises that could be the subject of a mechanic's lien to afford The Library the opportunity to file appropriate notices of non-responsibility.

SECTION 14. INDEPENDENT CONTRACTOR:

14.1. Tenant, in carrying out its duties under this Contract, shall act as an independent contractor, and will exclusively reserve the right to hire or discharge employees and to designate the hours of work and classification of work for each employee. Landlord shall not exercise any control over the labor relations or employment policies of Tenant, nor shall it exercise any control over the manner and means used by Tenant's employees to perform any services. Tenant and its employees shall be qualified and have the requisite training and licenses required by applicable law to perform the services. No employee or officer of Landlord shall supervise Tenant's employees. Tenant shall provide adequate supervisory personnel at all times while services are being performed under this Contract. Tenant shall not be deemed to be, nor shall Tenant represent itself as, an employee, partner, or joint venturer of Landlord. No employees of Tenant are entitled to workers' compensation benefits or to participate in any benefit program to which employees of Landlord are entitled.

SECTION 15. SECURITY DEPOSIT:

15.1.(a). Upon execution and delivery of this Contract, Tenant has deposited with Landlord the sum of \$_____ (an amount equal to three (3) months' rent). Such sum and all additional Security Deposit paid pursuant to this Contract will be held by Landlord as security for the full and faithful performance by Tenant of each and every term, condition and covenant of this Contract on the part of Tenant, to be observed and performed. It is understood that such Security Deposit is not an advance payment of rent or a measure of

Landlord's damages in the case of default by Tenant. Landlord is not required to keep the Security Deposit sequestered or to pay interest thereon. Tenant shall not assign, transfer or encumber the Security Deposit, except that Tenant will assign the Security Deposit to any assignee of the Tenant's interest in this Contract, subject to approval by the Landlord and as provided in the provisions of this Contract.

15.1.(b). If any rent payable by Tenant to Landlord shall be overdue and unpaid or should Landlord make payments on behalf of Tenant, or should Tenant fail to perform any of the terms of this Contract, then Landlord may, at its option, and without prejudice to any other remedy which Landlord may have on account thereof, use, apply, or retain all or any part of the Security Deposit for the payment of any rent or any sum in default, or for the payment of any loss or damage which Landlord may suffer by reason of Tenant's default or to compensate Landlord for any other amount which Landlord may spend or become entitled to spend by reason of Tenant's default. In such event, Tenant shall forthwith upon demand restore the Security Deposit to the amount required to be paid upon execution of this Contract and such additional amount as is required in accordance with this section. Landlord may exercise all of its rights under this Contract in the event of non-payment of rent or other default notwithstanding the fact that Landlord holds a Security Deposit.

SECTION 16. ALTERATIONS, FIXTURES AND IMPROVEMENTS:

16.1. No alterations or additions shall at any time be made by or at the instance of Tenant without Landlord's prior written consent and supervision. Tenant shall furnish to

Landlord such plans and specifications as Landlord may reasonably require in order to process Tenant's request for consent. All work, repairs, or alterations made by or at Tenant's instance shall be done in a good and workmanlike manner, with good class materials, in compliance with any applicable governmental rules and regulations, and the cost of such work, compliance and all permits required shall be paid by Tenant, and Tenant shall keep Premises at all times free of liens for labor and materials supplied to the Premises.

16.2. Any alterations, installations, repairs, additions, or improvements, except Tenant's trade fixtures, shall at the option of Landlord, become the property of Landlord and shall remain upon and be surrendered with the Premises, as part thereof, at the expiration or sooner termination of this Contract, or at Landlord's option, shall be removed by Tenant not later than the expiration or sooner termination of this Contract. In the event of such removal, Tenant shall repair any damage caused by installation or removal. If Landlord requires that Tenant remove any such alterations, installations, repairs, additions, or improvements upon termination of this Contract, Landlord shall notify Tenant to that effect when Landlord consents to the installation thereof.

16.3. In the event that Tenant requests Landlord's approval in accordance with this section, whether or not Landlord approves, Tenant shall reimburse Landlord for Landlord's reasonable expenses, including fees paid by Landlord to architects, engineers, and attorneys, incurred in connection with Landlord's review of documents and approval or disapproval of the request.

16.4. If Tenant vacates the Premises voluntarily or otherwise (including vacating at the Termination Date), and fails to remove any property, equipment, or fixtures, then such property shall be deemed at Landlord's option to be abandoned, or, subject to the last sentence of this Paragraph, Landlord may remove such property and charge the reasonable cost of removal and storage to Tenant.

16.5. Tenant may install, connect and operate such trade fixtures and equipment as Tenant may choose, subject to compliance with applicable laws and regulations. Subject to the terms hereof, such fixtures and equipment shall be personal property of Tenant and shall be subject to removal by Tenant, provided that at the time of such removal, Tenant is not in default of this Contract. Tenant shall repair any damage to the Premises caused by such installation or removal.

16.6. Tenant's use of electric energy in the Premises shall not at any time exceed the capacity of any of the electrical conductors and equipment in or otherwise serving the Premises. In order to insure that such capacity is not exceeded and to avert possible adverse effect upon the Building's electric service, Tenant shall not, without prior notice to Landlord in each instance connect any additional major fixtures, appliances or equipment to the Building's electric distribution system or make any major alterations or addition to the electric system of the Premises existing on the Commencement Date, provided, however, that Tenant shall have the right, without Landlord's consent, to make minor alterations and additions to such electric system which are in accordance with all applicable electrical and building codes

and regulations and further provided that Tenant provides Landlord with the plans and specifications of said minor alterations and additions promptly after completing same.

SECTION 17. MISCELLANEOUS:

17.1. Notices. Any notice, payment, demand or communication required or permitted to be given by any provision of this Contract will be deemed to have been given when delivered personally to the party, when actually received if sent by registered or certified mail, postage and charges prepaid or by a commercially recognized overnight courier addressed as follows:

To Landlord: Manager of Administrative Services
 East Brunswick Public Library
 2 Jean Walling Civic Center
 East Brunswick, NJ 08816

To Tenant: _____

17.2. Governing Law. This Contract is being executed and delivered in and is intended to be performed in New Jersey, and the substantive laws of the State of New Jersey will govern the validity, construction and enforcement of this Contract.

17.3. Dispute Resolution. In the interest of obtaining a speedier and less costly hearing of any dispute, Landlord and Tenant each hereby waive a jury trial and court proceedings, including counter-claims, brought by either of them against the other with respect to any matters arising out of or in any way connected with this Contract or the

premises. The parties each agree to be bound by the Rules of The American Arbitration Association (“AAA”) and all disputes between the parties which cannot be resolved shall be submitted to AAA.

17.4. Execution. This Contract may be executed in multiple counterparts with the same effect as if both parties had signed the same document. All counterparts will be construed together and will constitute one agreement. This Contract will not be binding on or constitute evidence of an agreement until both parties affix their signature to a counterpart of this document.

17.5. Severability. If any clause or provision of this Contract is illegal, invalid or unenforceable under any present or future law, the remainder of this Contract will not be affected thereby. It is the intention of the parties that if any provision is held to be illegal, invalid or unenforceable, there will be added in lieu thereof a legal, valid and enforceable provisions as similar in terms to such provision as possible.

17.6. Binding Effect. This instrument constitutes the entire agreement between the parties and may not be changed, modified, amended or supplemented except in writing, signed by both Landlord and Tenant. All other oral or written agreements, promises and arrangements in relation to the subject matter of this Contract are hereby rescinded. This Contract will be binding on each of the parties and their respective successors and permitted assigns. All persons to whom any interest in this Contract or the Contract Premises might be transferred in accordance with the terms of this Contract will, by accepting such transfer, be

bound by this Contract to the same extent as if such transferee had been an original party hereto. This Contract is intended to create rights between Landlord and Tenant and is not intended to confer rights on any other person or to constitute such person or third party beneficiary hereunder.

IN WITNESS WHEREOF, the parties have executed this instrument as of the date first above written.

ATTEST:

LANDLORD:

EAST BRUNSWICK PUBLIC LIBRARY

By: _____

By: _____

Title: _____

Title: _____

ATTEST:

TENANT:

(Name of Tenant)

By: _____

By: _____

Title: _____

Title: _____

EAST BRUNSWICK PUBLIC LIBRARY

BIDDER'S FINAL CHECK SHEET

WE REQUEST THAT THE FOLLOWING CHECK POINTS BE OBSERVED AND REVIEWED.

FOR COMPLETION, PRIOR TO SUBMITTAL OF BID. FAILURE TO PROPERLY COMPLETE THESE DOCUMENTS, ETC., AND FORWARD SAME WITH BID WILL BE GROUNDS FOR REJECTION OF YOUR BID.

_____ **COMPLETE CORPORATE RESOLUTION REQUIREMENT IN SPECIFICATIONS. (To be supplied with Bid.)**

_____ **COMPLETE STOCKHOLDER DISCLOSURE CERTIFICATION REQUIREMENT AS PER SPECIFICATIONS. (To be supplied with Bid.)**

_____ **MAIL OR HAND CARRY BID TO ARRIVE ON TIME AS SPECIFIED IN SPECIFICATIONS. ANY BIDS RECEIVED AFTER THE BID OPENING TIME MUST BE RETURNED UNOPENED.**

_____ **PLEASE INDICATE BID NAME, NUMBER, OPENING DATE AND TIME ON OUTSIDE OF ENVELOPE!!**

_____ **COMPLETE DATA PERTINENT TO AFFIRMATIVE ACTION PROGRAM. (To be Supplied if Awarded Contract.)**

_____ **CERTIFICATES OF INSURANCE. (To be supplied if Awarded Contract.)**

_____ **NON COLLUSION AFFIDAVIT. (To be supplied with Bid.)**