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Grants, NM 87020  
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## REQUEST FOR PROPOSAL

Posted September 20, 2017

**Café / Coffee Shop - Services and Management  
Grants Public Library**

**PROPOSAL DUE DATE: WEDNESDAY, OCTOBER 25, 2017 AT 3:30 PM MST**

**600 WEST SANTA FE AVE, GRANTS, NM 87020**

## **SECTION 2 - TABLE OF CONTENTS**

<u>Section #</u>	<u>Section Name</u>
1	Cover
2	Table of Contents
3	Introduction
4	Notice of Request for Submittals
5	Summary Description of the Library Building
6	Detailed Café/Coffee Shop Description
7	Scope of Required and Desired Services
8	Café / Coffee Shop Modifications
9	Selection Process
10	Calendar Schedule
11	Submission Requirements

### **EXHIBITS**

Exhibit A: Library Floor plan showing Café / Coffee Shop Architectural Plans

Exhibit B: Qualification Submittal Form

Exhibit C: "Draft" Contract for Services

### SECTION 3 - INTRODUCTION

The City of Grants invites individuals, current businesses or prospective businesses to submit a qualification proposal for the operation and management of a Café / Coffee Shop inside the city of Grants Public Library. The City of Grants is a dynamic, community with a current population of approximately 9200 residents, located in Cibola County which has a population of 27,000. Grants is located in northwest New Mexico, approximately 75 miles west of Albuquerque.

**\*\*Please check the City of Grants Website periodically for amendments to this RFP.**

The new Grants Public Library is located at 1101 N. First Street. For additional information concerning the city of Grants, please refer to the website and Chamber of Commerce website per the following links:

City of Grants  
[www.cityofgrants.net](http://www.cityofgrants.net)

Chamber of Commerce  
[www.grants.org](http://www.grants.org)

### SECTION 4 - NOTICE OF REQUEST FOR SUBMITTALS

The City of Grants is seeking submittals for the purpose of selecting an individual or business to operate a Café / Coffee Shop next to the courtyard area in the Grants Public Library. The Concessionaire will be required to provide a variety hot and cold beverages, breakfast, lunch and dinner options to include coffee, tea, espresso juices, soft drinks, bottled water, sandwiches, soups, bagels, salads, pastries, doughnuts, snacks, etc.

A non-mandatory **pre-submittal conference and tour of facility** will be held at 10:00 am MST on Wednesday, **October 11, 2017**, in the new Library at 1101 N. First St., Grants, NM.

**Deadline:**

Interested persons, businesses or entities shall turn in their Proposal Submittals to the Chief Procurement Officer on or before **3:30 pm October 25, 2017**. Any Submittal received after the deadline will be returned unopened.

**Questions:**

Prospective Contractors may submit written questions regarding the specifications or requirements of the RFP. Written questions may be sent to the Chief Procurement Officer, Frances Medina at [f.medina@cityofgrants.net](mailto:f.medina@cityofgrants.net). And must be received no later than October 20, 2017.

**Amendments:**

Amendments and addendums will be posted on the City of Grants Website under the procurement tab and notice for this RFP. Please check the website periodically.

**Interviews:**

Should the City feel it would be helpful; interviews of the possible contractors may be scheduled.

All proposals submitted in response to this RFP will become the property of the City and will be open to public inspection after the proposal opening in accordance with the laws of the State of New Mexico.

The City of Grants reserves the right to accept or reject any and all submittals, or any part thereof, to withhold the award, and waive any informality deemed in the best interest of the City.

**SECTION 5 - SUMMARY DESCRIPTION OF THE LIBRARY BUILDING**

The newly refurbished building, still under construction and scheduled to open mid-November 2017, will house the City of Grants Public Library, to include adult, teen and children's sections. It will have an art room, small meeting room and large conference room, as well as numerous computer stations. The Library is approximately 18,000 square feet and consists of only half of the facility. In the near future, there are plans to develop the other half of the building into a training center, business incubator and possibly a community kitchen.

The new Library is designed to have the feel of a modern bookstore, with open shelving, internet stations and a commercial café at the entrance. Located across the street from the high school, it is anticipated that it will be a hangout place for young adults, who can relax in the Teen area or in the nearby courtyard, and work in study groups while they relax in furniture, appealing to their generation. The Courtyard has a small stage that will be conducive to presentations, puppet shows, talent night, etc. A Children's area and interactive play area is located to the far southeast corner and close to the adult section of the library. It will have numerous areas for adults and families to congregate and enjoy good books.

The Library, open 6 days a week, receives an average of approximately 200 visitors daily during the winter and many times double or triple that during the summer and warmer months. The Library has a strong civic presence, providing meetings rooms, community programs and access to public internet. It is a nexus of pride, activity, interaction and learning for all ages. The new building is located on one of the major streets and along the route for community members coming to and from work.

## **SECTION 6 - DETAILED CAFÉ/ COFFE SHOP DESCRIPTION**

### **COURTYARD**

The indoor/outdoor courtyard is located next to the Café is on the front of the building just inside the entrance doors and provides space for Library programs and outdoor activities. The area consists of roll-up doors that can be left open during nice weather or closed during colder months. The roll-up doors are full of windows that provide a great view of the outside and Mt. Taylor. This area will be set-up with tables and comfortable seating for patrons congregate, enjoy eating, reading and socializing.

### **CAFÉ / COFFEE SHOP**

The Café / Coffee shop area is approximately 1600 square feet and includes a drive-up window. It has been designed to be functional outside the Library, with its own restroom and entrance. Therefore, it can be open outside the Library hours and will not have to rely only on Library clientele. It will be operated by an independent, private business.

The facility will be equipped with all the amenities of a modern coffee shop/café. It will have a reach-in freezer, reach-in refrigerator, water filtration system, ice cuber, blender bar, Microwave convection/impingement oven, coffee brewer. 2 espresso cappuccino machines, 2, reach-in under counter refrigerators, refrigerated display case, tables and chairs.

### **PARKING**

There is ample parking within the Library grounds and adjacent to the Library for patrons, visitors, and staff.

## **SECTION 7 - SCOPE OF REQUIRED AND DESIRED SERVICES**

The primary scope of required services consists of the operation and management of a Café/Coffee Shop. The City is seeking to enter a one year contract with possible four additional one-year renewals.

### **1. SERVICES**

The Concessionaire shall operate and manage a Café / Coffee Shop in such a way as to enhance the Library environment and meet the desires of the community. The relationship between the City and the Contractor and its employees will be that of an independent contractor. The hours of operation should be open at a minimum:

Monday-Friday 7:00 am -8:00 pm

Saturday 7:00 am -7:00 pm

Additional hours of operation will be up to the discretion of the contractor. The operator may do **catering for meetings and events on site as well as outside the premises.**

### **2. MENU / INCIDENTAL PROFILE**

The menu is negotiable, but the preference is that it includes the following:

- Brewed Coffee drinks (hot and cold, including decaffeinated)
- Standard Teas (hot and cold, including decaffeinated)
- Napkins, Utensils, lids, etc as found in a most Café / Coffee Bars
- Cream, sugar, sugar substitutes, non-fat
- Juices, frozen fruit drinks, water, soft drinks
- Pastries, cookies, bagels, doughnuts, other snacks
- Fruit, sandwiches, salads, soups, wraps
- Products baked on site that may create an inviting atmosphere and draw traffic to the café (if allowed per Health Dept regulations & space available)

No alcoholic beverage sales are permitted. The City desires the menu to follow a traditional Café / Coffee Shop bill-of-fare with consideration towards healthy foods and beverages.

### **3. RETAIL SALES**

The City reserves the right to review and shall have final approval of any non-food or non- beverage item before it is offered for sale. The intention is for retail sales to be limited to items related to the Café / Coffee Bar. Prices of goods to be determined by Contractor, however, prices should try to include affordable options for teens.

### **4. RESTRICTIONS**

- The contract includes use of the area within the Café / Coffee Shop as defined by the walls and counters. It does not include the lobby area outside the Café / Coffee Shop which is intended for public use by Café / Coffee Shop patrons, Library patrons and Library related activities/programs. The exception to this paragraph is Concessionaire responsibility for bussing the table and chair area of the lobby as discussed further in this document.
- The trash receptacles, tables and chairs are provided as a convenience to the Concessionaire and are not part of this agreement. The furniture and its placement are important visual elements of the design and appearance as well as impacting safe access to and from the building; therefore, the City reserves the right to determine the placement of all furnishings and equipment in the lobby and Courtyard areas.
- No posters or announcements may be attached to the walls without prior approval of the City Manager.
- No brackets or attachments of any kind may be attached to walls or cabinets without prior approval of the City manager.
- No City equipment or furnishings may be removed from the site.
- No equipment or furnishings may be brought into the lobby area besides that which is already provided unless prior approval by the City Manager. No signs, except for menu sign, unless approved by the City Manager.
- Contractor may not sublease the Café / Coffee Shop.
- The City may provide storage for supplies or equipment outside what is included within the Café / Coffee Bar, but this is not guaranteed.

- The City will determine a name for the Café/ Coffee Shop and that name will remain through the life of the facility regardless of who is selected to manage and operate.

## **5. RESPONSIBILITIES OF THE CITY OF GRANTS**

- Provide lobby furnishings, including tables, chairs & trash receptacles.
- Provide general maintenance of the lobby area, with exception of the area listed below as responsibility of the Contractor.
- Provide access to electrical power, water and sewer.
- Allow access to the Courtyard when the Library is not open.

## **6. RESPONSIBILITIES OF THE CONCESSIONAIRE**

- Lease fee of \$300 per month (months 1-3), \$500 per month (months 4-12)  
Lease fee to be evaluated annually based on profit. Maximum lease \$700 per month (Year 2-5). Lease fee will be due the 1<sup>st</sup> of each month. Late payments will be subject to fees.
- Clean, maintain and, if damaged by other than normal wear and tear, repair/replace the equipment and furnishings within the Café / Coffee Shop as provided by the City.
- Put down a \$10,000 damage and or cleaning deposit.
- Any approved physical changes that occur to the property / infrastructure of the Café / Coffee Shop become the property of the City and shall remain upon termination of the service agreement / contract.
- Trash receptacles in and adjacent to the Café / Coffee Shop must be serviced by the Contractor. This includes cleaning, emptying and the provision of liners. Adjacent means those dedicated to the Courtyard area containing the tables and chairs.
- Operating the drive up in an expedient manner to allow quick and convenient services to clients.
- Provide sufficient and well trained staff who are trained to provide services that are conducive to those on a short lunch break needing to return to work.
- Maintain the agreed upon hours of operation unless modified per terms of this agreement or upon future agreements.
- Provide trained and responsible staff who possess a current New Mexico Food Handler's Certificate
- Maintain an atmosphere appropriate for a library facility; that is, professional, helpful and welcoming to all. Employees should wear nametags, clothing that is clean, in good repair, modest, and not displaying logos for alcohol, tobacco or other such items not suitable for a family environment.
- Procure and maintain any permits required to operate the facility.
- Provide Menu Board approved by the City.
- Procure an annual City of Grants Business License.
- Meet all applicable Federal, State County and City health standards.
- Deliveries shall be conducted in a manner so as not to disturb any other programs underway.

- Pay all employees, taxes, license fees, and other expenses incurred as a part of operating the Café / Coffee Shop.
- Pay for all utilities, gas, water, trash, sewer, phone, internet, custodial services etc. for the Café.
- Cash register, safe and or point of sales software.
- Clean, bus and maintain in a neat and hygienic manner the Café / Coffee Shop, restrooms and Courtyard area used by patrons, including the tables, chairs and trash receptacles, meeting standards set by the NMED.
- Keep the floor in the Courtyard area where the tables and chairs are located clean of spills and in a safe condition. City custodial services will be responsible for general cleaning / polishing of the floors as part of their Library responsibilities.
- Contractor shall provide supplies, materials, tools, and equipment required to operate and clean their responsible areas. This includes the cost to purchase or rent cleaning equipment and provision of trash receptacle liners.
- Report on an annual basis profit & loss financial records with the City of Grants.
- Be receptive to working with the City and the public schools to facilitate student internships at the Café from local culinary arts programs.

## **7. ACCESS**

Contractor shall exercise extreme caution and care with respect to the handling and use of access to the Library and of any keys or security cards provided by the City for entry to the Library. Contractor shall not duplicate keys or cards. Extra keys or cards may be requested from the City Manager if required. Contractor shall immediately report any missing keys or security cards to the City and will pay the City the appropriate fees for replacement and/or re-keying.

## **8. FOOD QUALITY**

- A. Contractor shall comply with all health regulations related to the processing, preparing, serving, storing and disposal of food, including but not limited to:
1. Regulations for handling of food waste;
  2. Monitoring;
  3. Adjusting and maintenance of temperature controls for refrigeration equipment;
  4. Testing and reusing of un-refrigerated items; and
  5. Items accessible to customers
- B. Contractor shall make every effort to ensure that only the highest quality drink and food products are sold in the Library. Preparation and presentation of goods shall meet or exceed industry standards.

## **9. NON-COMPLIANCE**

Failure to comply with any of these operating standards may result in a fine of one hundred dollars (\$100) per day if the issue is not addressed within seven (7) days of



receiving a formal letter of notice from the City. If the issue continues unaddressed beyond fifteen (15) days, the City has the right to terminate the Agreement.

## **10. INSURANCE REQUIREMENTS**

1. Concessionaire shall maintain continuous, uninterrupted coverage for public liability and property damage insurance that protects Concessionaire and the City and its officers, agents, and employees from the claims. The insurance shall provide coverage for not less than \$1,000,000 for personal injury to each person, \$2,000,000 aggregate, and \$1,000,000 for each occurrence involving property damages plus costs of defense; or a single limit policy of not less than \$2,000,000 covering all claims aggregate, plus costs of defense. The limits of the insurance shall be subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of New Mexico during the term of this Agreement. The insurance shall be without prejudice to coverage otherwise existing and shall name as additional insureds the City and its officers, agents, employees, and volunteers and coverage and must apply to claims between insureds on the policy. The insurance shall provide that the insurance shall not be canceled or materially altered without 30 days written notice first being given to the City Manager. If the insurance is canceled or materially altered within the term of this Agreement, Concessionaire shall provide a new policy with the same terms.
2. Contractor shall maintain a Certificate of Insurance on file with the City Manager certifying the coverage required above. The adequacy of the insurance shall be subject to the approval of the City Attorney. Failure to maintain liability insurance shall be cause for immediate termination of this Agreement by the City.
3. The Contractor must comply with all Workers Compensation laws.

## **11. LEASE TERM**

The lease term desired by the City is an initial one year term with the possibility of an additional 4 one-year terms.

## **SECTION 8 - CAFÉ / COFFEE SHOP MODIFICATIONS**

If the selected Contractor requires different equipment, decor or materials to meet their business plan they:

- 1) must provide a detailed description, including pictures or drawings, of the décor and signage of the restaurant along with list of equipment to be utilized.
- 2) will be responsible for the costs involved with modification.
- 3) must ensure that all equipment will meet all current NM Retail Food Code regulations and Cibola County Health Department regulations.
- 4) must provide estimated total project costs for the build out with construction costs listed separately from equipment costs.

- 5) must provide a construction schedule.
- 6) must provide a source of funding to finance the build-out / modifications.
- 7) must receive approval from the City.
- 8) are required to use the services of a licensed architect to prepare drawings for the build-out of the premises and must provide as part of the Proposal, information about the architect it plans to use including: architect's contact and licensing information, architect's experience with similar projects and a minimum of two references for the architect.
- 9) are required to use the services of a licensed contractor.
- 10). must obtain a City of Grants building permit.

## **SECTION 9 - SELECTION PROCESS**

The City wishes to select a Concessionaire that can provide services and products that enhance, enliven, and enrich the Library experience. All submittals that meet minimum qualifications as set forth in this Proposal shall be considered. Final selection shall be based on 1) experience in providing similar services, 2) knowledge of the proposed business, 3) demonstrated financial capability to start up a new business, and 4) proposed menu and services.

Applicants must utilize Exhibit B to record information for the evaluation process. Failure to complete the form may subject the submittal to disqualification and removal from further consideration.

A recommendation regarding the selected Contractor will be forwarded to the Mayor and Council. The Mayor and Council will make the final decision to accept or reject the submittal. Following Council and Mayoral approval of the submittal, the City and the Contractor will execute an agreement (contract).

The City of Grants reserves the right to reject any or all Proposal submittals or any items on any Proposal submittals and modify or terminate the proposal process or the selection process for any reason and without prior notice.

Award of contract to the selected Contractor will be made by November 13, 2017, assuming no scheduling conflicts occur with any follow-up activities that are needed.

## SECTION 10 - CALENDAR SCHEDULE

The following calendar schedule is anticipated; however, the City reserves the right to modify the schedule listed below.

- |   |   |
|---|---|
| A. Advertisement:   | Wednesday, Sept 20, 2017                |
| B. Pre-Submittal Conference/Tour:<br>1101 N. First St. (New Facility)                                   | Wednesday, Oct 11, 2017                 |
| C. Proposal Submittal Deadline<br>Chief Procurement Officer<br>600 W. Santa Fe Ave.<br>Grants, NM 87020 | Wednesday , Oct 25, 2017<br>3:30 PM MST |
| D. Panel Review of Submittals   | Oct. 26-31, 2017                        |
| E. Contract Award at City Council   | Monday, Nov 13, 2017<br>6:00 PM MST     |
| F. Execute Contract   | Friday, Nov 17, 2017                    |
| G. Notice to Proceed  | Friday, Nov 17, 2017                    |
| H. Move In and Set Up   | ASAP                                    |

## SECTION 11 - SUBMISSION REQUIREMENTS

Please submit five (5) copies of the information required per Exhibit B - Qualification Submittal Form, plus any attachments, by 3:30 pm, October 25, 2017 to:

Chief Procurement Officer  
Frances Medina  
City of Grants  
600 W. Santa Fe Ave.  
City of Grants, NM 87020

**EXHIBIT A - LIBRARY FLOOR PLAN SHOWING CAFÉ / COFFEE SHOP  
ARCHITECTURAL PLANS**

## **EXHIBIT B - QUALIFICATION SUBMITTAL FORM**

Applicants are required to provide information as requested per this Exhibit form. Failure to complete the form may subject the application to disqualification from the Proposal process. It is understood that this form will grow in size as it is filled in. Applicants are permitted to include attachments as necessary.

### **CONTACT INFORMATION**

<b>SUBJECT</b>	<b>APPLICANT TO FILL IN THIS SECTION</b>
Name(s) of Applicant	
Title(s) of Applicant	
Mailing Address	
Business Telephone Number	
Cell Telephone Number (if available)	
Fax Telephone Number (if available)	
Email Address (if available)	

### **ANSWERS TO THE FOLLOWING ITEMS WILL BE USED IN DETERMINING THE SUCCESSFUL CAFÉ OPERATOR**

1. If applicable, provide a summary of utility/mechanical requirements needed onsite to effectively operate if the current layout is unacceptable. Costs to modify shall be borne by the Contractor.
  
2. If applicable, provide a list of equipment not currently part of the facility that would be provided/installed for the services to be rendered.

**EXHIBIT B - QUALIFICATION SUBMITTAL FORM (CONT)**

3. Keeping in mind that morning visitors will be headed to work and that lunch visitors are on a tight schedule, what techniques will be used to assure that the drive-up functions appropriately and that patrons receive services in a timely manner?
  
4. What are your proposed hours of operation?
  
  
  
  
  
  
  
  
  
  
5. What is your proposed staffing to provide quality services?
  
  
  
  
  
  
  
  
  
  
6. How do you plan to Market the Café?
  
  
  
  
  
  
  
  
  
  
7. References from at least three (3) individuals or organizations familiar with your ability to operate a Café / Coffee Shop. The reference list should include the name, address, telephone number(s), email address (if available) and relationship of the reference to your business.
  
  
  
  
  
  
  
  
  
  
8. What is your experience in like endeavor?

9. Financial Plan –that demonstrate financial capability to secure equipment, supplies, inventory, etc. to setup, operate and manage the new Café / Coffee Shop.
  
10. Demonstrate your knowledge of the Grants' market in relation to a Café/Coffee Shop:
  
11. Provide proposed menu selection and pricing. (menu can be attached and/or referenced)
  
12. What key components do you plan to implement for a successful restaurant operation?
  
13. List at least one credit reference of a bank or financial institution.

**Certification:** Upon signing this Proposal, the Contractor certifies that the Standard Terms and Conditions and specifications have been read as set forth in the RFP, understands such and agrees to be bound by these Standard Terms and Conditions and specifications when a contract is entered into pursuant to the RFP. The Contractor also agrees that the proposal incorporates the Standard Terms and Conditions and specifications of this RFP and is the complete and exclusive statement of the terms of the agreement between the parties, which supersedes all proposals or prior agreements, oral or written, and all other communications between the parties relating to the RFP. Proposals that are not signed will be rejected.

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Name of Firm

---

Federal Tax ID # if Established

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Address, City State, Zip

---

Printed Name

Title

---

Signature of Authorized Individual



## EXHIBIT C - "DRAFT" CONTRACT FOR SERVICES

### CONTRACT AGREEMENT

#### CAFÉ / COFFEE SHOP GRANTS PUBLIC LIBRARY

THIS CONTRACT, entered into this \_\_\_\_ day of November, 2017 between the CITY OF GRANTS, NM, a municipal corporation of New Mexico, hereinafter "CITY", and \_\_\_\_\_, d/b/a "\_\_\_\_\_" of \_\_\_\_\_, NM, hereinafter "Contractor."

WHEREAS, the City of Grants is the owner of facilities at the Grants Public Library and Concessionaire desires a contract to offer coffee, food and refreshment services at the foregoing location as an independent contractor.

NOW THEREFORE, the City of Grants in consideration of the payments, agreements, conditions and covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby agreed to by the parties, it is hereby agreed as follows:

1. That Contractor may operate a Café / Coffee Shop at the Grants Public Library (hereinafter referred to as "the Library") on the terms and conditions as contained herein.
2. This Agreement shall be for a term commencing \_\_\_\_\_, 2017, and ending at midnight the \_\_\_ day of \_\_\_\_\_, 2018, unless sooner terminated as hereinafter provided.
3. Commencing \_\_\_\_\_, 2017, Contractor shall pay the City fees for the Café and facilities according to this schedule:

**\$300 per month (months 1-3) \$500 per month (Months 4-12).**

**Future amounts will be negotiated for year 2-5 not to exceed \$700.**

**Utilities for the Café consisting of water, gas, trash, sewer, electrical, security alarm, internet.**

Such revenue and sums due to City shall be reported and paid on or before the 1<sup>st</sup> day of each calendar month for the current month Lease fee and the previous month utilities. The City shall have the right, at reasonable times, to examine all of Contractor accounting and business records. Financial Reports shall be submitted annually to the Finance Department, in a format deemed acceptable by the City.

4. The Contractor and the City shall have the option of renewing this contract for four additional one (1) year periods, upon the same terms and conditions as contained herein. Written notice of such option to renew shall be given by either party sixty (60) days prior to expiration of this agreement and the other party will then have thirty (30) days to concur in writing.
5. Contractor hereby covenants and agrees with the City as follows:

- A. Contractor shall have rights to operate a café/ coffee shop and sell coffee, food and refreshments within the confines of the Library during the times and dates as directed by the City Manager or designee.
- B. At a minimum the Contractor shall conduct said concession activities on the days and during the hours of:

7:00 am to 8:00 pm	Monday - Friday
7:00 am to 7:00 pm	Saturday
Closed	Sunday

Contractor may operate additional days and hours as well as provide catering outside the Library setting without the interference of the City.

- C. Contractor is allowed to access their operating space before and after normal Library hours for activities deemed necessary to operate the business.
  - D. Contractor will locate their services within the Café / Coffee Shop designated area of the Library per the architectural plans. Contractor must keep their responsible areas safe, clean and secure to avoid injuries to any members of the public.
  - E. Contractor will not maintain or permit any nuisance, public or private, on or around the premises herein contracted or violate any laws, statutes, ordinances and regulations; and will keep and maintain compliance with all legal requirements relating to the premises and to the authorized business conducted thereon. The Contractor will not permit or suffer the premises to be used for the purpose of carrying on any illegal business or occupation and will use and occupy the demised premises in a careful, safe and proper manner and will not commit or suffer any waste.
  - F. Contractor shall at all times maintain the facilities in a neat, clean and sanitary condition and shall at all times meet the standards of the State and County Departments of Health, NMED and all Federal, State and City codes, rules and regulations.
  - G. Contractor shall not transfer or assign any portion of the Café/Coffee Shop, operations or rights under this agreement without prior written approval of the City, which consent may be withheld at the City's sole discretion.
6. The Contractor hereby agrees to save and hold harmless the City, or any of its departments, agencies, officers or employees from all cost, damage and liability incurred by any of the above and from any other damage, cost and liability to any person or property whatsoever, which is caused by an activity, inactivity, condition or event arising out of the negligent performance or nonperformance of any provision of this agreement by contractor, its agents or independent subcontractors.

This indemnification shall extend to any and all alleged negligent acts or omissions related to or arising out of any activities of the contractor. The above cost incurred by the City of any

of its departments, agencies, employees, or officers shall include, in the event of legal action, court costs, expenses of litigation and reasonable attorney's fees.

7. Any and all personal property and other taxes assessed against the movable fixtures, equipment and personal property and merchandise placed in and upon said premises by Contractor shall be the sole obligation and responsibility of Contractor. Any and all franchise, excise and other taxes assessed against Contractor by virtue of the commercial business conducted on the demised premises and any license and other fees assessed against Contractor shall be the sole obligation of the Contractor.
8. The payments to the City provided for in Paragraph 3 will be reported and all fees paid at the time and manner provided therein. Time is of the essence in this agreement.
9. It is agreed between the parties hereto that this written Contract along with the RFP specifications contains all the covenants and agreements of the parties hereto and shall not be modified except by an instrument in writing signed by the parties hereto. Any notice given by either party pursuant to the terms and conditions of this contract shall be sufficient if mailed by prepaid postage or certified mail; addressed to the other party as follows:

City Manager  
City of Grants  
600 W Santa Fe Ave.  
Grants, NM 87020

Contractor:

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

Any such notice shall be effective as of the date of mailing thereof, and any notice given either party must be made in writing and may be personally delivered to the party, with such personal delivery to be effective as the date of such deliverance.

10. The parties hereto expressly covenant and agree that in the event of litigation arising from this Agreement, neither party shall be entitled to an award of attorney's fees, either pursuant to the Contract, or pursuant to any other State or Federal statute.
11. The agreement shall be construed under the laws of the State of New Mexico.
12. The covenants, conditions, terms and revenues contained hereinabove shall extend to and be binding upon the City, upon Contractor its heirs, personal representatives and assignees.
13. The City of Grants may cancel this contract, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City of Grants is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract. In the event of the foregoing, the City of Grants further elects to recoup any

fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating this contract, arising as a result of this contract.

14. This Agreement is the result of negotiations by and between the parties. Although it has been drafted by the City Manager, it is the result of the negotiations between the parties. Therefore, any ambiguity in this Agreement is not to be construed against either party.
15. It is expressly agreed and understood by and between the parties that the Contractor is being retained by the City as an independent contractor, and as such the Contractor shall not become a City employee, and is not entitled to payment or compensation from the City or to any fringe benefits to which other City employees are entitled other than that compensation as set forth in Section 1(A) above. As an independent contractor, the Contractor further acknowledges that he is solely responsible for payment of any and all income taxes, FICA, withholding, unemployment insurance, or other taxes due and owing any governmental entity whatsoever as a result of this Agreement. As an independent contractor, the Contractor further agrees that he will conduct himself in a manner consistent with such status, and that he will neither hold himself out nor claim to be an officer or employee of the City by reason thereof, and that he will not make any claim, demand or application to or for any right or privilege applicable to any officer or employee of the City, including but not limited to workmen's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit.
16. The Contractor, with regard to the work performed by it after award and during its performance of this contract, will not discriminate on the grounds of race, color, national origin, religion, sex, disability or familial status in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Concessionaire will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, and Executive Orders 99-4 and 2000-4.
17. In the event the Contractor does not make any payment of monies owed to the City by any due date specified in the agreement / contract, interest shall accrue on the unpaid sum at a rate of (10) percent per annum until said late payment is paid in full. Any refusal to make any payment owed to the City within forty five (45) days of the payment date shall constitute an event of default under the agreement / contract entitling the City to terminate the agreement / contract.
18. Either party may terminate this agreement / contract at any time, with or without cause, by giving the other party thirty (30) days written notice to terminate.
19. The parties hereto expressly covenant and agree that in the event of a dispute arising from this Agreement (contract), each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties hereby agree to submit to a trial before the Court.
20. Request for Proposals, Specifications, Special Provisions, Addenda (if any), Qualification Submittal Tables, (as accepted by the City), per this Contract, and any Performance Bonds, Payment Bonds, Certificates of Insurance, and Change Orders are by this reference the Contract Documents and are made a part of the Contract to the same extent as if set forth herein in full. Contract is not valid until (a) contract documents are executed, (b) bonds are posted, (c) the notice to proceed has been delivered to the Contractor.

21. The City will provide access to available utilities for the premises and will maintain the building in a usable state of repair.
22. Contractor shall require all employees and agents to wear appropriate attire and provide polite, professional service to patrons.
24. The City shall not install or keep on the Premises any vending machines.
25. Contractor shall promptly report security and mechanical problems to the Library Director (or designee), and refrain from direct involvement in security problems unless absolutely necessary.
26. Contractor shall not make any changes in, alterations to or additions to, or remove any portion of the building or any equipment belonging to the City without having first obtained the written consent of the City Manager. The Manager shall determine which party shall bear the expense of any alterations or additions that are made.
27. Contractor shall not by reason of any of the privileges granted hereunder direct or interfere with any of the activities conducted within the Library (or elsewhere within the building).
28. Contractor is not authorized to sell or distribute alcoholic beverages at any event or activity under this Agreement. Furthermore, private consumption of alcoholic beverages by the Contractor's employees or agents while operating the Cafe is expressly prohibited.
29. Contractor agrees to purchase and maintain worker's compensation coverage as required by statute, covering any of the Contractor's personnel or agents involved in the performance of the Cafe. The Contractor also agrees to purchase and maintain standard commercial liability insurance (including automobile liability insurance) in a minimum amount of \$1,000,000.00 combined single limit, covering the Contractor's activities during the operation of the Cafe. The City shall be named as an additional insured in such liability policy or policies. The Contractor shall provide the City with proof of such insurance prior to operation of the Cafe.
30. It is expressly understood that nothing herein authorizes Contractor to enter into any contracts or agreements with third-parties on behalf of the City, nor to incur any debts or other liabilities on behalf of the City.
31. It is understood by the parties that under the Immigration Reform and Control Act of 1986, employers are prohibited from hiring persons not authorized to work in the United States. The Act subjects employers to civil and criminal penalties for violating this ban. Concessionaire agrees to comply with the Act by verifying that each and every employee (and applicant for employment) involved with this concession has the legal right to work in the United States.
32. It is understood by the parties that under the Americans with Disabilities Act of 1991, employers must provide reasonable accommodations for employees who are disabled, and governmental entities and private businesses must provide the disabled with access to their

respective programs and services. Concessionaire agrees to comply with these Acts in its operation of the Concession.

33. It is understood by the parties that the City has adopted a policy establishing a drug-free workplace for itself and persons and entities doing business with the City. Contractor agrees to require that its employees and agents remain drug-free during their operation of the Cafe. Being drug-free includes refraining from the manufacture, distribution, dispensing, possession, and illegal use of controlled substances.
34. Any successors, executors, or administrators of Contractor and any assignees of Contractor's interests herein shall be bound to the City to the full legal extent to which Contractor is bound with respect to each of the covenants, conditions and promises of this Agreement.
35. No term or provision of this Agreement is intended to, or shall, be for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization, or corporation shall have any right or cause of action hereunder.
36. This Agreement may only be amended by a written agreement fully executed by the parties through their authorized representatives.
37. No waiver of any part of a breach of any of the covenants, conditions or promises in this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition or promise herein. Furthermore, no delay in exercising any right or remedy shall constitute a waiver thereof.
38. Passed, approved and adopted by the Mayor and Council of the City of Grants on this \_\_\_\_ day of \_\_\_\_\_, 2017.

**TOWN:**

Grants, NM

\_\_\_\_\_  
Martin Hicks, Mayor

ATTEST: City Clerk

BY: \_\_\_\_\_  
Cynthia Arrossa  
(CORPORATE SEAL)

**CONTRACTOR:**

\_\_\_\_\_  
BY: Signature of Owner/Officer/Agent

\_\_\_\_\_  
Print Name(s) and Title(s) of Person