

SERIAL 99109 RFP FOOD COURT SERVICES AND PLAZA DEVELOPMENT

DATE OF LAST REVISION: December 06, 2011 CONTRACT END DATE: April 30, 2025

CONTRACT PERIOD THROUGH ~~MARCH 19, 2015~~ APRIL 30, 2025

TO: All Departments

FROM: Department of Materials Management

SUBJECT: Contract for **FOOD COURT SERVICES AND PLAZA DEVELOPMENT**

Attached to this letter is published an effective purchasing contract for products and/or services to be supplied to Maricopa County activities as awarded by the Board of Supervisors on **March 20, 2000**.

All purchases of products and/or services listed on the attached pages of this letter are to be obtained from the vendor holding the contract. Individuals are responsible to the vendor for purchases made outside of contracts. The contract period is indicated above.

Wes Baysinger, Director
Materials Management

SD/mm
Attach

Copy to: Materials Management

**MARICOPA COUNTY COURT COMPLEX
FOOD COURT USE MANAGEMENT CONTRACT**

THIS CONTRACT entered into this **15TH day of FEBRUARY, 2000** by and between the Maricopa County, a political subdivision of the State of Arizona, (County), and **COMPASS GROUP USA, INC., dba EUREST DINING SERVICES, Inc.**, whose principal place of business is located at **2902 WEST VIRGINA AVE. PHOENIX, AZ. 85009**, (Contractor).

W I T N E S E T H

WHEREAS, County owns and operates the Maricopa County Superior Court Complex at 200 W. Jefferson Avenue, and

WHEREAS, County desires to continue to provide public food and beverage concession facilities in the Court Complex; and,

WHEREAS, Contractor agrees to have existing Court Complex facilities renovated and upgraded in order to offer County employees and the public current marketplace concepts; and,

WHEREAS, Contractor has agreed to accommodate the County's goals for developing, buildout, promotion, management, operation and maintenance of a food court complex,

NOW, THEREFORE, County, for and in consideration of the amounts hereinafter specified to be paid by Contractor, and the covenants and agreements hereinafter contained, County does hereby let unto the Premise, as described herein, the Contractor under the following terms and conditions:

**ARTICLE I
TERM**

The term of this Contract shall have commenced on FEBRUARY 15, 2000 and, unless sooner terminated in accordance with the terms hereof, shall continue until ~~JANUARY 31, 2015~~ **April 30, 2025**.

**ARTICLE II
PREMISE**

The developable and operational space encompassed by this contract shall consist of all space and areas to be used by Contractor and its affiliates for the Superior Court Complex food and beverage operation, located at 100 W. Jefferson Avenue, and as further defined and set forth in **Exhibit A** attached hereto and incorporated herein. (The "Premises") **South Court Tower 175 West Madison consisting of a kitchen and serving area comprising approximately 2,007 square feet**

**ARTICLE III
PURPOSE**

Said Premises shall be used for the preparation, offering, serving and sale of food and beverage products, related services and ancillary support systems, and for no other purpose without the written consent of the County being first obtained.

ARTICLE IV PRIVILEGES AND RESTRICTIONS

Contractor shall enjoy the following rights and privileges in connection with its use of the Premises:

- A. Contractor shall have exclusive use of the Premises set forth in Exhibit A and exclusive rights granted under this Contract, except for those areas and uses granted the vendor(s) provided by the Department of Economic Security (DES) pursuant to ARS § 23-504.
- B. Contractor shall have the exclusive right and privilege to offer, serve or sell food, and beverages to the public including any additions or extensions thereto; provided, however, that County reserves the right to grant newsstand and gift shop concessionaires the right to sell packaged sundry food items (e.g. candy bars, chewing gum, etc.); and,
- C. No vending machine may be installed by Contractor without the prior written approval of the County. County expressly reserves to itself the right to grant the other concessionaire located at 301 West Jefferson the right to sell packaged food and beverages for consumption.
- D. Upon written notice from the County, Contractor agrees to discontinue selling or offering for sale any product or service that the County finds to be either beyond the scope of this Contract or contrary to the County's mission.
- E. The Premises shall not be used except for the purposes herein specified. Contractor shall, at all times during the term hereof, continuously operate the Premises for those purposes and shall not at any time leave any part of the Premises vacant without the County's prior written consent.
- F. In addition to the foregoing, Contractor shall not do or permit anything to be done in or about the Premises, or bring or keep anything therein, which will in any way increase the rate of fire insurance upon the buildings wherein the Premises are situated; or which will in any way conflict with any law, ordinance, rule or regulation which may now or hereafter be enacted or promulgated by any governing public authority or create a nuisance; or in any way obstruct or interfere with the rights of the vendor provided by DES pursuant to ARS § 23-504; or commit or suffer to be committed any waste upon the Premises; or use or allow the Premises to be used for any improper, immoral, unlawful or objectionable purposes; or place any loads upon the floor, walls or ceilings which endanger the structures; or obstruct the sidewalk, elevators, passageways or stairways in front of, within or adjacent to the Premises.
- G. In the operation of the concessions herein authorized, Contractor shall have the right to use, hire or contract for the services as shall be necessary for the proper and efficient distribution from its storage and food preparation areas to the various concession areas in the building of its food, food products and beverages and for the removal of its refuse and waste; provided, however that such services shall be subject to the prior written approval of the County before the same is placed in operation, and upon placing such in operation, Contractor shall strictly comply with such rules and regulations as the County may, from time to time, adopt covering operation of such equipment and the time periods therefore, the location of the parking and storage areas for such service providers, neatness, cleanliness and sanitary condition of such equipment and the cleanliness, neat appearance and conduct and demeanor of Contractor's employees and other service providers. All of said personnel shall be appropriately licensed and the County may require periodic inspections of the Premise and of such equipment by its representatives.

ARTICLE V COMPENSATION

Contractor, for and in consideration of the use of the Premises, facilities, rights and privileges granted hereunder, hereby covenants and agrees to pay County without notice and free from any and all claims, deductions or setoffs against the Contractor, the greater of the following:

A. **PAYMENT:**

CONCESSIONAIRE shall pay to County a percentage of gross receipts in accordance with the following schedule:

Annual Gross receipts	Percentage Payment
\$0-\$1,500,000	4%
\$1,500,001 and greater	6%

Annual Gross receipts	Percentage Payment
\$0-\$1,750,000	3%
\$1,750,001 and greater	5%

For payment purposes, the contract year is defined as the first twelve months of operations and each subsequent 12-month period.

B. Report and Compensation Payments.

The CONCESSIONAIRE shall pay to the County amounts due on a monthly basis. The concessionaire's monthly compensation payments to County shall be calculated using the previous month's gross receipts times the 4% payment amount. At the end of each year there shall be a reconciliation of payments due to the County based on the appropriate annual percentage payment of annual gross receipts in accordance with Article V, Section G. Payment shall be accompanied with a detailed report showing gross receipts collected for each day during the month. Payment shall be made to the County no later than 15th of the following month. If the 15th falls on a weekend, the payment may be made on the next Monday. There shall be a late fee of 10% on any past due amounts.

C. CONCESSIONAIRE agrees to expend Investment Funds, at a minimum, \$364,000 for improvements or within five percent +or- (5%) thereof as further described at Article IX, Section E.

D.

E. CONCESSIONAIRE shall provide COUNTY with financial records to substantiate the expenditures for such capital improvements.

1. Commencing within 120 days after execution of this contract or upon commencement of operation, whichever accrues first, Contractor's obligation to pay the above scheduled compensation shall begin or a liquidated damage in the amount of \$150.00 per day shall commence until operation begins.

2. Gross Sales Reports. On the fifteenth (15th) day following the end of the first month of sales, and on the fifteen (15th) day of each and every month thereafter including the month following the end of the contract, Contractor shall submit to County a detailed statement showing its gross sales from the operation of the concessions for the preceding calendar month and its cumulative gross sales from the date of commencement of the contract year for which the report is made through the last day of the preceding month. Such statement shall show such reasonable data broken down, as may be required by County, of gross receipts segregated by each source or general type of sale or service in order to permit proper audit. Contractor shall make available for

County's review month-end register "Z" tapes, and submit this data along with monthly gross sales reports. Contractor is to follow and comply with the directions of the County with respect to forms and methods of said accountings.

3. Compensation Payment. At the time of rendering such statement, Contractor shall pay to County the applicable monthly payment or percentage of Contractor's gross sales for the preceding month. In computing the compensation to be paid by the Contractor, the first reporting period shall end at the close of business on the last day of the same calendar month. Thereafter, the reporting period shall be on a calendar month basis.

4. Vesting of Monies. Immediately upon Contractor's receipt of monies from the operation of the concession business herein authorized, the portion of said monies belonging to the County under the terms of this Contract shall immediately be vested in and become the property of County and Contractor shall be responsible for said monies until the same are delivered to County. County may, at its sole discretion, require adequate employee fidelity bonds to be maintained by Contractor, at Contractor's sole expense, covering all its employees who handle money.

D. Delinquent Compensation. Without waiving any other right or action available to County in the event of default in payment of compensation hereunder, if Contractor is delinquent for a period of thirty (30) days or more in paying to County any compensation due and owing to County pursuant to this Contract, Contractor shall pay to County interest thereon at the rate of twelve percent (12%) per annum from the date such item was due and owing until full payment plus interest has been paid.

E. **GROSS RECEIPTS DEFINED:**

“Gross receipts” as used in this Use Management Contract shall mean and is defined as follows:

The total amount of the sale price of all sales, the total amount charged or received for the performance of any act or service, including all receipts, cash, credits, and property of any kind or nature, any amount for which credit is allowed by the seller to the purchaser without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, losses or any other expenses whatsoever; provided, the cash discounts allowed or taken on sales shall not be included. Gross receipts shall not include the amount of any tax imposed on or with respect to retail sales whether imposed upon the retailer or upon the consumer and regardless of whether or not the amount of tax is stated to customers as a separate charge, or any state, or local sales or use tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser, or such part of the sales price of any property previously sold and returned by the purchaser to the seller which is refunded by the seller by way of cash or credit allowances given or taken as part of payment on any property so accepted for resale.

F. Books and Record

1. The CONCESSIONAIRE shall maintain an accounting system which conforms to generally accepted accounting principles and which accurately reflects the results of the entire operation of the Food Court. These financial records shall be retained for a seven (7) year rolling period from the current year. The final seven (7) years of records shall also be retained for five (5) years beyond the expiration date of this Agreement. These financial records shall be made available for inspection or audit by COUNTY, Federal or State Government, their agents or employees. Within ninety (90) days of the end of the Concessionaire’s fiscal year, the CONCESSIONAIRE, at its own expense, shall prepare and submit to COUNTY, an annual financial statement reflecting the income and expenses for the entire operation of the Food Court.

Said financial statement shall, at a minimum, include a limited review by an independent auditor attesting to the amount of gross receipts for the purpose of computing payments to the County. This independent auditor must be a Certified Public Accountant. This report shall include a statement that the amounts shown in the financial reports are consistent with those included in the CONCESSIONAIRE’S federal and state income tax returns relating to the Food Court operation. If these are not the same, a statement explaining any differences shall be included. If the CONCESSIONAIRE’S books, records and other documents relevant to this agreement are not sufficient to support and document reported sales, the CONCESSIONAIRE shall, within thirty (30) days of the auditor’s report, make payment to the COUNTY for the amounts not adequately supported and documented.

2. County shall have the right to examine, inspect and copy the books and other records of Contractor with respect to the operations of Contractor under this Contract. Contractor is required to maintain at a location mutually acceptable to County and Contractor all such books and records. Contractor also agrees that County may employ a Certified Public Accountant to conduct an examination of the compensation reported and paid under this Contract. In the event a significant discrepancy from Contractor’s reported gross sales for the period of the audit is established, Contractor shall promptly pay the costs and expenses of the separate audit and any deficiency in gross sales upon billing by County. A significant discrepancy is defined as one where deficiency in compensation is equal to or greater than three percent (3%). Should the examination establish an overpayment of compensation, any overpayment shall be deducted from future compensation due after issuance of a credit memorandum by County.

3. Contractor shall provide the County a description of Contractor’s cash and sales records system, and shall install such system, including cash registers or other types of equipment upon which Contractor shall cause to be recorded each and every transaction made under this Contract or from the Premises involving Gross Sales as above defined. Each cash register shall have locked totals, and shall be accessible to and subject to

inspection by County including the right to monitor any computerized cash register utilized by Contractor on the Premises.

4. The termination of this Contract, by the lapse of time or otherwise, shall not relieve Contractor of its obligation to pay any compensation, fees or charges that have accrued during the period in which this Contract is in effect or the Contractor has had the benefit of the Premises.
- G. Annual Certification of Gross Sales. At the end of each year of this Contract, an annual accounting on the basis of the percentage compensation which may be due shall be made by Contractor to the County within one hundred twenty (120) days after the end of ~~each Contract year~~ **contractor's fiscal year (September 15)**. For the purpose of said annual accounting; Contractor shall furnish to County an audited annual accounting statement of gross sales and percentage compensation due audited by CONTRACTORS Certified Public Accountant in accordance with generally accepted auditing standards. The purpose of the audit will be to express an opinion on the statement of Gross Sales and Percentage rent due based on the audit. In the event an overpayment or underpayment by Contractor has been made, an amount equal to such payment shall be promptly paid by or credited to Contractor.
- J. **South Court Tower Food Service Financial Arrangements Subject to the percentage payment set forth above, the parties agree that Contractor shall provide County with the supply and management of services in exchange for which Contractor shall receive and retain all income derived, and bear Operating Charges resulting, from the sales of Food Services or other Services in the South Court Tower. Operating Charges means an accrual of charges and expenses incurred or allocated for operation and administration of Services. Such operation and administration charges and expenses may include, but shall not be limited to, the following: (i) Purchase or rental, storage, and maintenance of inventory, equipment, and systems; (ii) Provision of training, relief staff, wage and salary, payroll tax, FICA, FUI, SUI, Employee benefits such as medical, dental, life, workers' compensation, and state disability insurance, payroll and benefit plan preparation, processing, and administration; (iii) Payment of sales or property taxes, licenses, permits, rent, special security costs, cash or property losses related to Compass Employees; and (iv) Deployment or investment of capital in connection with the Services. In the event of a change in social security taxes or the federal or state unemployment taxes, or in the event of an imposition of new federal, state, or local payroll based taxes, or in the event of an increase in the minimum wage rate or the enactment of any "living wage" or similar laws by any governmental entity, or in the event of any increased costs of Employee benefits, the foregoing Operating Charges shall be changed by the projected change in costs to Compass from the date such change occurs.**

ARTICLE VI OPERATION OF BUSINESS

- A. Contractor shall maintain the Premise and conduct all operations in an orderly, proper and first-class manner, and so as not to annoy, disturb or be offensive to others at the Court Complex. Contractor shall not solicit business anywhere at the Court Complex, except in a proper manner upon the Premises.
- B. Contractor shall actively operate all of the Premises during the hours of operation as provided in **Exhibit B** as may be amended during the term of the Contract by the County, and shall use its best efforts to accomplish a business like operation therein. Except as otherwise stated herein, the minimum hours of service for each of the facilities operated by Contractor in the Premises shall be determined jointly by the County and Contractor. Contractor shall be excused from its obligation to operate as set forth in this Article in the event that its operations are closed or curtailed, in whole or in part, by reason of a strike, lockout, or other cause beyond the control of Contractor. Currently approved hours of operation are set forth in Exhibit B. Any amendment, modification or revision of Exhibit B shall be subject to the prior written approval of the County.

ARTICLE VII QUALITY AND CHARACTER OF SERVICE

- A. Food and other articles sold shall be of high quality; the service shall be prompt, clean, courteous and efficient; all prices charged and portions served shall be reasonable. Contractor shall submit to the County for prior approval menus of the meals or articles offered for sale, the size of the portions served and the prices charged for each, and the County reserves the right to request changes if deemed to be in the best interest of the public.

Such menus, portions and prices as submitted and approved may be made an exhibit to this Contract. Currently approved menus and prices are set forth in contractors **PROPOSAL, SECTION 1**, any modifications, amendments or revisions of said **PROPOSAL, SECTION 1**, shall be subject to the prior written approval of the County.

- B. It is expressly agreed and understood that all food offered by Contractor shall be of a caliber, both in quality and quantity, which is comparable to, or better than, other comparable retail food and beverage outlets in the Phoenix area. Prices charged by Contractor shall be commensurate with those charged for similar quality and quantities of food offered in the Phoenix area at similar establishments.
- C. The County shall have the right to raise objections to the condition of the Premises, the quality and quantity of the food and drink, the articles sold, the prices charged, the character of the service, the hours of operation, and to require all practices deemed objectionable to be remedied or discontinued.
- D. Contractor shall at all times retain on the Premises an experienced manager or assistant manager, authorized to represent and act for Contractor in matters pertaining to the operation of the Premises, and Contractor shall keep the County informed in writing of the identity of such manager.
- E. Contractor agrees to keep the Premises, and all fixtures and equipment, clean, neat, safe, sanitary and in good order and condition at all times.
- F. All waste matter shall be stored and disposed of in a manner satisfactory to the County, and Contractor agrees to arrange for the timely disposal, at its expense, of all waste material.
- G. All requirements of the City, County or State Board of Health or measures in health or sanitary regulations adopted by the City, County, State or any governing legal authority, shall be fully met by Contractor, and Contractor shall allow access for inspection purposes to any duly authorized representative of said agencies or of County.

ARTICLE VIII COMPLIANCE WITH LAWS AND REGULATIONS

- A. Contractor agrees that its operations conducted under this Contract will be operated in strict compliance with all laws of the United States, the State of Arizona, applicable laws of the City of Phoenix and County of Maricopa, or of any legal authority having jurisdiction, and all of the applicable rules and regulations issued pursuant to the laws of the sovereignties or agencies herein above mentioned. Contractor further agrees that it will not use the Premises for any purpose not authorized by the County and in accordance with all rules and regulations adopted by County in the operation of the Court Complex. Contractor further agrees to submit such report or reports, or convey information regarding its operations, as the County may require.
- B. Contractor shall keep current all licenses and permits, whether Municipal, State or Federal, required for the conduct of its several business operations at the Court Complex, and pay promptly when due all fees therefor.
- C. County and Contractor acknowledge that this Contract is subject to cancellation by the County pursuant to the provisions of Section 38-511, Arizona Revised Statutes.

ARTICLE IX INSTALLATION OF IMPROVEMENTS/REFURBISHING

- A. Contractor shall, at Contractor's sole cost and expense, completely design, erect, install, construct, equip, furnish and finish the Premises as supplied by Maricopa County in accordance with the understanding set forth on **Exhibit A**. Such renovated improvements and equipment shall not be encumbered by any security interest.
- B. Contractor shall cause all portions of the Premises to be fully equipped, furnished, fixturized and to be made completely ready for business to the satisfaction of County at Contractor's cost.
- C. Any further alterations by Contractor shall meet the applicable requirements of County and shall be subject to inspection and approval by County. Before commencing any such alterations, modifications or improvements, Contractor shall submit plans and specifications therefor to County. County shall within thirty (30) days thereafter either approve, disapprove or require such modifications as may be necessary to meet County's architectural and structural requirements. Upon the completion of any alterations, modifications or improvements, or new construction as approved by County, Contractor shall furnish County, with two (2) complete sets of detailed plans and specifications of the work as completed. Prior to any alteration, Contractor shall notify County thereof in writing ten (10) days in advance thereof, and County shall have the right to enter and post and maintain notices of non-responsibility upon the Premises. All Certified Improvements now or hereafter constructed or placed upon the Premises, and all alterations, modifications and improvements thereof, shall not be deemed trade fixtures, but shall become part of the Premises, with title thereto vesting in County

upon completion of said improvements; subject, however, to Contractor's buyback and right of possession, use and occupancy during the term of this Contract in accordance with the terms and conditions hereof. All other moveable equipment of such nature as to constitute trade fixtures shall remain the property of Contractor, and shall be removable by Contractor at the date of termination of this Contract or of any extension thereof.

- D. Within forty-five 45 days of Contract execution Contractor must submit final construction plans and specifications for all alterations, modifications or improvements to the County for approval. Within five (5) working days of receiving such approval Contractor must file for a building permit, if applicable. Contractor must commence construction within thirty (30) days of issuance of a building permit or approval by the County if a permit is not required.
- E. Contractor will fund certain improvements to County premises to facilitate the performance of services (Investment Funds). The scope, schedule and timing of the Investment Funds, specifications improvements shall be mutually agreed in writing by the parties prior to the disbursement of any Investment Funds. County shall hold title to all real estate fixtures and other items funded by the Investment Funds (excluding trademarked franchise equipment, displays and proprietary software programs). The Investment Funds Shall be payable in accordance with the disbursement schedule agreed to in writing, by the parties, and shall NOT exceed in aggregate, Three Hundred and Sixty Four Thousand Dollars (\$364,000.00). The Investment Funds shall be amortized over a period of fifteen (15) years, calculated at a rate equal to straight-line depreciation basis. If the agreement is terminated by County, prior to the full amortization of the Investment Funds, then the County or the successor food service provider is liable for and promises to pay Contractor, within 30 days of the effective date of termination, the unamortized portion of the Investment Funds. If Contractor terminates the Contract without cause, the County will not be required to pay Contractor for the unamortized portion of the Investment Funds.

ARTICLE X

EXPENDABLE EQUIPMENT

Contractor agrees to supply and maintain, at its own expense, a sufficient quantity and quality of expendable equipment, including linen, glassware, dishes, cutlery, kitchen utensils and miscellaneous kitchen equipment as may be necessary for the efficient operation of the activities of Contractor hereunder.

ARTICLE XI

SIGNS AND ADVERTISING

- A. Contractor may install and operate upon or at the Premises, and at Contractor's expense, signs containing the name of its business, and refer to or indicate concession rates or charges. Such signs shall be comparable in size, type and location with those of other businesses. The number, general type, size, design and locations of all signs shall be subject to the prior written approval of the County. Contractor shall submit a comprehensive sign plan with the final construction plans required to be submitted by Article IX (D) above.
- B. Contractor shall install and/or remove, at any time during the existence of this Contract, upon written notice from the County, any sign which the County deems necessary and or unnecessary for identification or information to the public.
- C. Upon the expiration or the sooner termination of this Contract, Contractor, if requested by the County, shall remove any and all advertising, signs, posters and similar devices placed by Contractor on the Premises. In the event of the failure on the part of Contractor to so remove each and every sign or piece of advertising so requested by the County, County may perform such work and Contractor shall pay the cost thereof, upon demand, to County.

ARTICLE XII

ASSIGNMENT AND SUBLETTING

Contractor shall not sublet, assign, transfer or hypothecate all or any portion of its interest under this Contract nor permit any other person, firm, subsidiary or corporation to occupy the Premises without the prior written approval of the County and any attempt to do so without prior approval shall be null and void, except Contractor may assign to its parent, affiliate or subsidiary upon prior written approval. Contractor shall give written notification to the County at least sixty (60) days prior to any proposed transfer of control of Contractor's business.

For purposes of this Article, any transfer of control of Contractor's interest is considered to be an assignment of

interest. County as a condition of approval may require that a transferee submit biographical and financial information and the County shall have forty-five (45) days from the date it receives a completed request to approve or deny same.

This Contract or any interest therein, shall not be subject to assignment by operation of law.

ARTICLE XIII

MAINTENANCE AND REPAIR

Contractor agrees to keep the Premises, including glass and all doors, at its own expense, in good repair and condition, except that County shall maintain exterior surfaces of the building glass. Contractor shall be responsible for the maintenance and repair of all improvements and trade fixtures installed by Contractor on the Premises. Contractor agrees that it will periodically, as reasonably necessary during the term of this Contract, and at its own expense, paint or replace wall coverings on the interior of the Premises. Contractor agrees to replace worn carpeting, curtains, drapes or other furnishings, from time to time, as their condition may require. All maintenance shall be at Contractor's sole expense and will be subject to general inspection by the County to insure a continuing quality of maintenance and appearance and physical condition of the Premises commensurate with maintenance requirements established by the County.

ARTICLE XIV

UTILITIES

- A. County will provide in, or in the vicinity of, the Premises, the following utility service connections: water, electricity, telephones and sewage. Contractor shall ascertain from the County, and the County shall make available, information as to the points at or near the Premises where such services will be brought by County. All extensions or enlargements of such utility services requested by Contractor from said points shall be at the sole cost and expense of Contractor. In the event of any change desired by Contractor as to said points of supply by County; the expense of making such changes or alterations shall be at the sole cost of Contractor. Contractor shall be responsible for providing suitable utility connections
- B. COUNTY shall pay the whole cost at established rates, for all utilities used in the County operations.
- C. County will furnish Contractor, at NO expense, with chilled water for purposes of air conditioning of the Premises.
- D. No failure, delay or interruption in any utility service or services shall relieve Contractor of any of its obligations hereunder, nor shall such failure, delay or interruption be construed to be an eviction of Contractor, nor shall such failure, delay or interruption constitute grounds for any diminution or abatement of the compensation or charges provided for herein, or grounds for any claim by Contractor against County for damages, consequential or otherwise.
- E. In all instances where damage to any utility service line is caused by Contractor, its employees, subcontractors, construction or remodeling personnel, suppliers, agents or invitees, Contractor shall be responsible for the cost of repairs.

ARTICLE XV

PERFORMANCE BOND

Contractor shall provide and maintain during the term of this Contract a performance bond, in a form acceptable to the County, guaranteeing the faithful performance of all its terms payable to County. The amount of the performance bond for this Contract is \$364,000.00. Contractor shall increase the performance bond upon the written demand of the County, provided such increases are found reasonable and necessary by County. Any bank account assignments and/or letters of credit tendered by Contractor in lieu of a performance bond must comply with any and all procedures promulgated by the County. Contractor shall provide the County this Bond with 10 days of contract execution.

ARTICLE XVI

INDEMNITY INSURANCE AND LIABILITY EXEMPTION

A. INDEMNIFICATION

To the fullest extent permitted by law, the CONTRACTOR shall defend, indemnify, and hold harmless the COUNTY, its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses and expenses, including but not limited to attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the acts, errors, omissions or mistakes relating to the performance of this Contract. CONTRACTOR'S duty to defend, indemnify and hold harmless the COUNTY, its agents, representatives, officers, directors, officials, and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property, including loss of use resulting therefrom, caused by any acts, errors, omissions or mistakes in the performance of this Contract including any person for whose acts, errors, omissions or mistakes, the CONTRACTOR may be legally liable.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

Abrogation of Arizona Revised Statutes Section 34-226:

In the event that A.R.S. § 34-226 shall be repealed or held unconstitutional or otherwise invalid by a court of competent jurisdiction, then to the fullest extent permitted by law, the CONTRACTOR shall defend, indemnify and hold harmless the COUNTY, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or resulting from CONTRACTOR'S work or services. CONTRACTOR'S duty to defend, indemnify and hold harmless, and the COUNTY, its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, injury to, impairment or destruction of property including loss of use resulting therefrom, caused in whole or in part by any act or omission of the CONTRACTOR, anyone CONTRACTOR directly or indirectly employs or anyone for whose acts CONTRACTOR may be liable, regardless of whether it is caused in part by a party indemnified hereunder, including the COUNTY.

The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this paragraph.

The scope of this indemnification does not extend to the sole negligence of the COUNTY.

B. INSURANCE REQUIREMENTS

CONTRACTOR, at CONTRACTOR'S own expense, shall purchase and maintain the herein stipulated minimum insurance with companies duly licensed, possessing a current A.M. Best, Inc. Rating of B++6, or approved unlicensed companies in the State of Arizona with policies and forms satisfactory to the COUNTY.

All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of the COUNTY, constitute a material breach of this Contract.

The CONTRACTOR'S insurance shall be primary insurance as respects the COUNTY, and any insurance or self-insurance maintained by the COUNTY shall not contribute to it.

Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an

insurance policy warranty shall not affect coverage afforded under the insurance policies to protect the COUNTY.

The insurance policies may provide coverage, which contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to the COUNTY under such policies. The CONTRACTOR shall be solely responsible for the deductible and/or self-insured retention and the COUNTY, at its option, may require the CONTRACTOR to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

The COUNTY reserves the right to request and to receive, within ten (10) working days, certified copies of any or all of the herein required insurance policies and/or endorsements. The COUNTY shall not be obligated, however, to review such policies and/or endorsements or to advise CONTRACTOR of any deficiencies in such policies and endorsements, and such receipt shall not relieve CONTRACTOR from, or be deemed a waiver of the COUNTY'S right to insist on strict fulfillment of CONTRACTOR'S obligations under this Contract.

The insurance policies required by this Contract, except Workers' Compensation, shall name the COUNTY, its agents, representatives, officers, directors, officials and employees as Additional Insureds.

The policies required hereunder, except Workers' Compensation, shall contain a waiver of transfer of rights of recovery (subrogation) against the COUNTY, its agents, representatives, officers, directors, officials and employees.

Commercial General Liability. CONTRACTOR shall maintain Commercial General Liability insurance with a limit of not less than \$1,000,000 for each occurrence with a \$2,000,000 Products/Completed Operations Aggregate and a \$2,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage including, but not limited to, the liability assumed under the indemnification provisions of this Contract which coverage will be at least as broad as Insurance Service Office, Inc. Policy Form CG 00011093 or any replacements thereof. The coverage shall include X, C, U.

The policy shall contain a severability of interest provision, and shall not contain a sunset provision or commutation clause, or any provision, which would serve to limit third party action over claims.

The Commercial General Liability additional insured endorsement shall be at least as broad as the Insurance Service Office, Inc.'s Additional Insured, Form B, CG 20101185, and shall include coverage for CONTRACTOR'S operations and products and completed operations.

If the CONTRACTOR subcontracts any part of the work, services or operations awarded to the CONTRACTOR, he shall purchase and maintain, at all times during prosecution of the work, services or operations under this Contract, an Owner's and CONTRACTOR'S Protective Liability insurance policy for bodily injury and property damage, including death, which may arise in the prosecution of the CONTRACTOR'S work, service or operations under this Contract. Coverage shall be on an occurrence basis with a limit not less than \$1,000,000 per occurrence, and the policy shall be issued by the same insurance company that issues the CONTRACTOR'S Commercial General Liability insurance.

Automobile Liability. CONTRACTOR shall maintain Automobile Liability insurance with an individual single limit for bodily injury and property damage of no less than \$1,000,000, each occurrence, with respect to CONTRACTOR'S vehicles (whether owned, hired, non-owned), assigned to or used in the performance of this Contract.

Workers' Compensation. The CONTRACTOR shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of CONTRACTOR'S employees engaged in the performance of the work or services, as well as Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease for each employee, and \$1,000,000 disease policy limit.

In case any work is subcontracted, the CONTRACTOR will require the Subcontractor to provide Workers' Compensation and Employer's Liability insurance to at least the same extent as required of the CONTRACTOR.

C. CERTIFICATES OF INSURANCE

Prior to commencing work or services under this Contract, CONTRACTOR shall furnish the COUNTY with Certificates of Insurance, or formal endorsements as required by the Contract, issued by CONTRACTOR'S insurer(s), as evidence that policies providing the required coverages, conditions and limits required by this Contract are in full force and effect. Such certificates shall identify this contract number and title.

In the event any insurance policy (ies) required by this contract is(are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of the CONTRACTOR'S work or services and as evidenced by annual Certificates of Insurance.

If a policy does expire during the life of the Contract, a renewal certificate must be sent to the COUNTY fifteen (15) days prior to the expiration date.

D. CANCELLATION AND EXPIRATION NOTICE:

Insurance required herein shall not expire, be canceled, or materially changed without thirty (30) day's prior written notice to the COUNTY.

**ARTICLE XVII
QUIET ENJOYMENT**

County agrees that, on payment of monthly compensation and the performance of the covenants and agreements on the part of the Contractor to be performed hereunder, Contractor shall peaceably have and enjoy the Premises and the privileges granted herein for the commercial use of Court Complex facilities.

**ARTICLE XVIII
SURRENDER OF POSSESSION**

Upon expiration or other termination of this Contract, Contractor's right to occupy the Premises and exercise the privileges herein granted shall cease and it shall surrender and leave the Premises in good condition except for normal wear and tear. Unless otherwise provided, all trade fixtures, equipment, supplies and personal property installed or placed by Contractor on the Premises ("Contractor's Property") shall remain the property of Contractor, and Contractor shall have the right at any time during the term of this Contract, and for an additional period of thirty (30) days after its expiration, to remove same from the Premise; provided Contractor is not in default in its payments to County hereunder; and provided that Contractor shall repair any damage caused by such removal. Within ninety (90) days of installation or delivery of Contractor's Property during the term of this Contract, Contractor shall deliver a listing of Contractor's Property to County and unless County objects to the same within ninety (90) days thereafter, said listing of Contractor's Property shall be conclusive proof thereof. Contractor shall have the duty to keep current the list of Contractor's Property. In the event Contractor fails to repair any damage to the Premises caused by the removal of Contractor's Property, County shall have the right to make such repairs it deems necessary at Contractor's sole expense. Any property not removed by Contractor within the thirty (30) day period shall become a part of the Premises and title thereto shall vest in County. Contractor shall execute any documents necessary to convey title to abandoned property to County at County's request.

**ARTICLE XIX
TAXES, ASSESSMENTS AND LIENS**

Contractor promises to pay promptly all taxes, excises, licenses, permit fees and assessments of whatever nature applicable to the operation of its business. Contractor agrees not to suffer any lien to be imposed upon the Premises or upon any equipment or personal property located thereon without promptly discharging the same; provided that Contractor, if so desiring, may have reasonable opportunity to contest the legal validity of the same. County reserves the right to pass on to Contractor any future tax that may be assessed against County or Contractor by reason of this Contract.

**ARTICLE XX
LANDLORD'S LIEN**

- A. Contractor shall not commit or suffer any act or neglect whereby the Premises, including improvements, furnishings and equipment of Contractor thereon or therein, or the estate of Contractor in the same at any time during the term of the Contract, shall become subject to any attachment, lien, charge or encumbrance. Contractor shall indemnify and hold County harmless against all liens, charges and encumbrances, and all expenses resulting therefrom, including reasonable attorney's fees; it being expressly understood and agreed that Contractor shall have no authority, express or implied, to create any lien, charge or encumbrance upon the said Premises including improvements, furnishing and equipment, or any portion thereof unless contested in the manner set forth in Article XVI-A.

**ARTICLE XXI
SUCCESSORS AND ASSIGNS**

Each and all of the expressions, phrases, terms, conditions, provisions, stipulations, promises, covenants, agreements, requirements and obligations of this Contract shall, whenever applicable, extend to and bind and inure to the benefit of County and Contractor and their legal representatives, successors and assigns of either or both of them.

**ARTICLE XXII
NO LIABILITY OUTSIDE OF TERMS OF CONTRACT**

It is agreed that all duties, obligations and liabilities of either of the parties hereto must be founded upon the terms of this Contract, and that any liability under this Contract or in connection with the transaction consummated by this Contract is exclusively that of each of the principals appearing respectively as County and Contractor. No officer, employee or agent of either party is to be held liable for any act, neglect, default or alleged representation or statement.

**ARTICLE XXIII
SUSPENSION AND ABATEMENT**

In the event County's operation of the Court Complex or Contractor's conduct of business at the Court Complex should be substantially restricted by action of the Federal Government, or any agency thereof, then either party hereto shall have the right, upon written notice to the other, to a suspension of this Contract, or, in the alternative, to an abatement of a portion of the compensation payments as may be mutually agreed upon, from the time when such restriction is effective until there is a cessation of such restriction and normal operation is restored.

**ARTICLE XXIV
RIGHTS OF ENTRY RESERVED**

- A. County, its elected officials, employees, agents, representatives and contractors, shall have the right at all reasonable times to enter upon all portions of the Premises for the purpose of inspecting the same, for observing the performance of Contractor of its obligations under this Contract, and to service or post or keep posted thereon notices provided by any law or rules or regulations which County deems to be for its protection.

- B. Without limiting the generality of the foregoing, County, its elected officials, employees, agents, representatives and contractors, and furnishers of utilities and other services, shall have the right for County's benefit, for the benefit of Contractor, or for the benefit of persons other than Contractor at the Court Complex, to maintain existing and future utility, mechanical, electrical and other systems and to enter upon said Premises at all reasonable times to make such repairs, replacements or alterations as may, in the opinion of the County, be necessary or desirable; and, from time to time, to construct or install over, in, or under the said Premises new systems or parts thereof, and to use the Premises for access to other parts of the Court Complex not otherwise conveniently accessible.
- C. Nothing in this Article shall impose upon County any obligation to make repairs, replacements, alterations or additions to the Premises, or shall create any liability upon County for any failure to do so.
- D. At any time, during ordinary business hours within the three (3) months preceding the expiration of this Contract, or any renewal period thereof, County, its agents and employees, whether or not accompanied by prospective Contractors, or by occupiers or users of the Premises, shall have the right to enter upon all portions of the Premises for the purpose of exhibiting and viewing the same.
- E. No abatement of County compensation shall be claimed by or allowed to Contractor by reason of the exercise by County of any or all of the rights contained in this Article; provided, however, that nothing in this Article shall permit County to exercise any right of access or entry for any of the purposes denoted herein above, except at reasonable times and in such manner as not to unreasonably interfere with or hinder the use, occupancy and enjoyment of the Premises by Contractor.

ARTICLE XXV

DAMAGE OR DESTRUCTION

- A. If the Premises are damaged by fire, explosion, Act of God, or other casualty, but not rendered unusable, the same may be repaired with due diligence by Contractor at its own cost and expense. If such damage shall be so extensive as to render the Premises unusable, but capable of being repaired within six (6) months, the same shall be repaired with due diligence by Contractor at its own cost and expense, and the compensation payable hereunder shall be proportionately paid up to the time of such damage, and thereafter abate and cease until such time as the Premises are again useable.
- B. If any portion of the Court Complex other than the Premises is so damaged and such damage is capable of being repaired within six (6) months, the same shall be repaired with due diligence by County at its own cost and expense. If such damage shall be so extensive as to substantially impair Contractor's operations on the Premises, the compensation payable hereunder shall be paid up to the time of such damage, and thereafter shall be equitably reduced in proportion to such impairment until such time as Contractor's operations shall be fully restored.
- C. If the Premises are completely destroyed by fire, explosion, Act of God, or other casualty, or so damaged as to be unusable and incapable of being repaired within six (6) months, County shall be under no obligation to repair or reconstruct the Premises. The compensation obligations of Contractor hereunder shall be paid up to the time of such damage or destruction, and thereafter shall be proportionately reduced for impaired operation, or if no operation is possible, shall cease until such time as the Premises are fully restored, and compensation obligations shall thereafter resume in the same proportion as Contractor's operation on the Premises shall resume. If such damage or destruction shall not be repaired or restored within twelve (12) months after such damage or destruction, Contractor shall have the right to cancel this Contract upon written notice to County of such election.
- D. If any of the improvements or trade fixtures constructed or installed by Contractor in or at the Premises are damaged or destroyed by fire, explosion, Act of God, or other casualty, Contractor shall repair or replace the same with due diligence at its own cost and expense. Such replacements or repairs shall be equivalent to or better in quality than the improvements and fixtures so destroyed or damaged. This paragraph shall not be applicable; however, if County is not obligated and elects not to rebuild pursuant to Paragraph C of this Article.

ARTICLE XXVI

DEFAULT OF CONTRACT

If default be made by Contractor in any of their covenants herein contained, and Contractor shall continue in such default for a period of thirty (30) days after notice in writing from the County of such default specifying the same

and if Contractor has not undertaken remedial measures satisfactory to the County, or if Contractor is in default in the payment of compensation, then County may enter upon the Premises and take exclusive possession of the same, with or without cancellation of Contract; and County shall have the right to bring actions against Contractor thereafter for damages as the same may accrue. The remedy herein specified shall not be exclusive, but shall be cumulative upon all other remedies, legal or equitable in nature. County will not be deemed to have terminated this Contract in the absence of service of written notice upon Contractor to that effect.

ARTICLE XXVII

TERMINATION

Each of the following acts or omissions shall constitute a material breach of this Contract and County shall have the right to terminate this Contract if any one or more of the following events shall occur:

- A. Contractor shall become insolvent, or shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy, or a petition or answer seeking an arrangement for its reorganization, or the readjustment of its indebtedness under the Federal bankruptcy laws, or under any other law or statute of the United States or of any State thereof, or consent to the appointment of a receiver, trustee or liquidator of all or substantially all of its property; or
- B. A petition under any part of the Federal bankruptcy laws, or an action under any present or future insolvency law or statute, shall be filed against Contractor and shall not be dismissed within thirty (30) days after the filing thereof; or
- C. The interest of Contractor under this Contract shall, without the approval of the County, be transferred to, pass to or devolve upon, by operation of law, stock transfer (a transfer or series of transfers of an amount or amounts totaling fifty percent (50%) or more of Contractor's outstanding voting stock to one party or group of parties acting in concert shall be deemed to be a transfer of Contractor's interest hereunder), assignment, subcontract or otherwise, any other person, firm or corporation; or
- D. Contractor, if a partnership or if a joint venture, and the said partnership or joint venture shall be dissolved as the result of any act or omission of its partners, or joint ventures, or any of them, or by operation of law or the order or decree of any court having jurisdiction, or from any other reason whatsoever; or
- E. By or pursuant to, or under authority of any legislative act, resolution or rule, or any order or decree of any court or governmental board, agency or officer, a receiver, trustee or liquidator shall take possession of all or substantially all of the property of Contractor, and such possession or control shall continue in effect for a period of fifteen (15) days; or
- F. Contractor shall voluntarily abandon, desert or vacate the Premises, or after exhausting or abandoning any right of further appeal, Contractor shall be prevented for a period of ninety (90) days by action of any governmental agency from using the Premises, regardless of the fault of Contractor; or
- G. Any lien shall be filed against the Premises because of any act or omission of Contractor, and shall not be discharged or contested by Contractor in good faith by proper legal proceedings within thirty (30) days after receipt of notice thereof by Contractor; or
- H. Contractor shall fail duly and punctually to pay compensation, or to make any other payment required hereunder, when due to County or within thirty (30) days after written demand for payment by the County; or
- I. Contractor shall fail to provide and maintain the quality of concession products or services to the satisfaction of the County as required by Article VII hereof or Contractor shall fail to keep, perform and observe each and every other promise, covenant and agreement set forth in this Contract, or on its part to be kept, performed or observed, and such failure shall continue for a period of more than thirty (30) days after delivery by the County of a written notice of such breach or default by personal service, registered mail or certified mail to Contractor, except where fulfillment of its obligation required activity over a period of time, and Contractor shall have commenced, in good faith, to perform whatever may be required for fulfillment within ten (10) days after receipt of notice and continue such performance without interruption except for causes beyond its control. County may terminate this Contract without prejudice to any other remedy or right of action for arrearages of compensation; and in the event of such termination, all improvements on the Premises shall become and remain the property of County.
- J. Contractor shall fail to timely complete the renovation of the Premises as approved by the County.

- K. Contractor shall fail to allocate space as agreed by the parties to the DES supplied vendor or to work with such vendor in an appropriate business like manner.
- L. The County may terminate this agreement without cause upon 180 days prior written notice to the Contractor.
- M. The Contractor may terminate this Agreement without cause upon one year's prior written notice to County.

ARTICLE XXVIII

WAIVER OR DAMAGE

Contractor hereby expressly waives any and all claims for compensation for any and all loss or damage sustained by reason of any defect, deficiency, failure or impairment of any services to or in the Premises, including, but not limited to, the water supply system, elevators, escalators, drainage or forced air ventilation, heating system, communications wires leading to or inside the Premises, electric or telephone services, which may occur from any cause, or from any loss resulting from gas, gasoline, oil, water or other fluid, or from any other source whatsoever. Contractor hereby expressly discharges County, and its elected officials, servants, agents and employees, from any and all demands, claims, judgments, actions and causes of action arising from any of the causes aforesaid.

ARTICLE XXIX

SURRENDER OF PREMISES

Contractor shall yield and deliver peaceably to County possession of the Premises and any improvements thereupon on the date of the cessation of this Contract, whether such cessation be by termination, expiration or otherwise. Such properties shall be in a condition similar to that which existed at the date of execution of this Contract or at the time immediately after the installation of the Certified Improvements except for reasonable wear and tear arising from use of the Premises to the extent permitted elsewhere in this Contract, and except for damage resulting from causes over which Contractor had no control.

ARTICLE XXX

NOTICES

All notices required to be given to Contractor hereunder may be delivered personally, or sent by registered or certified mail, addressed to Contractor at:

**COMPASS GROUP USA, INC.dba.
EUREST DINING SERVICES
~~2902 WEST VIRGINA AVE.
PHOENIX, AZ. 85009~~
8585 E. Hartford Dr., Suite 110
Scottsdale, AZ. 85255**

ATTN: ROBERT MUNZER, REGIONAL VICE-PRESIDENT

or to such other address as Contractor may designate in writing. All notices required to be given to County may be delivered personally or sent by registered or certified mail addressed to:

**Maricopa County Facilities Management
401 W. Jefferson
Phoenix, AZ 85003
Attn: Director**

Or to such other address as county may designate in writing. Said notice shall become effective upon receipt thereof.

ARTICLE XXXI

AMENDMENTS

This Contract shall not be varied in its terms by any oral agreement or representation, or otherwise than by an instrument in writing of subsequent date hereto executed by both parties.

ARTICLE XXXII

INVALID PROVISIONS - SEVERABILITY

In the event any term, covenant or condition herein contained is held to be invalid by any court of competent jurisdiction, such invalidity shall not affect any other term, covenant or condition herein contained in the valid terms, covenants or conditions hereof.

ARTICLE XXXIII

INTERPRETATION

- A. The language of this Contract shall be construed according to its fair meaning, and not strictly for or against either County or Contractor. This Contract shall be deemed to be made, construed and performed according to the laws of the State of Arizona, and the venue for any tribunal to hear and adjudicate matters in dispute between the parties shall be Phoenix, Arizona.
- B. The sectional headings herein are for the convenience of the parties hereto, and are not to be used to construe the intent of this Contract or any part thereof, nor to modify, amplify or aid in the interpretation or construction of any of the provisions thereof.
- C. The use of any gender herein shall include all genders, and the use of any number shall be construed as the singular or the plural, all as the context may require.

ARTICLE XXXIV

NO PARTNERSHIP

It is expressly understood and agreed by and between County and Contractor that County shall not be construed to be a partner of, or a joint venture, or a member of a joint enterprise with Contractor; and that the provisions of Article V hereof relating to compensation payable hereunder are included therein solely for the purpose of providing a method whereby the compensation is to be measured and ascertained.

ARTICLE XXXV

NO WAIVER OF SUBSEQUENT BREACHES OF DEFAULTS

The failure of County at any time to insist upon a strict performance of any of the terms, conditions and covenants herein shall not be deemed a waiver of any subsequent breach of default in the terms, conditions and covenants herein.

ARTICLE XXXVI

FORCE MAJEURE

In the event County or Contractor shall be prevented or unable to perform any act required by this Contract by reason of acts or determinations of Federal, State or Local Governments, or fire, earthquake of similar Acts of God, strikes, labor disputes or any other reason of a like nature beyond their control, then performance of such act shall be extended for a period equivalent to the period of delay; however, no such period of delay shall exceed ninety (90) days unless approved in writing by the County.

IN WITNESS WHEREOF, the parties hereto have executed this Contract by their duly authorized officers this day of, **2000**.

“ARTICLE XXXVII

**VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED
STATUTES §41-4401 AND FEDERAL IMMIGRATION LAWS AND REGULATIONS:**

By entering into the Contract, the Contractor warrants compliance with the Immigration and Nationality Act (INA using e-verify) and all other federal immigration laws and regulations related to the immigration status of its employees and A.R.S. §23-214(A).

ARTICLE XXXVIII

**VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED
STATUTES §§35-391.06 AND 35-393.06 BUSINESS
RELATIONS WITH SUDAN AND IRAN**

A. By entering into the Contract, the Contractor certifies it does not have scrutinized business operations in Sudan or Iran.

ARTICLE XXXIX

MISCELLANEOUS

A. In accordance with Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and the Vietnam Era Veterans’ Readjustment Act of 1974, as amended, the parties hereby incorporate the requirements of 41 C.F.R. §§60-1.4(a)(7), 60-250.5 and 60-741.5, if applicable.

CHAIRMAN BOARD OF SUPERVISORS

by
CONTRACTOR

ATTEST, CLERK OF THE BOARD OF SUPERVISORS

Fran McCarroll

APPROVED AS TO FORM

MARICOPA COUNTY ATTORNEY

Christopher Keller

EXHIBIT A

This Exhibit A shall outline the developable and operational space encompassed by this Contract to be available to Contractor and as further referenced in Article II as "The Premises."

Included in this Exhibit A and made a part hereof are Attachments 1 and 2 that take the form of plans showing the general layouts and perimeters of the space under this Contract. Generally, the subject area consists of a kitchen and serving (marked "food line" on the plan) area comprising 5,517 square feet, interior dining area of 6,112 square feet – less approximately 440 square feet for the DES convenience store – and exterior dining area of approximately 7,852 square feet. The meeting room/private dining area of 2,541 square feet will be maintained and controlled by Maricopa County.

There will also be storage and staging space on the basement level below the kitchen in the amount of approximately 700 square feet. (Attachment 2)

In addition, for the purpose of maintaining consistency in the operation of retail and service outlets, this Contract will encompass County buildings facing First and Third Avenues, Jefferson and Madison Streets in Downtown Phoenix, where Eurest Dining Services will have first option to provide retail services except the current vending machine locations under contract with the Department of Economic Security.

Furthermore, this Exhibit A as detailed below sets forth the understandings between the Contractor and County as to their mutual responsibilities concerning the demolition design, decorating, fixture and equipment installation, construction, furnishing and finishing of The Premises:

1. Common Concerns

For the purpose of developing a theme and overall appearance and for facilitating smooth equipment installation and decoration in the public areas, we will share 50-50 the cost of the space designer, Dave Keaggy. The scope of work for this purpose will be limited to preliminary site plans and layouts, decorating schemes, recommendations for fabrics and materials in sample board style, casual sketches and drawings, and design appearance of the coffee bar, national brand food areas and general dining room. Construction, decoration and equipment installation managed by Keaggy would also be shared on an equal basis, with a jointly-approved cost proposal developed by him from a prepared scope of work.

Other services specific to food service design or equipment installation outside of the Keaggy proposal would be at Eurest's expense.

Wherever possible, Eurest and the County will attempt to maintain the integrity of the existing space so that remedial measures or reconstruction will not be necessary. This specifically refers to (except as noted below) ceiling and floor modifications, plumbing, HVAC or electrical changes necessitating major construction or addition of services or other installations requiring invasion of the building infrastructure.

County will service and clean elevator and underground storage/staging area.

Eurest and County will work together with project manager, architect and designer to provide for smooth construction, ordering and installation of equipment and decorations and refurbishment. In matters of building improvements, County will lead. For food service equipment/setup, Eurest will lead. Continual communications will be maintained.

2. Kitchen

The County will provide for updating and refurbishing the building structure (i.e. walls, ceiling, vents, grease trap, etc.).

Eurest is responsible for installation of cooking/preparation/storing equipment if not currently in place in the kitchen, or moving or revision of layout and equipment now there. If additional storage or refrigerator/freezer space is required within the kitchen, this will be at Eurest's cost. If additional equipment is required and can be obtained from other County locations, the County will include this in the kitchen, with installation cost being paid by Eurest.

3. Service Area (Servery)

The County will provide demolition of the dishwashing area and pedestals under display/service counters, leaving plumbing, electrical and HVAC connections in place.

County will repair and refinish walls, replace ceiling tiles where necessary, and install new flooring. Also, entry doors and security will be County's responsibility.

Eurest will provide refurbishment and enhancements to grills, preparation areas, service counters, new serving equipment, national brand kiosks and decorations, signs, cash registers and stations and associated equipment.

4. General Seating Area

a. County will provide clean, painted shell, ceiling renewal (where necessary), new floor covering, improved lighting. Also, it will install exterior doors to patio, awning-type covering over West windows.

Eurest will furnish with tables, chairs and booths. Also, it will provide decorations, special wall treatments, signs, service stations and other equipment/furnishings necessary to serve food.

5. Starbucks Coffee Area

County will provide clean shell, floor material, ceiling cleaning/refurbishment, improved lighting.

Eurest will construct enclosure, provide decorations, signs, booths, tables, chairs, counters, back bar, plants and other improvements to enhance use.

6. Convenience Store

County will provide flooring, standard lighting and ceiling cleaning.

Department of Economic Security will build and stock with equipment.

Eurest will provide support, training and establish standards of appearance

7. Three North Dining/Meeting Rooms & Bathrooms

County will provide refurbishment, decorations, fixtures and installation.

Eurest will provide serving stations, as needed, in dining areas.

8. Patio Improvements

County will provide a system of sunshades, landscaping, planters, pavement treatment and other structural enhancements as funding permits.

Eurest will provide tables, chairs and serving stations.

This is not a complete list of items or details of construction, but the duties and responsibilities specifically mentioned would be treated as proposed and agreed to by the designated parties. Other responsibilities would be addressed in a like manner using this addendum as a guideline.

EXHIBIT B

Hours of operation:

6:30 AM to 4:00 PM, Monday through Friday

Change of Venue:

6:30 a.m. to 3:30 p.m., Monday through Thursday

6:30 a.m. to 2:00 p.m., Friday

Corner Café:

7:00 a.m. to 1:30 p.m., Monday through Friday

South Court Tower:

6:30 a.m. to 1:30 p.m. Monday through Friday

EXHIBIT C

Compass Group Owned Equipment
EXHIBIT C

Pizza Hut Express		
Description	Manufacturer	Model
Retarder	McCall	4001MAR
Pizza Oven	Lincoln	1162-060
Cut and Pack Station	Ameriserve	#64224
Make-Up Table	Delfield	18672PTB
Pizza Hot Hold	Ameriserve	
Toaster	APW Wytott	AT-10
Proofer	McCall	4001-H
Label Machine	Monarch	#9413
Taco Bell Express		
Description	Manufacturer	Model
Mini Line (Right to Left)	Delfield	
Rethermalizer	Pitco	
Heated Cabinet	Bevies	TB120P
Reach In Freezer	Delfield	6125-S
Gorditas Toaster		
P.O.S. Monitor		
Cheese Melter		
Pizza Hut & Taco Bell		
Support Items		
Description	Manufacturer	Model
Walk in Cooler		
Coffee Bar		
Description	Manufacturer	Model
Espresso maker	Verissimo	
Undercounter Refrig		
Refrigerated Prep Table		
Dry Case Display		
Refrigerated Display Case		
Grill		
Description	Manufacturer	Model
Warming Shelf		
Bakery		
Description	Manufacturer	Model
Double Convection Oven	Vulcan	SG44DL009
Hot food display Warmer	Hatco	
Dry Display Case	Federal	SN-48-L009
Refrigerated Display Case	Federal	RSSM-478SC-L009
20 Qt Mixer	Hobart	A200-L009

Compass Group Owned Equipment
EXHIBIT C

Menutainment		
Description	Manufacturer	Model
Hot/Cold food unit	Mr Induction	SR1262FL009
Hot food unit	Set-N-Serve	WCM-HP-L009
Reach in Refrigerator	Alto Sham	100-HSL/TML009
Reach in heated cabinet		
Deli		
Description	Manufacturer	Model
Refrigerated Sandwich Table	Delfield	4472N-12L009
Slicer	Hobart	2612-L009
Salad Bar		
Description	Manufacturer	Model
Soup Warmer (2)		
Cash Registers (6)	Sharp	FS1450

Maricopa County Owned Equipment
EXHIBIT C

Pizza Hut & Taco Bell		
Description	Support Items	Model
Manufacturer		
Exhaust Hood		
Exhaust System		
Fire Suppression System		
Grill		
Description	Manufacturer	Model
Toaster		
Cook Line	Griddle, broiler, cook top	
Fryer	Wells	
Ice Machine	Ice-O-Matic	
Refrigerator/Freezer	Victory	
Hood System	Gaylord	
Bakery		
Description	Manufacturer	Model
Exhaust Hood	Custom	
Exhaust System		
Fire Suppression System	Ansul	
Kitchen		
Description	Manufacturer	Model
Walk In Refrigerator/Freezer	Vollrath	
Double Door Reach in Refrigerator	Traulsen	
Dbl Stack Convection Oven	Wolf	
Steamer/Kettle Combo	Cleveland	
Fryer	Frymaster	
Stove/Oven	Wolf	
Food Chopper	Hobart	
Water Fountain		
3 Door Freezer		
Ice Machine	Manitowac	
Hood System	Gaylord	
Mixer	Hobart	
Garbage Disposal		

EXHIBIT D



Maricopa County
Facilities Management Department

11 W. Jefferson Street
Phoenix, Arizona 85003-2143
Phone: (602) 506-5143
Fax: (602) 506-1556

August 11, 2005

Ms. Beverly Wolfe
Eurest Dining Services
11201 N. Tatum Blvd. Suite 160
Phoenix, AZ 85208

RE AMENDMENT TO CONTRACT SERIAL 99109-RFP, ARTICLE XIII MAINTENANCE AND REPAIR

Dear Ms. Wolfe:

Per the meeting with The Facilities Management Department, I would like to propose the following addition to The Food Court Use Management Contract at The Maricopa County Court Complex, Contract Serial 99109-RFP.

Add to Article XIII Maintenance and Repair the following:

B. Contractor agrees to all maintenance, repair, or if repair cost is not reasonable, replacement of Compass Group (Eurest Dining Services) owned equipment per list, Exhibit C. Replacements should be of equal performance/value.

C. Maricopa County agrees to all maintenance, repair, or if repair cost is not reasonable, replacement of Maricopa County Owned equipment per list, Exhibit C. Replacement should be of equal performance/value.

If you are in agreement with this proposal, please sign and return to me.

Beverly Wolfe 10-02-05
Beverly Wolfe, District General Manager -- Eurest Dining Services (Compass Group)

Charles Hunker 8-17-05
Charles Hunker, Procurement Officer -- Maricopa County Facilities Management

Sincerely,

Charles Hunker
Procurement Officer
Maricopa County
Facilities Management
cc: James Foley