

#4  
03-10-05  
Revised

**RESOLUTION NO.**

**WHEREAS**, the City Council has determined that the presence of a restaurant facility is desired by and is in the best interest of the citizens of the City; and

**WHEREAS**, approximately 2,248 square feet of floor space in the Austin City Hall has been designated for a restaurant facility; and

**WHEREAS**, the key terms of a retail lease for a restaurant facility are attached as "Exhibit A"; **NOW, THEREFORE**,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

The Austin City Council authorizes the negotiation and execution of a retail lease with Austin Java City Hall Café, L.P. for the operation of the City Hall Café based on the key terms attached as "Exhibit A".

**ADOPTED:** \_\_\_\_\_, 2005

**ATTEST:** \_\_\_\_\_  
Shirley A. Brown  
City Clerk

**EXHIBIT "A" - KEY TERMS IN RETAIL LEASE FOR AUSTIN CITY HALL CAFE with Austin Java City Hall Cafe, L.P.**

	Property	City Hall Café space in Austin City Hall, containing approximately 2,248 square feet of space
2.	Landlord	The City of Austin, a Texas home rule city and municipal corporation ("Landlord")
3.	Tenant	Austin Java City Hall Café, L.P.
4.	Lease Term	10 years
5.	Renewal Options	Two 5-year options; rent to be determined
6.	Tenant's Trade Name	Tenant must use the phrase "City Hall Café" in the name under which it operates the space.
7.	Hours of Operation	Tenant required to operate Monday - Friday, 7 a.m. to 10 p.m.; Saturday from 8 a.m. to 10 p.m. (unless brunch is offered, then an 11 a.m. start is required); During the first three years of operation, some flexibility will be granted to Tenant in maintaining these hours if actual business does not warrant maintaining them.
8.	Tenant's Use:	
8.a.	Required to serve breakfast and lunch Monday - Saturday (brunch instead of breakfast is allowed on Saturday)	
8.b.	Required to offer dinner Monday through Saturday evenings	
8.c.	Breakfast must include a variety of egg dishes, pancakes, and coffee, including espresso-based drinks	
8.d.	Lunch and dinner must offer a variety of fresh salads, hot and cold sandwiches, and hamburgers.	
8.e.	At least two vegetarian selections offered at each meal	
8.f.	Take-Out: Tenant would allow for take-out of menu items	
9.	City Employee Discount	Tenant will give City employees a 10% discount on food items when they show their City of Austin badge.
10.	Permitted to offer beer and wine	If permitted to do so by applicable law, the café may offer beer and wine for on-premises consumption, but may not offer any other alcoholic beverages.
11.	The café must provide table seating and patrons must be served their meals at their tables; but the café may require patrons to order at a counter before being seated.	
12.	Outdoor Seating Area	Landlord to allow café to use 1,150 sf of outdoor space in front of café, subject to Landlord's approval of the appearance, type and placement of tables and chairs, requirements concerning keeping the outdoor seating area neat, clean and in good condition and repair.
13.	Tenant is permitted to offer live music in the outdoor seating area Monday - Friday after 5 pm and at other times during the weekend.	
14.	Employee Parking	Five spaces will be available in the City Hall parking garage free of charge.

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15.	Customer Parking	For the first five years of the lease, café patrons would receive two hours of free parking during the day at no cost to the Tenant. No validation of retail tenants is expected at night. After five years, the City may elect to discontinue the validation or require a different validation system with payment from the Tenant. Tenant will be required to purchase the appropriate validation equipment which will electronically encrypt the two hours of free parking.
16.	Commencement Date for Lease Payments - is the earlier of (a) the date the Tenant opens for business or (b) 120 days after the building permit is issued.	
17.	Minimum Guaranteed Rent:	
	Year 1: \$2,997 per month (represents \$16 psf or \$35,968 per year)	
	Year 2: \$3,372 per month (represents \$16 psf or \$40,464 per year)	
	Year 3: \$3,747 per month (represents \$20 psf or \$44,960 per year)	
	Years 4 - 10: \$4,496 per month (represents \$24 psf or \$53,952 per year)	
18.	Percentage Rent: Beginning in Year 4, in addition to the minimum guaranteed rent, Tenant will pay percentage rent equal to 6% of annual gross revenues above a base amount of \$899,200.	
19.	Pass-Throughs: Tenant required to pay its pro-rata share of operating expenses, taxes, and insurance.	While there will be no cap on property taxes, insurance costs or metered utility services, City will consider a cap on yearly increases to other operating expenses.
20.	Security Deposit: The lease would require Tenant to give Landlord a security deposit in the amount of \$5,000 at the same time as Tenant executes the lease. Landlord would hold deposit throughout the term of the lease. Deposit will be returned with interest.	
21.	Assignment and Subletting: City's consent required, which may be granted or withheld by City in its sole and absolute discretion.	
22.	Signage: All signage must be approved by Landlord.	Tenant to prepare for City's review renderings showing all proposed signage and approved signage will be made a part of the lease document.
23.	Construction by Tenant: The lease would provide that Landlord would pay Tenant a finish-out allowance of \$50 per square foot, subject to Landlord's satisfaction concerning certain building and lien matters. The lease would provide that Tenant was required to obtain Landlord's approval of all tenant improvements, including materials and colors.	The lease would require that all work that would require coring the slab or a break in service of any utility receive prior approval and be done after hours, on weekends or holidays. The lease would further provide that any construction process, i.e. noise, vibration, dust or access obstruction that could disturb the operations in City Hall, be done after hours, on weekends or on holidays.

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24.	MBE/WBE Contractor Participation: Tenant has requested that the City pre-approve Tenant's selection of General Contractor. City is entitled to review that General Contractor's other work, qualifications and financial history prior to agreeing to this proposal. Tenant and Tenant's general contractor shall employ an open and non-discriminatory process to select subcontractors and suppliers, consistent with the intent and spirit of the City of Austin Minority-Owned and Women-Owned Business Enterprise Procurement Program Ordinance. City will also require that the General Contractor carry property and liability insurance in the amounts that the City deems acceptable. These policies will also name the City as an additional insured where appropriate.	
25.	LEED Requirements: Tenant's finish out must meet the Silver LEED rating for Commercial Interiors for Retail Space.	Landlord to provide LEED consultant to assist Tenant in meeting this requirement and to, with Tenant's help, fill out all required paperwork.
26.	Wireless Internet Service and Web Page: If the City's wireless service in City Hall does not adequately serve the café space, then Tenant would provide wireless Internet service at all locations in the space. Further, Tenant must create and maintain a web page with information about the City Hall Cafe.	
27.	Recycling of Waste Materials: Tenant would commit to recycle waste materials produced by the café operation.	
28.	Radius Restriction: Lease would prohibit Tenant from operating in a new full-service location in the downtown area, but any existing restaurants would be permitted to continue.	
29.	Operating Covenant: The lease would require that the Tenant remain open and operating during certain minimum days and hours for the entire term of the lease.	