



FORT HAYS STATE UNIVERSITY

CONTRACT AWARD

Date of Award: July 1, 2024

Contract Number: 24014

Fort Hays State University Purchasing Office

Telephone: 785-628-4251

E-Mail Address: purchasing@fhsu.edu

Web Address: <http://www.fhsu.edu/purchasing/>

Item: Food Services

Agency: Fort Hays State University

Location(s): Hays, KS

Performance Bond: \$500,000.00 Performance Bond Annually

Term of Contract: July 1, 2024, through June 30, 2029, with three (3) additional one (1) year renewal(s) by written agreement of the parties.

Contractors: The Union Catering Company LLC
2401 Ash Street
Hays, KS 67601
Phone: 785-623-6836
Contact Person: Wesley Rathbun
Email: w Rathbun@theunioncc.com

Payment Terms: Net 30

Political Subdivisions: Pricing is **not** available to the political subdivisions of the State of Kansas.

The above referenced contract award was recently posted to the Fort Hays State University Internet website. The document can be downloaded by going to the following website:

<http://www.fhsu.edu/purchasing/>

CONDITIONS

1. **Term of Contract:** The term of this contract is July 1, 2024, through June 30, 2029, with three (3) additional one (1) year renewal(s) by written agreement of the parties.
2. **Conditions of Contract:** The following terms and conditions of award are incorporated by reference and include: DA-45/146a; specifications and conditions of the proposal including any addenda; vendors response including any addenda, appendices and exhibits.
3. **Order of Preference:** Any conflict to the provisions of this contract and the documents incorporated by reference shall be determined by the following priority order:
 - a. Contract Provisions Attachment DA-45/146a;
 - b. Written modifications and addenda to the executed contract;
 - c. Written contract signed by the parties and attachments;
 - d. The terms, conditions, and specifications of this Contract Award;
 - e. The above referenced Request for Proposal (RFP) including any and all addenda;
 - f. The Union Catering Company Best and Final Response dated 2-5-2024;
 - g. The Union Catering Company pricing proposal dated 11-14-2023;
 - h. Any supporting manuals/documents that have been incorporated in this Request;
 - i. Service Level Agreement (SLA) for network support; and
 - j. Contractor's written proposal submitted in response to this RFP as finalized, including any addenda, appendices and exhibits.
4. **Notices:** All notices, demands, requests, approvals, reports, instructions, consents or other communications (collectively "notices") which may be required or desired to be given by either party to the other shall be **IN WRITING** and addressed as follows:

**Fort Hays State University
Purchasing Office
601 Park Street Sheridan Hall Rm 318
Hays, KS 67601
RE: FHSU Contract 24014 Food Services**

or to any other persons or addresses as may be designated by notice from one party to the other.

5. **Termination for Cause:** The FHSU Purchasing Director may terminate this contract, or any part of this contract, for cause under any one of the following circumstances:
 - the Contractor fails to make delivery of goods or services as specified in this contract; or
 - the Contractor provides substandard quality and/or workmanship;
 - the Contractor fails to perform any of the provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms.

The FHSU Purchasing Director shall provide Contractor with written notice of the conditions endangering performance. If the Contractor fails to remedy the conditions within ten (10) days from the receipt of the notice (or such longer period as FHSU may authorize in writing), the FHSU Purchasing Director shall issue the Contractor an order to stop work immediately. Receipt of the notice shall be presumed to have occurred within three (3) days of the date of the notice.

If it is determined, after notice of termination for cause, that Contractor's failure was due to causes beyond the control of or negligence of the Contractor, the termination shall be a termination for convenience.

Notwithstanding the above, Contractor may terminate this Agreement for cause by providing notice of termination in writing 180 days prior to the proposed termination date, subject to the other terms in this Contract.

6. **Termination for Convenience:** The FHSU Purchasing Director may terminate performance of work under this contract in whole or in part whenever, for any reason, the FHSU Purchasing Director shall determine that the termination is in the best interest of FHSU. **In the event that the FHSU Purchasing Director elects to terminate this contract pursuant to this provision, it shall provide the Contractor written notice at least 30 days prior to the termination date.** The termination shall be effective as of the date specified in the notice. The Contractor shall continue to perform any part of the work that may have not been terminated by the notice.
7. **Debarment of University Contractors:** Any vendor who defaults on delivery or does not perform in a satisfactory manner as defined in this RFP may be barred for a period up to three (3) years, pursuant to KSA 75-37,103, or have their work evaluated for pre-qualification purposes.
8. **Rights and Remedies:** If this contract is terminated, FHSU, in addition to any other rights provided for in this contract, may require the Contractor to transfer title and deliver to FHSU in the manner and to the extent directed, any completed materials. FHSU shall be obligated only for those services and materials rendered and accepted prior to the date of termination.

In the event of termination, the Contractor shall receive payment prorated for that portion of the contract period services were provided to and/or goods were accepted by FHSU subject to any offset by FHSU for actual damages including loss of state or federal matching funds.

The rights and remedies of FHSU provided for in this contract shall not be exclusive and are in addition to any other rights and remedies provided by law.

9. **Force Majeure:** The respective parties shall not be held liable if the failure to perform under this contract arises out of causes beyond the control of the party. Causes may include, but are not limited to, acts of nature, fires, tornadoes, quarantine, strikes other than by Contractor's employees, and freight embargoes, etc.
10. **Waiver:** Waiver of any breach of any provision in this contract shall not be a waiver of any prior or subsequent breach. Any waiver shall be in writing and any forbearance or indulgence in any other form or manner by FHSU shall not constitute a waiver.
11. **Independent Contractor:** Both parties, in the performance of this contract, shall be acting in their individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor accepts full responsibility for payment of unemployment insurance, workers compensation and social security as well as all income tax deductions and any other taxes or payroll deductions required by law for its employees engaged in work authorized by this contract.

12. **Staff Qualifications:** The Contractor shall warrant that all persons assigned by it to the performance of this contract shall be employees of the Contractor (or specified Subcontractor) and shall be fully qualified to perform the work required. The Contractor shall include a similar provision in any contract with any Subcontractor selected to perform work under this contract.

Failure of the Contractor to provide qualified staffing at the level required by the proposal specifications may result in termination of this contract and/or damages.

13. **Subcontractors:** The Contractor shall be the sole source of contact for the contract. FHSU will not subcontract any work under the contract to any other firm and will not deal with any subcontractors. The Contractor is totally

responsible for all actions and work performed by its subcontractors. All terms, conditions and requirements of the contract shall apply without qualification to any services performed or goods provided by any subcontractor.

14. **Proof of Insurance:** The Contractor shall be required to secure and maintain throughout the term of this contract and any renewal thereof, adequate insurance as described below. Such insurance shall include liability assumed by the Contractor under this contract. The University shall be named as an additional insured on all policies. Insurance coverage shall be obtained from companies that are authorized to by the Commissioner of Insurance to do business in Kansas. Notification of any changes in the coverage of the insurance shall be submitted in writing to the FHSU Director of Purchasing at least thirty (30) days prior to the change taking effect, and must be approved by the University. Coverage shall include, as a minimum:
- a. **Worker's Compensation** – The Contractor shall provide and maintain Worker's Compensation Insurance, as required by the laws of Kansas, as well as employer's liability coverage with minimum limits of \$1,000,000, covering all of the Contractor's employees who are engaged in any work under the contract. If any work is subcontracted, the Contractor shall require the Subcontractor to provide the same coverage for any of its employees engaged in any work under the contract.
 - b. **Commercial General Liability** – General Liability Coverage on a Comprehensive Broad Form (and including Contractual Liability, Liquor, and Products-Completed Operations coverage) in the minimum amount of \$1,000,000 per occurrence limit and \$3,000,000 aggregate limit. (Defense cost shall be in excess of the limit of liability.)
 - c. **Automobile** – Automobile Liability Insurance, to include liability coverage, covering all owned, hired, and non-owned vehicles used in connection with the contract at the minimum combined single limit of \$1,000,000.
 - d. **Appropriate product liability insurance**, with limits of not less than \$1,000,000 per occurrence limit and \$2,000,000 aggregate limit included in the general liability.
 - e. **Adequate insurance for Contractor's real and/or personal property.**

The Contractor must provide copies of all insurance certificates to the FHSU Director of Purchasing prior to the commencement of activity under the contract.

NOTE: The above section in no way precludes the Contractor from carrying such other insurance as the Contractor deems necessary and/or prudent in the operation of the Dining Service facilities or for the benefit of the Contractor's employees.

15. **Conflict of Interest:** The Contractor shall not knowingly employ, during the period of this contract or any extensions to it, any professional personnel who are also in the employ of the FHSU and who are providing services involving this contract or services similar in nature to the scope of this contract to the University. Furthermore, the Contractor shall not knowingly employ, during the period of this contract or any extensions to it, any FHSU employee who has participated in the making of this contract until at least two years after his/her termination of employment with FHSU.
16. **Confidentiality:** The Contractor may have access to private or confidential data maintained by FHSU to the extent necessary to carry out its responsibilities under this contract. Contractor must comply with all the requirements of the Kansas Open Records Act in providing services under this contract. Contractor shall accept full responsibility for providing adequate supervision and training to its agents and employees to ensure compliance with the Act. No private or confidential data collected, maintained or used in the course of performance of this contract shall be disseminated by either party except as authorized by statute, either during the period of the contract or thereafter. Contractor must agree to return any or all data furnished by FHSU promptly at the request of FHSU in whatever form it is maintained by Contractor. On the termination or expiration of this contract, Contractor will not use any of such data or any material derived from the data for any purpose and, where so instructed by FHSU, will destroy or render it unreadable.
17. **Nondiscrimination and Workplace Safety:** The Contractor agrees to abide by all federal, state and local laws, rules and regulations prohibiting discrimination in employment and controlling workplace safety. Any violations of applicable laws, rules and regulations may result in termination of this contract.

18. **Environmental Protection:** The Contractor shall abide by all federal, state and local laws, rules and regulations regarding the protection of the environment. The Contractor shall report any violations to the applicable governmental agency. A violation of applicable laws, rule or regulations may result in termination of this contract.
19. **Hold Harmless:** The Contractor shall indemnify FHSU against any and all loss or damage to the extent arising out of the Contractor's negligence in the performance of services under this contract and for infringement of any copyright or patent occurring in connection with or in any way incidental to or arising out of the occupancy, use, service, operations or performance of work under this contract.

FHSU shall not be precluded from receiving the benefits of any insurance the Contractor may carry which provides for indemnification for any loss or damage to property in the Contractor's custody and control, where such loss or destruction is to state property. The Contractor shall do nothing to prejudice the FHSU's right to recover against third parties for any loss, destruction or damage to State property.

20. **Care of State Property:** The Contractor shall be responsible for the proper care and custody of any state-owned personal tangible property and real property furnished for Contractor's use in connection with the performance of this contract, and Contractor will reimburse FHSU for such property's loss or damage caused by Contractor, normal wear and tear excepted.
21. **Prohibition of Gratuities:** Neither the Contractor nor any person, firm or corporation employed by the Contractor in the performance of this contract shall offer or give any gift, money or anything of value or any promise for future reward or compensation to any FHSU employee at any time.
22. **Retention of Records:** Unless FHSU specifies in writing a different period of time, the Contractor agrees to preserve and make available all of its books, documents, papers, records and other evidence involving transactions related to this contract for a period of five (5) years from the date of the expiration or termination of this contract.

Matters involving litigation shall be kept for one (1) year following the termination of litigation, including all appeals, if the litigation exceeds five (5) years.

The Contractor agrees that authorized federal and state representatives, including but not limited to, personnel of FHSU; independent auditors acting on behalf of state and/or federal agencies shall have access to and the right to examine records during the contract period and during the five (5) year post-contract period. Delivery of and access to the records shall be at no cost to FHSU.

23. **Antitrust:** If the Contractor elects not to proceed, the Contractor assigns to FHSU all rights to and interests in any cause of action it has or may acquire under the anti-trust laws of the United States and FHSU relating to the particular products or services purchased or acquired by FHSU pursuant to this contract.
24. **Modification:** This contract shall be modified only by the written agreement of the parties with the approval of the PNC. No alteration or variation of the terms and conditions of the contract shall be valid unless made in writing and signed by the parties. Every amendment shall specify the date on which its provisions shall be effective.
25. **Assignment:** The Contractor shall not assign, convey, encumber, or otherwise transfer its rights or duties under this contract without the prior written consent of the University.

This contract may terminate in the event of its assignment, conveyance, encumbrance or other transfer by the Contractor without the prior written consent of the University.

26. **Third Party Beneficiaries:** This contract shall not be construed as providing an enforceable right to any third party.
27. **Captions:** The captions or headings in this contract are for reference only and do not define, describe, extend, or limit the scope or intent of this contract.

28. **Severability:** If any provision of this contract is determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this contract shall not be affected, and each provision of this contract shall be enforced to the fullest extent permitted by law.
29. **Governing Law:** This contract shall be governed by the laws of the State of Kansas and shall be deemed executed at Hays, Ellis County, Kansas, unless otherwise specified and agreed upon by FHSU.
30. **Jurisdiction:** The parties shall bring any and all legal proceedings arising hereunder in the State of Kansas, District Court of Ellis County, unless otherwise specified and agreed upon by FHSU. The United States District Court for the State of Kansas sitting in Topeka, Shawnee County, Kansas, shall be the venue for any federal action or proceeding arising hereunder in which the State is a party.
31. **Mandatory Provisions:** The provisions found in Contractual Provisions Attachment (DA-146a) which is attached are incorporated by reference and made a part of this contract.
32. **Integration:** This contract, in its final composite form, shall represent the entire agreement between the parties and shall supersede all prior negotiations, representations or agreements, either written or oral, between the parties relating to the subject matter hereof. This contract between the parties shall be independent of and have no effect on any other contracts of either party.
33. **Criminal or Civil Offense:** Any conviction for a criminal or civil offense of an individual or entity that controls a company or organization or will perform work under this contract that indicates a lack of business integrity or business honesty must be disclosed. This includes (1) conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract; (2) conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property; (3) conviction under state or federal antitrust statutes; and (4) any other offense to be so serious and compelling as to affect responsibility as a state contractor. For the purpose of this section, an individual or entity shall be presumed to have control of a company or organization if the individual or entity directly or indirectly, or acting in concert with one or more individuals or entities, owns or controls 25 percent or more of its equity, or otherwise controls its management or policies. Failure to disclose an offense may result in disqualification of the bid or termination of the contract.
34. **Injunctions:** Should FHSU be prevented or enjoined from proceeding with the acquisition before or after contract execution by reason of any litigation or other reason beyond the control of the University, vendor shall not be entitled to make or assert claim for damage by reason of said delay.
35. **Statutes:** Each and every provision of law and clause required by law to be inserted in the contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein. If through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then on the application of either party the contract shall be amended to make such insertion or correction.
36. **Materials and Workmanship:** The Contractor shall perform all work and furnish all supplies and materials, machinery, equipment, facilities, and means, necessary to complete all the work required by this solicitation, within the time specified, in accordance with the provisions as specified.
- The contractor shall be responsible for all work put in under these specifications and shall make good, repair and/or replace, at the contractor's own expense, as may be necessary, any defective work, material, etc., if in the opinion of Fort Hays State University said issue is due to imperfection in material, design, workmanship or contractor fault.
37. **Industry Standards:** If not otherwise provided, materials or work called for in this contract shall be furnished and performed in accordance with best established practice and standards recognized by the contracted industry and comply with all codes and regulations which shall apply.

38. **Federal, State and Local Taxes:** Unless otherwise specified, the RFP price shall include all applicable federal, state and local taxes. The successful vendor shall pay all taxes lawfully imposed on it with respect to any product or service delivered in accordance with this RFP. **FHSU is exempt from state sales or use taxes and federal excise taxes for direct purchases. These taxes shall not be included in the vendor's price quotation.** The University makes no representation as to the exemption from liability of any tax imposed by any governmental entity on the Contractor.

39. **Accounts Receivable Set-Off Program:** If, during the course of this contract the Contractor is found to owe a debt to the State of Kansas, agency payments to the vendor may be intercepted / set off by the State of Kansas. Notice of the setoff action will be provided to the Contractor. Pursuant to K.S.A. 75-6201 et seq., Contractor shall have the opportunity to challenge the validity of the debt. If the debt is undisputed, the Contractor shall credit the account of the agency making the payment in an amount equal to the funds intercepted.

K.S.A. 75-6201 et seq. allows the Director of Accounts & Reports to setoff funds the State of Kansas owes Contractors against debts owed by the Contractors to the State of Kansas. Payments setoff in this manner constitute lawful payment for services or goods received. The Contractor benefits fully from the payment because its obligation to the State is reduced by the amount subject to setoff.

40. **Immigration and Reform Control Act of 1986 (IRCA):** All contractors are expected to comply with the Immigration and Reform Control Act of 1986 (IRCA), as may be amended from time to time. This Act, with certain limitations, requires the verification of the employment status of all individuals who were hired on or after November 6, 1986, by the contractor as well as any subcontractor or sub-contractors. The usual method of verification is through the Employment Verification (I-9) Form.

With the submission of this bid, the contractor hereby certifies without exception that such contractor has complied with all federal and state laws relating to immigration and reform. Any misrepresentation in this regard or any employment of persons not authorized to work in the United States constitutes a material breach and, at FHSU's option, may subject the contract to termination and any applicable damages.

Unless provided otherwise herein, all contractors are expected to be able to produce to FHSU any documentation or other such evidence to verify Contractor's IRCA compliance with any provision, duty, certification or like under the contract.

41. **Worker Misclassification:** The contractor and all lower tiered subcontractors under the contract shall properly classify workers as employees rather than independent contractors and treat them accordingly for purposes of workers' compensation insurance coverage, unemployment taxes, social security taxes, and income tax withholding. Failure to do so may result in contract termination.

42. **Definitions:** A glossary of common procurement terms used by the State of Kansas is available at <http://da.ks.gov/purch>, under "Purchasing Forms".

43. **Graphic Identity Standards and Use of University Marks:** Compliance with FHSU Graphic Identity Standards and Use of University Marks Policies is required and may not be waived with equivalents.

44. **Indefinite Quantity Contract:** This Request is for an open-ended contract between a Contractor and FHSU to furnish an undetermined quantity of a good or service in a given period of time. The quantities ordered will be those actually required during the contract period, and the Contractor will deliver only such quantities as may be ordered. No guarantee of volume is made. An estimated quantity based on past history or other means may be used as a guide.

45. **HIPAA Confidentiality:** Per the Health Insurance Portability and Accountability Act (1996) (HIPAA), FHSU is a covered entity under the act and therefore Contractor is not permitted to use or disclose health information in ways that FHSU could not. This protection continues as long as the data is in the hands of the Contractor.

The Contractor shall establish and maintain procedures and controls acceptable to FHSU to protect the privacy of members' information. Unless the Contractor has the member's written consent, the Contractor shall not use any personally identifiable information obtained for any reason other than that mandated by this agreement

46. **Off-Shore Sourcing:** Bidders shall disclose in their bid response the location where the contracted services will be performed and whether or not any of the work necessary to provide the contracted services will be performed at a site outside the United States.

If, during the term of the contract, the Contractor or subcontractor moves work previously performed in the United States to a location outside of the United States, the Contractor shall immediately notify the FHSU Purchasing Office in writing, indicating the new location and the percentage of work relocated.

47. **Price Adjustments:** Prices shall remain firm for the entire contract period. Prices shall be net delivered, including all trade, quantity, and cash discounts. Any price reductions available during the contract period shall be offered to FHSU. Failure to provide available price reductions may result in termination of the contract for cause.

Contractor must propose annual price adjustment for years 2 through 5 in the Cost Proposal section. When submitting price adjustments, either upward or downward for years 2 through 5, Contractor must provide specific information regarding any indexes or information used to determine price adjustment.

46. On October 1st of each year, Contractor will provide documentation for price adjustments, either upward or downward for the next academic year. Contractor shall furnish figures at least thirty (30) days prior to expiration date to substantiate any claim for increase. Price increases shall not exceed five percent (5%) of the existing contract. FHSU reserves the right to accept, amend or deny any such price increase, and may elect to terminate the contract for cause or convenience and rebid the contract in the event it cannot accept any proposed increase by Contractor. If parties to the contract cannot agree on renewal terms, it is hereby understood that the contract will be rebid.
48. **Method of Payment:** The vendor is required to provide monthly invoices with a description of the treatment provided to Fort Hays State University. Payment will be made monthly, in arrears, with one (1) copy of the Contractor's invoice and one copy (1) of the statement to Fort Hays State University Business Office for approval and payment. All correspondence and invoices must show the contract number.
49. **Payment:** Payment Terms are Net 30 days. Payment date and receipt of order date shall be based upon K.S.A. 75-6403(b). This Statute requires Fort Hays State University to pay the full amount due for goods or services on or before the 30th calendar day after the date Fort Hays State University receives such goods or services or the bill for the goods and services, whichever is later, unless other provisions for payment are agreed to in writing by the vendor and Fort Hays State University. NOTE: If the 30th calendar day noted above falls on a Saturday, Sunday, or legal holiday, the following workday will become the required payment date.

Payments shall not be made for costs or items not listed in the vendor's response.

50. **Shipping and F.O.B. Point:** Unless otherwise specified, bid prices shall be F.O.B. DESTINATION, PREPAID AND ALLOWED (included in the price bid), which means delivered to FHSU's receiving dock or other designated point as specified in this RFP without additional charge. Shipments shall be made in order to arrive at the destination at a satisfactory time for unloading during receiving hours.
51. **Deliveries:** All orders shall be shipped FOB destination, prepaid and allowed clearly marked with the purchase order number. If delays in delivery are anticipated, the Contractor shall immediately notify the Fort Hays State University of the revised delivery date or partial delivery date. The order may be cancelled if delivery time is unsatisfactory. The Contractor shall inform the FHSU Purchasing Office of any supply or delivery problems. Continued delivery problems may result in termination of the contract.

In the event delivery minimums apply, bidders shall submit that information with their bid response.

52. **Charge Back Clause:** If the contractor fails to deliver the product within the delivery time quoted on the contract, FHSU reserves the right to purchase the product from the open market and charge back the difference between contract price and open market price to the contractor.
53. **Performance Bond.** The University will require the Contractor to provide a Performance Bond prior to the commencement of the work under this agreement. The bond shall be in the amount of five hundred thousand dollars (\$500,000) and shall cover the University for economic losses including, without limitation, failure to perform the agreed upon terms associated with the contract resulting from this RFP. The Performance Bond will be renewed on an annual basis, and does not limit the University's right to seek any additional damages against Contractor.
54. **Equipment:** All proposed equipment, equipment options, and hardware expansions must be submitted for prior approval by FHSU.
55. **Warranty:** Bidders shall indicate the type and extent of the warranty for all equipment, hardware, software, and services proposed. FHSU requires a "standard" warranty of a specific amount of days, or one (1) year, whichever is greater. This warranty shall be included in the cost of the equipment.

The successful bidder will be the sole point of contact on any problems with the equipment or systems during the warranty period.

The Contractor shall be responsible for all work performed under these specifications. The Contractor shall make good, repair and replace, at the Contractor's own expense, as may be necessary, any defective work, material acceptance, if in the opinion of the FHSU Purchasing Office said defect is due to imperfection in material, design, or workmanship for the warranty period specified.

56. **Acceptance:** No contract provision or use of items by FHSU shall constitute acceptance or relieve the vendor of liability in respect to any expressed or implied warranties.
57. **Ownership:** All data, forms, procedures, software, manuals, system descriptions and work flows developed or accumulated by the Contractor under this contract shall be owned by FHSU. The Contractor may not release any materials without the written approval of FHSU.
58. **Software Code and Intellectual Property Rights:** As applicable, all original software and software code and related intellectual property developed or created by the Contractor in the performance of its obligations under this Contract or any Task Order issued under this Contract, shall become the sole property of the State of Kansas. The Contractor will surrender all original written materials, including any reports, studies, designs, drawings, specifications, notes, documents, software and documentation, computer-based training modules, electronically or magnetically recorded material, used to develop this software and/or software code and related intellectual property to the state entity for which it was developed.
59. **Data:** FHSU owns all data related to food services provided by the Union Catering Company. This includes all data from the McMindes cafeteria, all retail operations, and all catering services. The Union Catering Company will provide any data requested by FHSU within 1 week of the request.
60. **Graphic Identity Standards and Use of University Marks:** Compliance with FHSU Graphic Identity Standards and Use of University Marks Policies is required and may not be waived with equivalents.
61. **New Materials, Supplies or Equipment:** Unless otherwise specified, all materials, supplies or equipment offered by a vendor shall be new, unused in any regard and of most current design. All materials, supplies and equipment shall be first class in all respects. Seconds or flawed items will not be acceptable. All materials, supplies or equipment shall be suitable for their intended purpose and, unless otherwise specified, fully assembled and ready for use on delivery.

62. **Vendor Contracts:** Include a copy of any contracts, agreements, licenses, warranties, etc. proposed. (State of Kansas form DA-146a remains a mandatory requirement in all contracts.)
63. **Transition Assistance:** In the event of contract termination or expiration, Contractor shall provide all reasonable and necessary assistance to FHSU to allow for a functional transition to another vendor.
64. **Acceptance:** Acceptance of Bid and Agreement is formalized upon execution of a contract and issuance of an FHSU purchase order, which incorporates all terms of this RFP, and corresponding execution of FHSU marks licensing agreement by the parties.

SPECIFICATIONS

Contractor shall be responsible for providing all services in accordance with the terms, conditions, specifications, and agreed technical and financial (pricing, compensation, commission, and guarantee) provisions of this Contract, and shall operate, manage, and maintain its services with appropriate merchandise, products, and services of good quality at reasonable price. The following specifications are incorporated herein. Refer to The Union Catering Company's Technical and Cost Proposal response dated November 14, 2023 and the Best and Final response dated February 5, 2024 for additional contract details.

I. INTRODUCTION

Term of Contract: The initial term of this contract is for a five (5) year(s) period from the date of award with three (3) additional one (1) year renewal(s) by written agreement of the parties.

A. REQUEST FOR PROPOSAL

Fort Hays State University, located in Hays, Kansas, is seeking proposals from qualified companies engaged in the business of contract management of university dining service operations. For the past fifty-one (51) years, a dining service management company has administered the dining service operations of the University.

After the bids are opened and before a contract is awarded, the University may be expected to visit any of a bidder's current operations and to contact students, administrators, and other patrons of the bidder's services.

The contract awarded to the successful bidder shall be for a period of five years. At the discretion of the University and with the agreement of the Contractor, the Contract may be extended on an annual basis for three additional one-year periods. The contract shall be subject to termination as outlined later in the specifications.

B. DEFINITION OF TERMS

Definitions: Definitions pertaining to this proposal are as follows:

"State" The State of Kansas, acting by and through the Department of Administration and its authorized and designated representative(s).

"Dining Area" The area in a dining service facility where tables and chairs are placed for the use of patrons of the service.

"Catering" Catering is the process of preparing, delivering, and setting up food service.

"University" Fort Hays State University (a state, tax-assisted liberal and applied arts university established and maintained in Hays, Kansas, by the State of Kansas), acting by and through its authorized and designated representative(s).

"Kitchen" That area of a dining service facility containing the equipment for the preparation, storage, and preservation of food stuffs and the cleansing of utensils and dishes.

"Serving Counters" Those installations and fixtures in a dining service facility consisting of serving lines, salad bars, beverage bars, desert bars and other fixtures and facilities required to display and to dispense food.

"Bidder" A party submitting a bid based on this proposal and the party who submits the successful bid.

"Surety" Any firm, person, or corporation that has executed (as surety) the bidder's performance, statutory, or bid bonds in connection with this bid and contract.

"Subject to the Approval of the State of Kansas." This phrase means that the State of Kansas, through its representative, has the final authority to make decisions on questions that arise resultant from this bid. The decisions may be made with university recommendations.

"Contractor" That firm, corporation, or person with whom the State Contracts to carry out the dining service operations of the University as prescribed in these specifications, any ensuring contract, and any addenda thereto.

"Three General Divisions of the University Year" These divisions are from the beginning of the Fall term to the beginning of the Spring term, from the beginning of the Spring term to the beginning of the Summer term, and from the beginning of the Summer term to the beginning of the Fall term.

"Special Event Meals" An eating event, for the time span of one meal or longer, designated to substantially alter the general routine of a residence hall dining service in such a manner as to delight and please the regular patrons. A "festive meal" is often focused on a central theme, (e.g., Christmas, St. Patrick's Day, elections, "Late Night Breakfast") and as many facets of the dining service as possible are altered as part of the event (e.g., menu, decorations, garb of employees, lighting, music, entertainment).

"University Contract Oversight Committee" A committee designated by the University to be its representative(s) with the Contractor in administering certain facets of the Contract.

"Chef" A management position requiring formal culinary training, including experience and/or training in menu development, preparation and display.

"Gross Sales" All cash sales, including programs that are a part of a board plan i.e. sales within the Memorial Union, cash sales within the McMIndes Hall operation, sales resulting from service of food to campers, summer residents not on a board plan, catering operations, and any other sale where cash is the source of payment. Gross Sales shall be calculated at each location and defined by group.

"Net Sales" The gross sales as defined in the above paragraph less sales tax.

"State" The State of Kansas, acting by and through the Department of Administration and its authorized and designated representative(s).

"Subject to the Approval of the FHSU Director of Purchasing" This phrase means that the FHSU Director of Purchasing as a representative of the State of Kansas has the final authority to make decisions on questions that arise resultant from this bid.

"University" Fort Hays State University (a state, tax-assisted liberal and applied arts university established and maintained in Hays, Kansas, by the state of Kansas), acting by and through its authorized and designated representative(s).

C. PHILOSOPHY, GOALS, & OBJECTIVES OF THE UNIVERSITY DINING SERVICE PROGRAM

Fort Hays State University seeks professional management, which is vitally interested in the special opportunities and challenges inherent in a university dining service operation. The University will exercise its right to continuously monitor the dining service program but wishes to establish a partnership which will minimize the need for University intervention in the process of managing the dining service.

The relationship between the University and the food service management contractor shall be considered a partnership, characterized by openness, cooperation, and mutual support. One of the more significant variables in that relationship is the quality of the dining service management personnel located on the University campus. Management must be professionally seasoned, innovative, energetic, student development oriented, student-focused, and imaginative.

Of highest philosophical priority for the Memorial Union retail and catering services, and Residential Life dining services are: high standards of service, excellent food quality and presentation, reasonable prices, flexibility to meet changing customer needs, maximum serving hours and dependable service that are a consistent source of pride and enjoyment to all concerned. The overall goal is the best quality program obtainable within the existing and attainable fiscal and physical framework of the resources that can be brought to bear by both the Contractor and the University. Management that provides such a program will find the University and the City of Hays a welcoming, congenial and stimulating environment within which to live and work.

To prepare for the RFP process the committee engaged in research to better understand the expectations of the University community. Several documents summarizing this research are attached as appendices to this RFP. Guiding principles of these expectations include:

- A board plan designed around a seamless environment providing great flexibility for students on a meal plan to access meals in any food service facility (e.g. McMIndes Residence Hall, the Memorial Union, special event meals, athletic events).
- Simple, convenient, affordable options, of high quality and variety, for residential, retail, catering, concession, and camp patrons.
- Service hours reflective of campus schedules and activities.
- A focus on the customer experience, including atmosphere, available options, quality, and being responsive to customer feedback.

For additional information about the University see the attachments below. Research attachments include:

- Attachment A, FHSU Fact Sheet
- Attachment B, FHSU Academic Calendar
- Attachment C, FHSU Maps
- Attachment D, Expectations Document
- Attachment E, On-line survey results
- Attachment F, Notes from Focus Groups

D. PROFESSIONAL STANDARDS OF OPERATION

The Contractor shall be alert to changing food service trends, new market forms of food and changing diet patterns evolving throughout the food service industry. As a result, with the prior approval of the University, the Contractor shall continually initiate ideas for varied methods of food service merchandising, public relations, promotion and menu presentations in all operations to increase service and maximize potential revenues.

The Contractor shall conduct operations in a manner that demonstrates an enlightened and active awareness of the vital interest expressed by many current university students for healthy food and beverage choices. Recognition of this interest shall be apparent from the manner in which foods and beverages are selected, marketed, prepared, held and served by the Contractor.

The Contractor shall provide the University with standards of operation, management, product quality, and support services of the best quality available in the institutional food service industry.

II. GENERAL SPECIFICATIONS

A. GENERAL SCOPE OF OPERATIONS

1. Space

The contractor shall have the right to operate and shall furnish all labor, food, drink (as limited by Section II, General Specifications, S. Soft Drink Beverage Procurement), and expendable supplies required to operate the following services at facilities of the University including but not limited to: McMindes Dining Facility; Memorial Union Dining, Forsyth Library basic drip coffee location (projected opening, December 2025 – August 2026) with basic grab and go premade food options, and Catering Services, Lewis Field Press Box, Gross Coliseum, Sheridan Hall, Dreiling Lobby, Victor E. Village, Moss Thorns Gallery, and Foundation Robbins Center. The food service contract provider is the exclusive caterer for the Memorial Union, Fischli-Wills Center for Student Success, and Residential Life. There is an exception process for groups who would like to use an outside vendor. The exception process is submitted through the Director of the Memorial Union. FHSU has the right to approve exception requests at their discretion.

It is specifically understood that the University may utilize any dining area for such purposes as meeting, study hall, testing, dancing, etc. during those hours when said dining areas are closed to the public for eating purposes; provided that any requisite set-up and appropriate clean-up will be carried out by the University at no cost to the Contractor.

2. Procedure

The Contractor shall operate on the Contractor's own credit and shall furnish at the Contractor's own expense all food items and beverage items (except as provided elsewhere in these specifications) served in the Dining Areas, Snack Areas, etc. All incoming shipments of foodstuffs or supplies shall be to the Contractor's account, in care of the University. Under no circumstances shall shipments be made or be invoiced to the University.

3. Responsibilities

Contractor shall be responsible for providing all services in accordance with the terms, conditions, specifications, and agreed technical (Section 5) and financial (pricing, compensation, commission, and guarantee) (Section 6) provisions of this Contract, and shall operate, manage, and maintain its services with appropriate merchandise, products, and services of good quality at reasonable price. The following list of responsibilities is to be considered representative rather than exhaustive.

(a) Contractor's Responsibilities

- (1) Contractor will comply with all federal, state, local, Kansas Board of Regents and Fort Hays State University laws, rules, policies, procedures and regulations, including but not limited to those related to food safety and employment practices.
- (2) Acquisition of all food and operating supplies.
- (3) Hiring, training, and payroll of all dining service personnel.
- (4) Assume responsibility for all present inventories turned over to the Contractor at the commencement of the Contract. Maintain the inventory (china, silver, glassware, flatware, trays, utensils, etc.) of these and similar items to the level at which they were accepted by the Contractor on a continuing basis so that no shortages develop to inconvenience patrons. Provide inventory to the food service

oversight committee on an annual basis. Contractor will actively assist in the care and treatment of University owned facilities and property.

- (5) All laundry costs.
- (6) Provide financial information and reports monthly and as required by the University.
- (7) Cost of any changes or renovation of facilities or dining concepts. Such changes or renovations are subject to University approval.
- (8) Contractor will incorporate programs for green initiatives, recycling, organic products, etc., and will comply with applicable university policies, including but not limited to university's tobacco and concealed carry policies.

(b) University's Responsibilities

- (1) Utility costs, including heat, electricity, natural gas, steam, air conditioning, refrigeration, water, and sewage.
- (2) Maintenance of University equipment, furniture, fixtures, renewals and replacements except as provided under "Contractor's Responsibilities" or as further defined under "Joint Responsibilities".
- (3) Acquisition of new University-owned equipment, furniture, and fixtures as deemed jointly necessary by the University and the Contractor, except as provided under other sections of the Contract.
- (4) Cost of garbage and trash removal; provided that the Contractor shall provide for the removal of grease and any other salvageable by-products of the Contractor's activities in a manner satisfactory to and using procedures approved by the University.
- (5) Cost of pest extermination and control services.
- (6) Provide office space as available for a Dining Service management team.
- (7) Provide existing University-owned office furniture such as desks, chairs, and file cabinets to the Contractor.
- (8) The University will be responsible for set up and will prepare the rooms for the Contractor by arranging the tables, chairs, and other equipment in advance so the Contractor has sufficient time to complete banquet preparations prior to the designated serving hours.

4. Relationship

- (a) The relationship of the Contractor to the University shall be that of an independent contractor.
- (b) The University retains the right to control the usage of the dining areas and the standards therein.

- (c) The University shall have no direct control over employees of the Contractor. Any provision for such control shall be exercised only through the Contractor or the person assigned as the Dining Service Director.
- (d) Any and all employees of the Contractor or other persons, while engaged in the performance of any work or services required by the Contractor under these specifications, shall not be considered employees of the State.
- (e) The contract entered into shall not be, in whole or any part, assigned or transferred directly or indirectly without written consent of the University.

B. SANITATION

1. The Contractor shall keep all Dining Service facilities along with their equipment and furnishings in excellent, clean and sanitary condition at all times. This shall be done to the satisfaction of the University and in full conformance to all pertinent Local, State, and Federal health regulations.
2. The Contractor shall adhere strictly to all pure food laws, regulations and ordinances as adopted or promulgated by Local, State, and Federal jurisdictions and agencies.
3. The Contractor shall institute and shall continuously maintain a sanitation program for all Dining Service facilities that includes National Sanitation Foundation (NSF) or similar industry standards.
4. The standards referenced above and the cleaning procedures described following are to be regarded as minimum suggestions rather than as an exhaustive listing. If at any time these or any other cleaning procedures employed by the Contractor are deemed by the University to be insufficient to keep all or any part of the Dining Service facilities, equipment and furnishings in a satisfactory, clean, and sanitary condition, the University has an express right to require the use of additional and/or different procedures at the Contractor's expense.
 - (a) The Contractor shall keep serving counters and all surfaces used in preparing, cooking, and serving food clean and sanitary at all times. Floors behind serving counters and in the Kitchens shall be cleaned and sanitized daily or more frequently as needed by the Contractor.
 - (b) Unless specifically provided to the contrary in these specifications, the Contractor shall clean all table tops and the floors of the McMindes dining area after each serving. Said cleaning shall include the arrangement of chairs so that they have a neat and orderly appearance. At least once daily the entire floor of each McMindes dining area shall be dry mopped and wet mopped. If all or part of the floor in the dining area is carpeted, then such carpeting shall be vacuumed as needed between meals and the entire carpeted area vacuumed at least once daily. Carpeting shall be shampooed as needed to maintain the appearance level required by the University and this shall include, but not be limited to, daily shampooing of such soiled spots as may occur.
 - (c) In the Memorial Union dining seating areas, the Contractor shall clean all tabletops after each serving and remove all trash to the trash dumpster located outside the building. The Contractor shall empty all trash and clean all tabletops, flooring, and other surfaces behind service gates. The Memorial Union custodial staff shall clean the floor of the dining seating areas, vacuuming, arranging chairs and tables, and shampooing as needed to maintain the desired appearance level.

- (d) The Contractor shall wipe down all tabletops, including tables used for service, and remove all catering equipment and trash from service and dining areas immediately following catering events.
- (e) Special care shall be taken to assure that all equipment used to convey, clean and store dishes, glassware and silverware is always clean and sanitary.

C. BOOKS AND RECORDS

1. The Contractor will provide the University Contract Oversight Committee a complete and detailed monthly revenue, expense, and customer usage statement broken down by concept and location. This statement will include operations related to board, cash, and catering.

Causes of abnormal revenue and expense deviations should be noted by the Contractor as part of these statements. All records pertaining to the operations of the dining service program shall be open for inspection and/or audit by the State and/or Fort Hays State University system.

2. On request of the University, the Contractor shall meet with the University and review each operating statement, explain deviations, discuss problems, and mutually agree on a course of action to improve the results of the required services included in this Contract. Operating statement adjustments required as a result of review and/or audit shall be identified and reflected on the next statement.
3. Cash and catering sales are the responsibility of the Contractor. Commissions are paid to the University based on Contractor records, which must reconcile to monthly (or quarterly as required by the University) profit and loss statements and reports requested of and obtained from the Contractor.
5. The Contractor shall exercise maximum control over all cash sales transactions and recommend conditions and equipment that may be needed to maintain this control. The Contractor shall further agree to any bookkeeping procedures required by the Kansas State Department of Post Audit and/or the University.
6. The Contractor's revenue and expense statements and their contents shall be retained, used, and treated in strict confidence by the University. The Contractor's revenue and expense statements, in total, shall not be provided to third parties without the express prior written approval of the Contractor or as required by law. Required bid submittal and contract related appendix information are subject to public disclosure by the State.
7. A list of boarding contracts will be furnished to the Contractor by the University prior to the beginning of each the Three General Divisions of the University Year with an adjustment of all additions and deletions to said lists provided each week throughout the Fall and Spring semesters. The daily board rate shall be charged for each boarding contract in effect for each serving week of the Fall and Spring semesters of the Contract with the following exceptions:
 - (a) The University shall not be charged for students who have contracted for room and board but who fail to take possession of the premises as verified by the Department of Student Residential Life.
 - (b) The Dining Service Contractor shall provide the University with all operational records (i.e., student worker records, full/part-time payroll records, meal counts, menu evaluations, student surveys, forecasts, etc.) pertaining to the University's board student dining service program on a regularly scheduled basis. A report of participation rates for the meal plans shall be furnished to the University by the Contractor. Said report shall be furnished daily

8. The Contractor shall keep in a safe place all financial records and statements pertaining to the food service operations at the University for a period of five years from the close of each year's operation.
9. The Contractor agrees that the University, or any of its duly authorized representatives, at any time during the term of this Contract, shall have access to, and the right to audit and examine any pertinent books, documents, papers, and records of the Contractor (such as sales receipts, salary lists, itemized expenses and disbursements, time reports, equipment charges, overtime reports, etc.), related to the Contractor's charges and performance under this Contract. Such records shall be produced at Fort Hays State University upon reasonable notice to the Contractor. The Contractor agrees to resolve any miscalculated payments.
10. The State of Kansas or the University may conduct independent audits as deemed necessary and the Contractor agrees to provide complete cooperation and access to personnel engaged in conducting such audits.
11. The University shall be informed by the Contractor of the schedule of the Contractor's audit of the records and operations at the University. The University shall have the option to participate in the Contractor's audits and shall receive full report of these audits.

D. EMPLOYEES

The Contractor shall, at the Contractor's own cost and expense, provide the sufficient number of employees to fulfill operating hours and provide prompt service efficiently and in a manner satisfactory to the University. The Contractor will employ only persons acceptable to the University in the University Dining Service facilities.

The Contractor shall at all times provide sufficient administrative, dietetic, purchasing, equipment consulting and supervisory staff. The Contractor shall make provision for a manager or assistant manager to be accessible to patrons during each meal at each point of service. The Contractor shall provide sufficient backup in times of staff shortages due to vacations, illnesses, and inclement weather.

1. General Provisions for All Employees of the Contractor

All management personnel are to be approved by VP for Student Affairs or designee.

- (a) The University may withhold the approval of management personnel, in which case the Contractor must submit other candidates.
- (b) All employees of the Contractor must be neat and clean at all times. Uniforms shall be provided by the Contractor for all the Contractor's employees subject to the approval of the University. Every employee and agent of the Contractor assigned to duty on the University's premises shall have an identification badge provided by the Contractor and prepared to the University's specifications prominently displayed on his or her person at all times while she/he is on duty.
- (c) The Contractor is advised that non-student dining service employees on the University campus are currently protected against discrimination by the provisions of the Uniformed Services Employment and Reemployment Rights Act.
- (d) In-Service Training. The Contractor shall provide training on a regular basis for all employees of the Contractor.

E. EXPENDABLE EQUIPMENT

The University will provide the updated "expendable equipment list" (e.g., china, flatware, glassware, trays, etc.) from the existing Contractor to the winning bidder. It shall be the duty of the Contractor to inventory such equipment at least annually, but with greater frequency as necessary. Following any such inventory, whatever the cause of damage/loss (breakage, pilferage, etc.), the Contractor will replace any and all such equipment in the quantity necessary to restore the count of each item on hand to the level as given in the Original "Dining Service Expendable Equipment List." All replacement equipment furnished by the Contractor in fulfillment of this responsibility shall conform exactly to the weights, standards, patterns, and brands of the chinaware, flatware, glassware, trays, etc., originally provided by the University if the same are obtainable. No exemptions to the above will be made by the Contractor without the express consent of the University even if an increase in cost is in effect at the time of the Contractor's purchase.

F. NON-EXPENDABLE EQUIPMENT

1. An inventory of this equipment will be taken by the successful bidder and the University upon award of the Contract.
 - (a) Ownership of equipment described in this section shall be vested in the University. No University-owned equipment shall be removed from any Dining Service facility for any purpose (except by University) nor shall the Contractor rearrange the equipment/furnishings present in any Dining Service facility without the express prior knowledge and full consent of the University.
 - (b) Throughout the Contract period, or any extension thereof, the University shall maintain, adjust, and repair the University-owned dining service facilities including the non-expendable equipment located therein and furnished for the use of the Contractor in a manner satisfactory to the University. It shall be the responsibility of the Contractor to report promptly to the University any condition that indicates that maintenance, adjustment, or repair of said facilities or equipment is advisable. Failure by the Contractor to report shall be considered negligence. The Contractor shall be liable for any damage to or deterioration of University-owned installations or equipment that occur as a result of such negligence.
 - (c) The Contractor shall be responsible for training and supervising the Contractor's employees to utilize all facilities and to operate all equipment and property in a safe and proper manner. The University shall, at the discretion of the University and at the expense of the Contractor, repair or replace facilities, equipment or property which may be damaged, lost, or destroyed as a result of negligence on the part of the Contractor and/or any employee or agent of the Contractor. Any and all such facilities, equipment or property so repaired or replaced shall remain/become the property of the University.
 - (d) No University-owned equipment may be loaned or rented without the express prior approval of the appropriate representative of the University.
2. The locks in place in University facilities used by the Contractor and the keys to those locks issued to the Contractor by the University are considered and shall remain non-expendable property of the University.

All keys to University facilities and equipment used by the Contractor shall be obtained from the University. The Contractor will not cut duplicate keys, transfer keys between employees or change or alter any locks. Replacement of keys and locks deemed necessary by the University due to a lost key and/or other breaches of security resulting from the action of the Contractor, its agents, or

employees shall be the work of the University at the expense of the Contractor. University policy currently places the cash value of each at current university pricing structure.

The Contractor shall be responsible for immediately reporting to the appropriate authority all the facts relating to losses/damage which occur on/to University property which is under the management of the Contractor.

3. All other non-expendable equipment that the Contractor deems necessary shall be provided by the Contractor at the Contractor's own expense subject to the following:
 - (a) All such non-expendable equipment furnished by the Contractor shall be subject to the approval of the University.
 - (b) Any such non-expendable equipment furnished by the Contractor may not be placed in any location in a Dining Service facility without the express authorization of the University. The University shall have supervision of the process of placing and installing equipment furnished by the Contractor.

G. TELEPHONE

The Contractor agrees to pay for the full cost of the procurement and utilization of all telephone equipment including installation charges, University charges, local charges, and long-distance service.

H. INTERNET

High speed connection to the internet will be provided by the University at no charge to the Contractor.

I. PAYMENT OF MONIES

The Contractor shall furnish the University a weekly billing statement. Among other things said statement should include a section reflecting the charges of weekly boarding patrons. The Residential Life Department of the University will furnish a count of the certified numbers of patrons to the Contractor each week.

The weekly billing statement furnished by the Contractor shall also include a detailed accounting of all cash sales and other non-board transactions by point of sale. The Contractor shall give credit to the University for the commission rate(s) specified in the Contract.

Any monies owed to the University by the Contractor shall be paid on a quarterly basis. Said payment(s) shall be made not later than thirty (30) days following the last day of the Contractor's business month.

J. TAXES

The Contractor shall collect and pay when due any and all taxes (including State and Local sales tax) as required by law in connection with operations under the Contract. Where applicable, the Contractor shall collect sales tax from patrons and non-exempt organizations and remit to the State. The Contractor shall comply with the provisions of the applicable taxation authority.

K. LAWS, REGULATIONS, PERMITS, LICENSES

The Contractor shall, at the Contractor's own expense, comply with all Federal, State and Local laws, ordinances and regulations pertaining to any and all operations of the Contractor and shall in the

Contractor's name, obtain any and all necessary licenses and permits, including those required for alcoholic beverages and cereal malt beverages necessary in connection with any and all operations of the Contractor under the Contract.

L. SAVE HARMLESS

The Contractor indemnifies, saves, and holds harmless the State, the University, and any agents or employees thereof, from any and all claims, demands, actions, or causes of action of whatsoever nature or character arising out of or by reason of the execution and/or performance of the duties and obligations of the Contractor under the terms of the Contract.

M. TEMPORARY SUSPENSION OF OPERATION

The Contractor assumes all cost of loss to the Contractor due to temporary suspension of operation regardless of cause. Such suspension may be due to but not limited to the following: mechanical failures of equipment, power failures or other planned or unplanned interruptions of service, acts of God or weather condition.

N. ACCESS AND INSPECTION

The University retains the right of full access at any time to any and all University Dining Service facilities under the jurisdiction of the Contractor, the Contractor's agents, or the Contractor's representatives.

O. HONORING PRE-NEGOTIATED PRICES

The Contractor agrees to honor any commitments made to customers and/or patrons of the University by any preceding operator of the University Dining Service facilities regarding the price of board contracts, banquets, refreshments, meals, camps, etc., until the end of June 2028.

P. CONSULTATION AND PROFESSIONAL SERVICES

The Contractor shall have available the following professional services and shall provide same at no cost to the University: (1) Professional dietitians to plan menus; (2) Test kitchens for checking of recipes; and (3) A facility planning and consultation service.

Q. TERM, TERMINATION, RENEWAL OF CONTRACT

1. The initial term of the Contract shall be for five (5) years. At the discretion of the University and with the agreement of the Contractor, the Contract may be extended on an annual basis for three additional one-year periods. It is agreed that the Contract rates will be reviewed annually and that any rate increases or decreases (board operations, cash operations, catering and conferences, assessments for repair and replacement, commission rates, etc.) shall be negotiated each year during the life of the Contract by the University and the Contractor.
2. All negotiated rates for each fiscal year (July through June) are submitted to the Kansas State Board of Regents for review and approval during the preceding September. Therefore, contract room and board rates must be presented or agreed upon by the preceding September.
3. Any increase in the original Contract rate(s) shall not exceed the percentage of increase in the Chained Consumer Price Index for All Urban Consumers index as compiled by the Bureau of Labor Statistics, United States Department of Labor, for the period of the first six (6) months (January

through June) of the calendar year containing the above-mentioned month of September unless necessitated by program changes initiated by the University.

4. Section I, above notwithstanding, Fort Hays State University may terminate the Contract at any time upon the giving of not less than thirty (30) days' advance written notice to the Contractor.

The Contractor has no option for termination of the Contract during the first year of operation under the Contract.

Following one year of operation, the Contractor may terminate the Contract by giving Fort Hays State University Administration and Finance Office a minimum of one-hundred eighty (180) days' advanced written notice of its intent to terminate, provided that the effective date of any termination initiated by the Contractor must fall between two of the Three General Divisions of the University Year and must be further compatible with the University's calendar as determined by the University.

R. COMPUTERIZED ACCESS AND ACCOUNTING

The Contractor shall furnish a Computer-based, ID accessed, declining balance, on-line, electronic transaction system for supervising the pre-paid distribution of meals, cash sales, credit-balance sales and any and all other activities throughout the entire University Dining Service system as described in these specifications. The entire expense of this system including all hardware, software, and any other expense shall be borne by the Contractor.

The University currently has an identification card program, the Tiger Card, in which each student, faculty, and staff is issued a picture ID that is usable for a variety of purposes to include:

1. Access to residence halls, athletic events, cultural events, intramural activities, and library check-out.
2. Utilization of campus Tiger Print stations.

The Contractor's system must support the HID iClass-SE proximity card formats used by the University Card by which campus customers access meal accounts and dining services.

The Contractor is required to provide point-of-sale payment acceptance of major credit and debit cards in all dining service locations. The Contractor is required to provide a reloadable declining balance system using the campus Tiger Card for payment. Contractors are encouraged to explore other payment options like, Apple Pay, Google Pay, Venmo, etc.

The system furnished by the Contractor shall include point-of-entry/sale access units in a quantity appropriate to functions in the Memorial Union, McMindes Dining Hall, and any other locations which the University may in the future designate as points of service under this Contract. The University reserves the right to approve the proposed system's functionality and the quality and quantity of access units and other components.

Any modification to existing electrical services, computing network services, or telecommunication services required by Contractor will be at Contractor's expense, unless otherwise mutually agreed with University, and must be approved by University.

Contractor shall be responsible for all non-FHSU technology systems, and shall take all necessary security, privacy, legal regulatory, and compliance measures as are required or are otherwise reasonable under the circumstances relating to such systems or related data or information.

S. SOFT DRINK BEVERAGE PROCUREMENT

Other sections of the Contract notwithstanding, Contractor acknowledges and agrees that the University has contracted independently with a beverage provider for the right to furnish to the Contractor all beverages, equipment, cups, and other related incidental products, to be used by the Contractor in the University facilities under the management of the Contractor as provided by the Contract. University reserves the right to continue to contract independently with this or other beverage providers, and Contractor shall comply with the requirements of all such beverage provider contracts. In addition, the parties agree that the retail selling prices for all beverage products under the University's current beverage provider contract shall be mutually agreed upon by the parties.

T. UNIVERSITY FOOD SERVICE CONTRACT OVERSIGHT COMMITTEE

The management and campus food service directors are to attend monthly contract oversight committee meetings at FHSU.

U. CONFLICT OF INTEREST

The Contractor shall not knowingly employ, during the period of this contract or any extensions to it, any professional personnel who are also in the employ of the FHSU and who are providing services involving this contract or services similar in nature to the scope of this contract to the University. Furthermore, the Contractor shall not knowingly employ, during the period of this contract or any extensions to it, any FHSU employee who has participated in the making of this contract until at least two years after his/her termination of employment with FHSU. Further, the Contractor shall not knowingly engage in any business that results in the reduction of any compensation that may be owed to FHSU in relation to this Contract, including commissions, without written disclosure to and permission by FHSU.

V. PERFORMANCE BENCHMARK

Performance benchmarks will be discussed and mutually agreed upon between 7/1 and 7/31 annually. The benchmarks will be reviewed annually, at completion of the spring semester. If The UCC has not fulfilled any of the benchmarks during the preceding contract year, it shall pay Client liquidated damages of \$500 per each benchmark not achieved. In no event shall the total of liquidated damages exceed a total of \$10,000 in any contract year.

III. DEPARTMENT OF STUDENT RESIDENTIAL LIFE**A. PHILOSOPHY, GOALS AND OBJECTIVES**

The University believes that the living/learning environment provided by a residence hall will significantly enhance the likelihood of success of the typical student by enabling them to make the best possible academic start, to develop social contacts and to become meaningfully involved in college life more quickly. For these reasons, most of the first-year students who do not live at home are required to live in a residence hall, or a Sorority or Fraternity during the first year of enrollment. Upper-class students may choose to live on or off campus.

The current combined population of the seven residence halls and two apartments is approximately sixty-five percent (65%) freshman and thirty-five percent (35%) upperclassmen. Each student residing in a Residence Hall who is classified as either a freshman or a sophomore and who has resided in a University Residence Hall for less than two full academic years, must participate in a meal plan. Participation is optional for other students.

Satisfaction with the dining service has an extremely significant impact upon the retention of students in the residence halls. The Contractor is expected to work closely with Residential Life to establish and maintain an attractive, creative dining service operation that is a consistent source of pride and enjoyment to all concerned. The successful Bidder will need to propose a program that is both attractive to patrons and consistent with the fiscal and physical resources at hand.

B. SERVICE DAYS

The first meal of the Fall semester shall be dinner on "Living Learning Community Move-In Day", which is traditionally the Wednesday prior to the first day of class. The first meal of the Spring semester shall be dinner on the Sunday prior to the start of classes. The last meal to be provided shall be breakfast on the last day of finals in each semester. Meals are not served during Thanksgiving Break, Winter Break, Spring Break, or Summer Break (excluding contracted camp meals). The last meal to be served prior to the beginning of Fall Break and Spring Break shall be lunch on the last day of classes or finals preceding the "Break" (Saturday classes excepted). All points of service shall maintain consistent hours of service during the full time that they are open. Should the University calendar change, these service dates shall be renegotiated between the Director of Residential Life and the Food Service Director.

C. PLAN PARTICIPATION: REQUIREMENTS; EXEMPTIONS

All students within the first 2 years of graduating high school and residing in the residents halls are required to have a meal plan. Except students living in on-campus fraternity and sorority life housing, and NCKTC and Hays Academy of Hair Design students. Participation is optional for other students. A student who does not reside in a Residence Hall may choose to participate in a meal plan.

The University may grant a student an exemption from the meal plan requirement for medical, religious, or other extraordinary and compelling personal circumstances.

D. PLAN CHANGES

Throughout the duration of this Contract, the University and the Contractor jointly reserve the right to alter existing meal plans, to eliminate existing meal plans and/or to adopt new meal plans of a cost and value similar to those described in this Contract.

E. OTHER ACTIVITIES AND SERVICES

1. Marketing Materials

The Contractor will provide for students at the Contractor's own expense, professional quality marketing materials explaining the entire dining service program of Fort Hays State University. The content of the materials shall be developed in full consultation with the University and shall be available to the University no later than the first week of April of each year for the term beginning the Fall of that year.

2. Special Services

- (a) Upon adequate notice and for appropriate reasons, the Contractor shall provide sick trays, sack lunches and/or special diets for any Contract student requiring them, consistent with the number of meals to which said student is entitled under the meal plan which she/he has chosen. Providing these services shall result in no additional charges by the Contractor to either the student or the University.
- (b) Upon adequate notice, the Contractor shall provide food and service for large and small groups of contract students and floor picnics, floor dinners, Hall picnics, Hall dinners, etc.,

consistent with the number of meals to which the several members of said groups are entitled under the respective meal plans they have individually chosen.

3. Signage and Item Identifiers

The Contractor shall provide, at the Contractor's own expense, item identifiers for each entrée on the serving counters and/or for other major food and drink items as designated by the University.

All signage and item identifiers shall be of a uniform style, construction, and appearance acceptable to the University.

4. Menus

The Contractor shall maintain the daily menus for McMIndes Dining Hall on the Contractor's web site, or mobile application in a manner openly accessible to all members of the University community. The menus posted on the Contractor's web site shall be the menus for the current day and for each day of the next week period. Menus shall be continuously maintained by the Contractor to assure complete accuracy.

5. Equipment

Fort Hays State University will provide kitchen equipment for the Student Residential Life Dining Service operations. New or replacement equipment will be provided when mutually agreed upon by the Student Residential Life Director and the Dining Service Director, funds being available. Student Residential Life will keep the equipment in good operating order. Any cost of repair or replacement due to operator negligence or loss will be billed to the Contractor.

F. RESIDENT DINING COMMITTEE

The University shall maintain a Resident Dining Committee (hereinafter "Committee") to work proactively and creatively with the Contractor to continually enhance the quality of service provided under this Contract. Committee membership shall consist of a minimum of two students chosen by the Residence Hall Association, at least one resident from each building/area of university housing, any member of the student body and the Director of Student Residential Life (or designee).

The Director of the University Dining Service for the Contractor (or designee acceptable to the University) shall sit with the Committee each time the Committee meets and shall bring other members of the Contractor's staff to a given meeting at the request of the Committee.

Nothing in this section shall be interpreted or applied to preclude either the right or the responsibility of the University to exercise plenary, active oversight and management of the Contract.

IV. MEMORIAL UNION AND CATERING

A. PHILOSOPHY, GOALS AND OBJECTIVES

As the community center of Fort Hays State University, the Memorial Union serves students, faculty, staff, alumni, and guests through its facilities, services, and programs. Retail Services and Catering play a key role in the success of the Memorial Union. Attractive food service facilities and catering services must maintain high standards of service, excellent food quality, reasonable prices, flexibility to meet changing customer needs, maximum serving hours and dependable service. The Memorial Union depends on substantial income from the dining service operation to support its operation, since it does not receive state funding.

B. GENERAL

- a) Price increases for all phases of the Memorial Union dining service operation will be determined and agreed upon in conjunction with the annual renewal of the Contract. Any price increases will be approved by the University Contract Oversight Committee.
- b) One reserved parking space will be made available to the Contractor near the loading dock area of the Memorial Union. Because the loading dock is used by several occupants of the Memorial Union, the area must be kept free of vehicles, except when actively engaged in loading or unloading of dining service products. All employees of the Contractor will be required to possess valid parking permits for campus parking, which can be purchased annually either by the employee or by the Contractor.
- c) If during the years this agreement is in effect, the Memorial Union undergoes a major renovation/construction project, some loss of income could be experienced. The Memorial Union will not be responsible for any loss in sales during the construction period. Some limiting of facilities could also be expected.
- d) The Contractor agrees to work aggressively to conserve utilities in the Memorial Union. This includes extensive employee training.
- e) Fort Hays State University will provide kitchen equipment for the Dining Service operation. New or replacement equipment will be provided when mutually agreed upon by the Memorial Union Director and the Dining Service Director, funds being available. The Memorial Union will keep the equipment in good operating order. Any cost of repair or replacement due to operator negligence or loss will be billed to the Contractor.
- f) The Director of the University Dining Service for the Contractor shall meet on a regular basis with the Director of the Memorial Union to share information, discuss issues, report on marketing plans, and review upcoming activities. The University Dining Service Director, with appropriate support staff, will meet monthly with the Memorial Union Policy Advisory Board to report on Food Service activities for the semester, answer questions, and to present a report on future plans.

C. RETAIL

- a) The Contractor shall be responsible for planning, promoting, and serving special interest meals in the Memorial Union retail operation space monthly. This program will be similar to the special event meals offered in the residence hall and may occasionally be tied to seasonal items, holidays, historic dates, etc.
- b) The Contractor is encouraged to do extensive advertising in order to achieve maximum sales results. Each semester a marketing plan will be shared with the food service oversight committee prior to the start of the semester.
- c) The Contractor shall provide a well-trained staff, adequate in number to handle the flow of customers through the retail areas. Since traffic frequently increases during class breaks and during the lunch hour, the Contractor needs to provide a flexible system for minimizing customer delay.
- d) The Contractor shall provide point-of-entry/sale access units in a quantity appropriate to functions in the Memorial Union as specified in Section II, General Specifications, R. Computerized Access and Accounting.

D. CATERING

Fort Hays State University is interested in providing the finest service, excellent presentation, and the highest possible standard for all catered events.

- (a) The Contractor will, at its own expense, have available an extensive list of menus, complete with current prices, which can be utilized by customers. All menu and price changes will be reviewed by the University Contract Oversight Committee.
- (b) The Contractor agrees to obtain all licenses and permits related to the serving of alcoholic and cereal malt beverages. Catering licenses are needed with Alcohol Beverage Control in the city of Hays. Further, the Contractor agrees to limit serving to those functions requested by the University and to conform to the University and Board of Regents procedures per the following FHSU policy: <https://www.fhsu.edu/policies/administrative/8-2023-university-alcohol-policy.pdf>
- (c) Unless otherwise approved by the Memorial Union Director or designee, all dishes, trash, and dirty linen needs to be removed by the Contractor immediately following any catering event.
- (d) Both the Contractor and the University agree that catering is of great importance to the mission of the University. The Contractor agrees to work with the University to provide a high quality catering program. Contractor agrees to accept and service all FHSU-related events before contracting non-FHSU related events.
- (e) Catering billing will be itemized to include food, supplies, decorations, linens, and any other fees. No charge will be made for regularly scheduled labor associated with the University kitchen facilities.
- (f) The Contractor agrees to, at the termination or expiration of the contract, return to the University any of the Contractor's records related to pricing, menus and staffing of annually catered events.
- (g) No extra charge is to be made for on-campus delivery of meals or refreshment products. Equipment used for catering out of the Memorial Union should be returned to the Union directly following the event.
- (h) The Contractor needs to provide a vehicle for campus use that portrays a professional image of the campus dining service provider. When necessary, the company should rent or lease an appropriate vehicle at the Contractor's expense. Some Memorial Union equipment, such as tables, chairs, and other dining service equipment, can be made available to the Contractor for off campus use.
- (i) Contractor will be required to pay appropriate rental fees to the university when using equipment and facilities provided by the university to deliver catering services off campus to other than university clients. Rental fees will be determined based on applicable industry standards to be defined during contract negotiations. Any equipment owned by University that is damaged from use beyond reasonable expectations will be repaired at the expense of Contractor.
- (j) The Contractor shall provide, during regular business hours, a knowledgeable, trained, staff member to be readily available to assist customers with menu selections, price quotations, and other details pertinent to event planning. This service should be available by phone, in person, or electronically.
- (k) Rooms for all functions involving dining service in the Memorial Union must first be scheduled through the Memorial Union office.
- (l) The Contractor agrees to, at its own expense, provide additional management, chefs, or other administrative personnel to successfully carry out such events as the President's Gala, and any other function which requires extra and specialized personnel.

D. COMMISSION

All cash sales and catering sales and other forms of income are subject to the commission rate established by the contract and are payable to Fort Hays State University as established in other parts of this agreement. Exceptions to the above include all catering contributions by the Contractor. Commissions shall be paid to the University at a minimum of quarterly and accompanied with a detailed explanation of sales.

See commission information listed in the Pricing section on pages 38 - 42. This includes \$50,000 catering credit per year with the division of these funds to be determined by FHSU for Presidential, Athletic, and Vice President for Student Affairs events on pages 39 and 41, 6) d).

- a) The current contract provides at a minimum the following annual levels of catering credit in-kind contributions: \$30,000 for Presidential events; \$15,000 for Athletic events; and \$5,000 for VPSA events.

NOTE: The Union Catering Company will continue to offer the same \$50,000 catering credit per year with the division of the funds left up to FHSU.

Section 5 TECHNICAL PROPOSAL

1. **Transmittal Letter:**
 - a) the vendor is the prime contractor and identifying all subcontractors;
 - b) the vendor is a corporation or other legal entity.
 - c) no attempt has been made or will be made to induce any other person or firm to submit or not to submit a proposal;
 - d) the vendor does not discriminate in employment practices with regard to race, color, religion, age (except as provided by law), sex, marital status, political affiliation, national origin or disability;
 - e) no cost or pricing information has been included in the transmittal letter or the Technical Proposal;
 - f) the vendor presently has no interest, direct or indirect, which would conflict with the performance of services under this contract and shall not employ, in the performance of this contract, any person having a conflict;
 - g) the person signing the proposal is authorized to make decisions as to pricing quoted and has not participated, and will not participate, in any action contrary to the above-statements;(h) whether there is a reasonable probability that the vendor is or will be associated with any parent, affiliate or subsidiary organization, either formally or informally, in supplying any service or furnishing any supplies or equipment to the vendor which would relate to the performance of this contract. If the statement is in the affirmative, the vendor is required to submit with the proposal, written certification and authorization from the parent, affiliate or subsidiary organization granting the State and/or the federal government the right to examine any directly pertinent books, documents, papers and records involving such transactions related to the contract. Further, if at any time after a proposal is submitted, such an association arises, the vendor will obtain a similar certification and authorization and failure to do so will constitute grounds for termination of the contract at the option of the University;
 - i) vendor agrees that any lost or reduced state or federal matching money resulting from unacceptable performance in a contractor task or responsibility defined in the RFP, contract or modification shall be accompanied by reductions in University payments to Contractor; and
 - j) the vendor has not been retained, nor has it retained a person to solicit or secure a state contract on an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the vendor for the purpose of securing business. For breach of this provision, the Committee shall have the right to reject the proposal, terminate the contract and/or deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee or other benefit.

2. **Vendor Information:** The vendor must include a narrative of the vendor's corporation and each subcontractor if any. The narrative shall include the following:
 - a) date established;
 - b) ownership (public, partnership, subsidiary, etc.);
 - c) number of personnel, full and part-time, assigned to this project by function and job title;
 - d) resources assigned to this project and the extent they are dedicated to other matters;
 - e) organizational chart for corporate/national structure;
 - f) most recent financial statement.

3. **Qualifications:** Only established and qualified firms need apply. The Contractor should have successfully operated numerous food services for a minimum of five (5) years. The Contractor must provide a reference list of active contracts and/or business partners, including the following information for each. Limit your responses to at least four (4). Provide the information on a separate page.
 - a) Name of Institution/business partner
 - b) Contact Name
 - c) Contact Mailing Address
 - d) Contact Email
 - e) Contact Phone Number
 - f) Contact Website Address
 - g) Number of Years Serving Each Client
 - h) Student Body FTE if applicable

i) **Date of Acquisition**

List clients who have discontinued or terminated services within the past five (5) years, indicating reasons for termination. Provide the following information on a separate page: the firm name, contact person, address, e-mail address and phone number of each referenced organization.

Contractors shall present a list of institutions/businesses in the region that FHSU may visit as a part of the investigation of references. Provide this information on a separate page.

4. **Timeline:** A timeline for implementing services must be submitted with the bid.
5. **Methodology:** Bidders shall submit with the bid, a detailed explanation of the methodology for implementing services.
6. **Technical Literature:** All bids shall include specifications and technical literature sufficient to allow the University to determine that the equipment/services meet(s) all requirements. If a requirement is not addressed in the technical literature, it must be supported by additional documentation and included with the bid. Bid responses without sufficient technical documentation may be rejected.
7. **Business Procurement Card:** Fort Hays State University uses a State of Kansas Business Procurement Card (currently Visa) in lieu of a state warrant to pay for certain purchases. No additional charges will be allowed for using the card. Bidders shall indicate on the Signature Sheet if they will accept the Business Procurement Card for payment. If there is a limit to the dollar amount a procurement card will be limited to, bidders shall indicate this on the Signature Sheet.
8. **Section A: Residence Dining Program:**
 - a) Describe renovations plans you have for the McMIndes dining facility.
 - b) Describe service programs for open grilling, service islands, branded concepts, etc. you intend to incorporate.
 - c) Submit an outline describing the number, portion size, and types of food to be offered at each meal. Include all monthly menu cycles and service concepts you propose to incorporate.
 - d) Describe the food quality grade and standards you use for food (i.e. meat, produce, milk, eggs, lettuce, etc.).
 - e) Describe how you incorporate nutritional (e.g. heart healthy, low salt, low fat), and allergen-free options into daily menus.
 - f) Explain the details of nutrition education/awareness programs and labeling of foods.
 - g) Describe your program for sick trays, "to go" meals (hot and cold), and how you approach class/work s.
 - h) Describe how you would approach working with the diverse diet expectations of our international and domestic student population.
 - i) Describe the frequency and nature of your pace changers, "special event meals", "theme meals", "finals feeding frenzy", etc. Provide sample menus. Describe how pace changers are communicated/marketed.
 - j) Detail your proposed hours of operation for the McMIndes dining facility and any variability in the level of service available throughout the day.
 - k) Describe how you will facilitate a "seamless" environment in which students on a residential dining program can access meals at other food service operated on-campus venues. Detail the board program options. Address guest meal policy.
9. **Section B: Retail**
 - a) Describe the proposed program for the Memorial Union dining operation, to include but not be limited to:
 1. Concepts and comprehensive menus with proposed cash prices/portion sizes
 2. Brands, (local, national and/or regional including rationale for recommending the brands
 3. Floor plans/renderings indicating the location of each concept/brand
 4. Heart-healthy, low cholesterol, low-fat, and vegetarian/vegetable options

- b) Describe your proposed coffee service operation.
 - a. Concepts and comprehensive menus with proposed cash prices/portion sizes
 - b. Brands, (local, national and/or regional including rationale for recommending the brands)
 - c. Floor plans/renderings indicating the location of each concept/brand
 - d. Heart-healthy, low cholesterol, low-fat, and vegetarian/vegetable options
- c) Describe your proposed program for the Victor E. Village retail operation.
 - a. Concepts and comprehensive menus with proposed cash prices/portion sizes
 - b. Brands, (local, national and/or regional including rationale for recommending the brands)
 - c. Floor plans/renderings indicating the location of each concept/brand
 - d. Heart-healthy, low cholesterol, low-fat, and vegetarian/vegetable options
- d) Describe how you will conduct market research on the campus and in the local area to ensure the retail program is responsive to campus needs and preferences. In addition,
 - 1. Provide a sample calendar and marketing plan for one academic year for the retail dining program that will be implemented at Fort Hays State University.
 - 2. The plan should focus on increasing participation and include but not be limited to seasonal promotions, coupons, frequent buyer programs, off campus vendor delivery programs, etc.
- e) Detail your proposed hours of dining operation for the Memorial Union that you believe will maximize student satisfaction and participation, and any variability in the level of service available throughout the week throughout the academic year, during vacation periods, and summer. (Minimum expectation is to have at least one operation, including the convenience store, open whenever the Memorial Union is open)
- f) Describe and provide information on how you will implement retail food outlets in other campus locations. The plan should include concepts, location (s), service levels, offerings and prices.

10. Section C: Catering Program:

- a) Describe your comprehensive catering program, corresponding price selections, service options (e.g. linens) designed to offer everything from small low-cost events to black-tie events.
- b) Describe your menu and presentation ideas and how you will keep catering fresh and creative throughout the life of the contract. Include thoughts on your ability to create diverse menus to accommodate various populations and dietary needs.
- c) Describe any product branding you will incorporate into your catering program.
- d) Describe your pick-up programs including sales of product and supplies to recognized student organizations for outdoor food sales as a fund raiser.
- e) Describe any minimum guaranteed requirements for catered services. Specify the percentage and meals prepared.
- f) Describe your discounted catering program and price selections for student organizations.

11. Section D: Summer Service, Camps and Conferences:

- a) Describe your plans to provide meal service for summer camps and conference programs. Include menu, menu portions, menu cycle, type of service, days of service, times of service, management assignments, and other related areas. This service can be provided seven days per week during the Summer term.
- b) Describe your plans to provide meal service for early arrivals, athletics programs, and hall staff. Include menu, menu portions, menu cycle, type of service, days of service, times of service, management assignments, and other related areas. This service is provided through opening for the Fall semester.

12. Section E: Conveniences Store:

- a) Describe and provide information on how you will implement a convenience store program in the Memorial Union. The plan should include concepts, service levels, offerings and prices.
- b) Describe any other location you might provide a campus convenience store.

13. Section F: Tiger Tots:

- a) Describe how you would operate a childcare dining program to include three meal options (breakfast, lunch, and snack) per day (Monday through Friday), ages 3-6. Our site is currently licensed for a maximum of 30 children. Tiger Tots has a separate bidding process and does not fall under this food service contract.

14. Section G: Personnel:

- a) Provide a proposed campus organization chart with line and staff relationships from the director of dining services through assistant managers and/or production supervisors in each dining service unit. Attach a job description detailing duties and responsibilities for each position. Also, enclose or attach an organization chart of all proposed hourly wage personnel (full and part time) which you plan to utilize at Fort Hays State University. Include the number of positions for each unit and estimated hours of employment and job descriptions.
- b) Provide the profiles of dining service directors, chefs, and unit managers that would be available to be assigned to the University.
- c) Discuss corporate training/educational opportunities available to your staff as well as your employee retention programs. Describe local employee training programs including orientation, food handling, food preparation, food presentation, sanitation, safety, nutrition, customer service needs, equipment use, diversity training, and any other training programs you intend to implement, along with a timeline.
- d) Provide a division of responsibility for on-campus personnel. Specify the level of authority given to make operational and financial decisions as the campus level.
- e) Describe your plan to have a registered dietician available for coordination of a nutrition awareness program, menu evaluation, observe food production, sanitation methods, and student consultation by appointment.
- f) Describe the qualifications for the person responsible for marketing and how that position fits into the management team. Delineate minimum annual expectations for the marketing program.
- g) Provide an overview of your plan to adequately staff the FHSU account. Include all management positions, administrative support positions, and non-management positions for all operations.
- h) Describe plans for staffing special functions and those hosted by the President (e.g. President's Gala, Board of Regents and other dignitaries).
- i) Provide an outline of your daily housekeeping and sanitation program.
- j) Describe your student employee program including salary structure and plans for pay increases. Indicate if you have a student manager or internship program you plan to offer to FHSU.

15. Section H: Marketing:

- a) Provide a comprehensive marketing plan and budget for University dining. Include a description of strategies for promoting special events, theme meals, involvement/collaboration with other University programs and offices.
- b) Describe the system used to evaluate customer satisfaction and desires and the method used to respond to the feedback collected.
- c) Define your vision for quality customer service. Describe how you incorporate this vision into the residence, retail, catering, and concession operations.
- d) Give us an example of your web site and any mobile apps available for use with this account.

16. Section I: Technology:

- a) Describe how technology will interface with FHSU's student information system (Workday), and housing system (StarRez) to transfer data.
- b) Explain how and what technology you will use on campus and what technology is available from your company (food delivery, ordering, inventory, point of sale, and other business systems).
- c) Explain technology that will be used to enhance menu development and nutritional information available to customers.
- d) Describe any other innovations you could provide to our campus.

17. Section J: Other:

- a) Explain how you approach a commitment to incorporate programs for green initiatives, recycling, organic products, etc.
- b) Please include your current financial statement.

18. Alternate Food Programs:

Fort Hays State University decided to not do the following alternate options:

- A. Athletic Concessions Operation.
- B. Athletic Table Operation.

Section 6
FINANCIAL PROPOSAL
(Dining Services Commission, Guarantee, and other Compensation)

In order to assist the University in selecting the best possible Contractor to manage the dining service needs of Fort Hays State University, all Bidders are asked to complete the following information and price quotations in detail. The information provided in this response section, along with references and visits to accounts currently served by the bidder will greatly assist in the selection and award process.

Bidders should be aware that the quotations provided will serve as maximum prices for the first year of the Contract. Any change in price structure in subsequent years of the Contract will be established as part of the price renewal process outlined later in this document. The Contractor and the University will mutually agree upon prices of any new or additional items.

Vendor must propose Year 1 and annual price adjustment for years 2 through 5. When submitting price adjustments, either upward or downward for years 2 through 5 provide specific information regarding any indexes or information used to determine price adjustment.

2. Food Services Base Proposal

- a) Please outline all financial specifications for the following:
 1. Student Residential Life Food Services
 2. Retail Prices
 3. Summer Camp prices
 4. Catering Event prices

- b) Outline all financial specifications regarding commissions on the following and include information on how commission proposals interface with any expectations of exclusivity:
 1. Cash sales, including declining balance and all other forms of payment
 2. Summer Camps and Conferences
 3. FHSU catering on campus
 4. FHSU catering off campus
 5. Catering for community clients on campus
 6. Catering for community clients off campus

- c) Outline financial equivalencies for any renovation plans.

- d) The current contract provides at a minimum the following annual levels of catering credit: \$30,000 for Presidential events, \$15,000 for Athletic events, and \$5,000 for VPSA events. Please specify the annual catering credit levels you would offer.

- e) Specify the level of support you are willing to provide for meal plans for Community Assistants (45), Community Directors (4), Assistant Community Directors (4), Director (1) and Assistant Directors (2) of Residential Life.

- f) Specify the level of support you are willing to provide for \$1,500 in declining balance (flexi-cash) for the Vice President (1), and Associate/Assistant Vice President of Student Affairs (3).

- g) Specify the minimum annual guarantee and commission percentages.

- h) Starbucks is currently licensed under FHSU. Propose commission and payment structures where FHSU maintains the Starbucks license or vendor assumes the Starbucks license.

- i) Specify other compensation.

3. **Alternate food service options:**

Fort Hays State University decided to not have The Union Catering Company do the following alternate options:

- A. Athletic Concessions Operation.
- B. Athletic Table Operation.

COST PROPOSAL**1. Food Services Base Proposal**

- a) Please outline all financial specifications for the following:
 - 1. Student Residential Life Food Services
 - 2. Retail Prices
 - 3. Summer Camp prices
 - 4. Catering Event prices

- b) Outline all financial specifications regarding commissions on the following and include information on how commission proposals interface with any expectations of exclusivity:
 - 1. Cash sales, including declining balance and all other forms of payment
 - 2. Summer Camps and Conferences
 - 3. FHSU catering on campus
 - 4. FHSU catering off campus
 - 5. Catering for community clients on campus
 - 6. Catering for community clients off campus

- c) Outline financial equivalencies for any renovation plans.

- d) The current contract provides at a minimum the following annual levels of catering credit: \$30,000 for Presidential events, \$15,000 for Athletic events, and \$5,000 for VPSA events. Please specify the annual catering credit levels you would offer.

- e) Specify the level of support you are willing to provide for meal plans for Community Assistants (45), Community Directors (4), Assistant Community Directors (4), Director (1) and Assistant Directors (2) of Residential Life.

- f) Specify the level of support you are willing to provide for \$1,500 in declining balance (flexi-cash) for the Vice President (1), and Associate/Assistant Vice President of Student Affairs (3).

- g) Specify the minimum annual guarantee and commission percentages.

- h) Starbucks is currently licensed under FHSU. Propose commission and payment structures where FHSU maintains the Starbucks license and vendor assumes the Starbucks license.

- i) Specify other compensation.

**Original Pricing
Submitted by The Union Catering Company
November 14, 2023**

1. Student Residential Life Food Services

We are bidding to change the sliding board scale to a flat scale meal plan rate of \$14.22 no matter which meal plan they are on for Year 1. By going to a flat rate this will save on paperwork and labor while just making everything more simplified and less confusing for our company and Residential Life.

Year 2-5 we would like to meet with FHSU to discuss and negotiate any possible increases with a maximum of 5% per year. Increases will mainly be based on food and labor cost increases if needed at all.

Casual Rate at McMIndes will be:

- Breakfast \$8
- Lunch \$11
- Dinner \$11

2. Retail Prices

Our prices will continue to be a fair price for value. If we add more Franchises, we will have to go off of their price structure in those areas.

3. Summer Camp prices

Summer Camp prices would be \$26 for the day, with the breakdown as follows:

- Breakfast \$8
- Lunch \$9
- Dinner \$9

4. Catering Event prices

Our prices will vary on items and services requested but will continue to be a fair price for value.

b) Outline all financial specifications regarding commissions on the following and include information on how commission proposals interface with any expectations of exclusivity:

1. Cash sales, including declining balance and all other forms of payment

Commission to FHSU no matter whether cash sale, camp, catering and so on will be at the rate of 15% commission of the net sales total (tax excluded) minus declining balance. With the additional guarantee of a minimum of \$212,000 commission per year with our year running from July 1st–June 30th to coincide with FHSU contract dates.

2) Summer Camps and Conferences

Commission to FHSU no matter whether cash sale, camp, catering and so on, will be at the rate of 15% commission of the net sales total (tax excluded) minus declining balance. With the additional guarantee of a minimum of \$212,000 commission per year with our year running from July 1st–June 30th to coincide with FHSU contract dates.

3) FHSU catering on campus

Commission to FHSU no matter whether cash sale, camp, catering and so on, will be at the rate of 15% commission of the net sales total (tax excluded) minus declining balance. With the additional guarantee of a minimum of \$212,000 commission per year with our year running from July 1st–June 30th to coincide with FHSU contract dates.

4) FHSU catering off campus

Commission to FHSU no matter whether cash sale, camp, catering and so on, will be at the rate of 15% commission of the net sales total (tax excluded) minus declining balance. With the additional guarantee of a minimum of \$212,000 commission per year with our year running from July 1st–June 30th to coincide with FHSU contract dates.

5) Catering for community clients on campus

Commission to FHSU no matter whether cash sale, camp, catering and so on, will be at the rate of 15% commission of the net sales total (tax excluded) minus declining balance. With the additional guarantee of a minimum of \$212,000 commission per year with our year running from July 1st–June 30th to coincide with FHSU contract dates.

6) Catering for community clients off campus

Commission to FHSU no matter whether cash sale, camp, catering and so on, will be at the rate of 15% commission of the net sales total (tax excluded) minus declining balance. With the additional guarantee of a minimum of \$212,000 commission per year with our year running from July 1st–June 30th to coincide with FHSU contract dates.

c) Outline financial equivalencies for any renovation plans.

We have plans to remodel Starbucks and Grab N Go in Summer of 2025. If we end up bringing in other franchises, there will be further remodeling of the Union retail areas. The Union Catering Company will cover any expenses to make such changes.

d) The current contract provides at a minimum the following annual levels of catering credit: \$30,000 for Presidential events, \$15,000 for Athletic events, and \$5,000 for VPSA events. Please specify the annual catering credit levels you would offer.

We will continue to offer the same \$50,000 catering credit per year with the division of the funds left up to FHSU.

e) Specify the level of support you are willing to provide for meal plans for Community Assistants (45), Community Directors (4), Assistant Community Directors (4), Director (1) and Assistant Directors (2) of Residential Life.

We approve the increase in the number of individuals and will continue to offer the unlimited Open Access meal plan to the 56 individuals listed above each year.

f) Specify the level of support you are willing to provide for \$1,500 in declining balance (flexi-cash) for the Vice President (1), and Associate/Assistant Vice President of Student Affairs (3).

We will continue to offer the \$1,500 in flexi-cash per person to the above individuals each year.

g) Specify the minimum annual guarantee and commission percentages.

We guarantee a minimum of \$212,000 commission per year with our year running from July 1st – June 30th to coincide with FHSU contract dates.

h) Starbucks is currently licensed under FHSU. Propose commission and payment structures where FHSU maintains the Starbucks license and vendor assumes the Starbucks license.

UCC Comment: We would like to move the license under our name. Commission to be the flat 15% to coincide with our other commission percent. This is our rate despite who has the license simply because currently we oversee paying all fees/royalties/and so whether the license is under our name or FHSU the percentage should be the same.

FHSU Response: The license will remain under FHSU unless mutually agreed to transfer the license from FHSU to The Union Catering Company.

i) Specify other compensation.

Currently we have no other compensation offered.

**Best and Final Pricing
Submitted by The Union Catering Company
February 5, 2024**

1. Food Services Base Proposal

a) Please outline all financial specifications for the following:

1. Student Residential Life Food Services

Board Scale Plan		
Range		2024-2025
1500	Above	\$13.68
1400	1499	\$14.04
1300	1399	\$14.22
1200	1299	\$14.41
1100	1199	\$14.77
1000	1099	\$15.32
900	999	\$16.49
0	899	Negotiable

Year 2-5 we would like to meet with FHSU to discuss and negotiate possible increases with a maximum of 5% per year. Increase will mainly be based off food and labor cost increases if needed at all.

Casual Rate will be Breakfast \$8, Lunch \$11, and Dinner \$11

2. Retail Prices

Our prices will continue to be fair price for value. And if we add more Franchises, we will have to go off their price structure in those areas.

3. Summer Camp prices

Summer Camp prices would be \$26 for the day, with the breakdown as Breakfast \$8, Lunch \$9, Dinner \$9

4. Catering Event prices

Our prices will vary on items and services requested but will continue to be fair price for value.

b) Outline all financial specifications regarding commissions on the following and include information on how commission proposals interface with any expectations of exclusivity:

1. Cash sales, including declining balance and all other forms of payment
2. Summer Camps and Conferences
3. FHSU catering on campus
4. FHSU catering off campus
5. Catering for community clients on campus
6. Catering for community clients off campus

Commission to FHSU no matter whether cash sale, camp, catering and so on will be at the rate of 15% commission of the net sales total (tax excluded) minus declining dollars. With the additional guarantee of a minimum of \$212,000 commission per year with our year running from July 1st – June 30th to coincide with FHSU contract dates.

FHSU Comment: FHSU agreed to waive the commission on The Learning Cross and KVC from July 1 through December 31, 2024. Commission for these two areas will begin January 1, 2025. This will not impact the minimum commission guarantee of \$212,000.

- c) Outline financial equivalencies for any renovation plans.

We have plans to remodel Starbucks and Grab N Go in Summer of 2025. If we end up bringing in any other franchises, there will be further remodeling of the Union retail areas. Expenses to do these will be covered by us.

- d) The current contract provides at a minimum the following annual levels of catering credit: \$30,000 for Presidential events, \$15,000 for Athletic events, and \$5,000 for VPSA events. Please specify the annual catering credit levels you would offer.

We will continue to offer the same \$50,000 catering credit per year with the division of the funds left up to FHSU.

- e) Specify the level of support you are willing to provide for meal plans for Community Assistants (45), Community Directors (4), Assistant Community Directors (4), Director (1) and Assistant Directors (2) of Residential Life.

We approve the increase in the number of individuals from last year's total and will continue to offer the unlimited open access meal plan to the 56 individuals listed above each year.

- f) Specify the level of support you are willing to provide for \$1,500 in declining balance (flexi-cash) for the Vice President (1), and Associate/Assistant Vice President of Student Affairs (3).

We will continue to offer the \$1,500 in flexi-cash to the above individuals each year.

- g) Specify the minimum annual guarantee and commission percentages.

We guarantee a minimum of \$212,000 commission per year with our year running from July 1st – June 30th to coincide with FHSU contract dates.

- h) Starbucks is currently licensed under FHSU. Propose commission and payment structures where FHSU maintains the Starbucks license and vendor assumes the Starbucks license.

We would like to move the license under our name. Commission to be the flat 15% to coincide with our other commission percent. This is our rate no matter who has the license simply because currently we are in charge of paying all fees/royalties/and so on no matter if the license is under our name or FHSU so the percentage should be the same. But since we are paying everything and running it we would like the license to be under our name if possible.

FHSU Comment: The license will remain under FHSU unless mutually agreed to transfer the license from FHSU to The Union Catering Company.

i) Hours of Operation:

Starbucks/GrabNGo:

Monday - Thursday: 7am - 9pm

Friday - 7am - 7pm

Saturday - 8pm - 5pm

Sunday - 1pm - 6pm

Hoagies:

Monday - Thursday: 11am - 8pm

Friday : 11am - 6pm

Saturday - Sunday: Closed

Union Station:

Monday - Friday: 11am - 2pm

McMindes Hall Café:

Monday - Thursday: 7am - 7:30pm

Friday: 7am - 6:30pm

Saturday - Sunday: 11am - 6:30pm

j) Forsyth Library coffee option:

We will commit to putting together a coffee shop and Grab n Go set up at the library. Design and set up will depend on the layout and what FHSU would like.

Our thoughts are that the Grab n Go section will be similar to the current Memorial Union one and depending on space might be more limited to the top sellers in all categories with packaged food and beverages, along with some hot items at times. With the Starbucks contract the coffee drip station will most likely not be a Franchise but our own coffee shop design similar to what we created in July, while Starbucks was closed.

We have also looked into vending machines to limit the need of an employee consistently on staff as well as having food/beverage options available all hours the library is open. This even included looking into vending machines that provide hot coffee and hot food instead of just packaged chips/candy bars. The final result could also be a combo of having a person on staff during the peak times and vending for the remaining times.

However, we wanted to discuss with FHSU what the design will look like and what the idea is behind the area before we fully decide which way to go. That way we can customize it according to the FHSU vision.

FHSU Comment: The snack vending contract will remain with H.E. Hutchinson & Sons Inc.

Fort Hays State University
DA-45/146a (Rev 12-19)

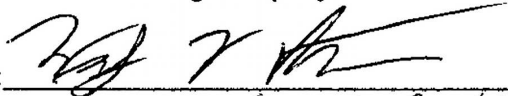
Contract No.: 24014
Date: May 21, 2024

CONTRACT

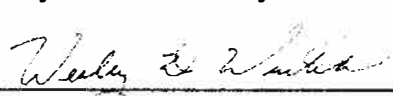
This contract is being established on the 30th of July, 2024 by and between **Fort Hays State University and The Union Catering Company, 2401 Ash Street, Hays, KS 67601 (Contractor)**. The parties agree as follows:

1. Subject to the terms and conditions of this contract and companion Contract Award document, Fort Hays State University hereby accepts the offer of Contractor as expressed by Contractor's pricing submitted on November 14, 2023, and best and final pricing submitted on February 5, 2024.
2. It is understood and agreed by the parties that pursuant to the bid, Contractor agrees to provide moving and storage services from period July 1, 2024, through June 30, 2029, with three (3) additional one (1) year renewal(s) by written agreement of the parties. Fort Hays State University agrees to pay on delivery of the item(s) the amount(s) billed by Contractor in accordance with the pricing offered as shown on delivery invoice(s) of the Contractor to Fort Hays State University. Payment will be made as soon after receipt of the invoice(s) as possible in accordance with state law.
3. Failure of Contractor to furnish the item(s) in accordance with the bid specifications incorporated into this contract by reference, or failure of Contractor to deliver the item(s) in accordance with any time schedules prescribed in this contract or any documents incorporated by reference into this contract shall result in forfeiture of any performance bond of Contractor and/or in termination of this contract at the option of Fort Hays State University.
4. It is understood and agreed that the provisions set out in the Fort Hays State University bid document for this contract are incorporated and made a part of this contract by reference as though fully set forth herein. Contractor agrees and understands that these documents are controlling over Contractor's bid, invoice, Fort Hays State University order forms or any other documents of the Contractor.
5. The provisions found in Contractual Provisions Attachment (DA-146a), shown on the reverse side of this Contract, is incorporated and made a part of this contract by reference.
6. The prospective contractor signature below certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any transaction by any Federal, State, or Local Department or Agency.
7. In the event of any disputes regarding the terms and conditions of this Contract or payments alleged to be due and owing, Contractor's sole remedy shall be with Fort Hays State University.

The Union Catering Company

By: 
 Printed Name: Wesley V Rathbun
 Title: Co-Owner
 Date: 07/30/24

Fort Hays State University

By: 
 Printed Name: Wesley D. Wintch
 Title: Vice President for Administration & Finance
 Date: 07/23/2024



State of Kansas
Fort Hays State University
DA-146a (Rev. 12/19)

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 12/19), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof.

1. **Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require Fort Hays State University or any of its affiliates ("University") to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The terms, conditions, and limitations of liability of the State of Kansas, the University, and their employees are defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, the University may terminate this agreement at the end of its current fiscal year. The University agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided under the contract for which it has not been paid. The University will pay contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement under this provision, title to any such equipment shall revert to contractor at the end of the University's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Kansas Law and Venue:** All matters arising out of or related to this agreement shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit arising out of or related to this agreement shall reside only in courts located in the State of Kansas.
5. **Required Non-Discrimination Provision:** Contractor agrees to comply with all applicable state and federal anti-discrimination laws. Contractor specifically agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission or if it is determined that the contractor has violated applicable provisions of ADA, such violation(s) shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the University. The provisions of this paragraph (except the provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the University cumulatively total \$5,000 or less during the fiscal year.

Contractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance individuals in employment without regard to race, color, religion, sex, national origin, protected veteran status or disability.

6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the University has agreed to binding arbitration, or the payment of damages or penalties. Further, the University does not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages or rights of action available to the University at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.
8. **Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The University shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The University shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require the University to establish a "self-insurance" fund to protect against any such loss or damage.
11. **Information/Confidentiality:** As a state agency, the University's contracts are generally public records. Accordingly, no provision of this contract shall restrict the University's ability to produce this contract in response to a lawful request or from otherwise complying with the Kansas Open Records Act (K.S.A. 45-215 et seq.). Moreover, no provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.
12. **The Eleventh Amendment:** The Eleventh Amendment is an inherent and incumbent protection of the State of Kansas and need not be reserved, but the University here reiterates that nothing in or related to this contract shall be deemed a waiver of the Eleventh Amendment.
13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.
14. **Privacy of Student Records:** Contractor understands that the University is subject to FERPA (Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g) and agrees to handle any student education records it receives pursuant to this Agreement in a manner that enables the University to be compliant with FERPA and its regulations. Contractor agrees to protect the privacy of student data and educational records in a commercially reasonable manner and shall not transmit, share, or disclose any data about a student without the student's written consent, except to other University officials who seek the information within the context of his/her professionally assigned responsibilities and used within the context of official University business. Contractor shall promptly report to the University any disclosure of University's student educational records.
15. **Boycotts of Israel Prohibited:** Kansas 2018 HB 2482 generally prohibits the University from entering into a contract with a company to acquire or dispose of services, supplies, information technology or construction, unless such company submits a written certification that such company is not currently engaged in a boycott of Israel. For the purposes of this Section, "company" means an organization, association, corporation, partnership, venture or other entity, its subsidiary or affiliate, that exists for profitmaking purposes or to otherwise secure economic advantage. Accordingly, by executing this contract, Contractor hereby certifies that it is not currently engaged in a boycott of Israel.
16. **Harassment Policy:** Fort Hays State University prohibits sexual harassment, discrimination, and retaliation. The University's applicable policies on sexual harassment, discrimination, and retaliation are available at <https://fhsu.edu/policies/documents/harassment-policy/index.pdf> and include the procedures for submitting a complaint of sexual harassment, discrimination, or retaliation, including an anonymous complaint. Contractor and its employees, officials, agents, or subcontractors shall at all times comply with the University's policies on sexual harassment, discrimination, and retaliation.

Service Level Agreement (SLA)

for Union Catering Company – Fort Hays State University

by Office of Technology Services

Fort Hays State University

Effective Date: July 1, 2024

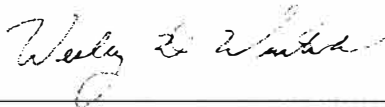

Document Owner:	Office of Technology Services – Fort Hays State University
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Version

Version	Date	Description	Author
1.0	July 1, 2024	Service Level Agreement	Kristin Wolf

Approval

(By signing below, all Approvers agree to all terms and conditions outlined in this Agreement.)

Approvers	Role	Signed	Approval Date
Office of Technology Services – Fort Hays State University	Service Provider		07/23/2024
Union Catering Company – Fort Hays State University	Customer		07/30/24

KS

1. Agreement Overview

This Agreement represents a Service Level Agreement ("SLA" or "Agreement") between the Fort Hays State University (FHSU) Office of Technology Services and the Union Catering Company (UCC) for the provisioning of IT services required to support and sustain the Union Catering Company food service program at FHSU during the term of its contract as a food service provider at FHSU.

This Agreement remains valid until superseded by a revised agreement mutually endorsed by the stakeholders or termination of the UCC food service contract with FHSU. This Agreement outlines the parameters of all IT services covered as they are mutually understood by the primary stakeholders. This Agreement does not supersede current processes and procedures unless explicitly stated herein.

2. Stakeholders

The following Service Provider(s) and Customer(s) will be used as the basis of the Agreement and represent the **primary stakeholders** associated with this SLA:

IT Service Provider(s): Office of Technology Services – Fort Hays State University ("Provider")

IT Customer(s): Union Catering Company ("Customer")

3. Periodic Review

This Agreement is valid from the **Effective Date** outlined herein and is valid until further notice as set forth above. This Agreement should be reviewed annually; however, in lieu of a review during any period specified, the current Agreement will remain in effect. Contents of this document may be amended as required, provided mutual agreement is obtained from the primary stakeholders and communicated to all affected parties. This Agreement may be terminated by either party with 30-day written notice.

4. Service Agreement

The following detailed service parameters are the responsibility of the Service Provider in the ongoing support of this Agreement.

4.1. *Service Scope*

The following Services **are covered** by this Agreement;

- **Network Support**
 - Maintenance, design, availability, installation, and performance of the LAN/WAN for all services provided including internet access, firewall, wired and wireless connectivity.

The following Services **are not covered** by this Agreement;

- User, server/cloud service, telecommunications, media, and general technical support not otherwise specified herein.
- Support of personal technology equipment (not University owned)
- Support for special technology projects out of the scope of the covered services outlined above

4.2. *Customer & Service Provider Requirements*

Customer responsibilities and/or requirements in support of this Agreement include:

- Payment for all support costs as agreed to in the Service Level Agreement Pricing Schedule below.
- Reasonable availability of customer representative(s) when resolving a service-related incident or request.
- Prior consultation with the Office of Technology Services before beginning projects that may involve or may affect University owned or supported technology and/or network equipment and systems.
- Responsibility for UCC users and UCC technology and technology projects

Service Provider responsibilities and/or requirements in support of this Agreement include:

- Meeting response times associated with service-related incidents.
- Appropriate notification to Customer for all scheduled maintenance.

4.3. *Service Management*

In support of services outlined in this Agreement, the Service Provider will respond to service-related incidents and/or requests submitted by the Customer within the following timeframes:

- 0-8 hours (during business hours of 8:00 AM to 4:30 PM) for issues classified as **Urgent** priority.
- Within 3 business days for issues classified as **High** priority.
- Within 10 business days for issues classified as **Medium** priority.
- All weekend and after-hours support must be pre-scheduled. 5 business days' prior notice should be provided.
- Special technology projects out of the scope of the covered services outlined above will require individual planning and timelines.

Requests for services should be submitted by calling TigerTech at 785-628-FHSU or by submitting a ticket at <http://www.fhsu.edu/technology/request-services>. Technology support issues will be triaged to the appropriate IT Technician.

5. Pricing Schedule and Payment

The following is the Pricing Schedule associated with this SLA:

Service Level Agreement Pricing Schedule			
		Monthly Rate	Total Monthly Cost
Network Support		100.00	100.00
TOTAL Monthly SLA Cost			\$100.00

Payment for the annual SLA cost, as reflected in the pricing schedule above, will be invoiced for a period of one year on a monthly basis.

6. Liability

Damage to Fort Hays State University owned equipment arising from misuse or negligence by the Customer will not be the responsibility of Fort Hays State University. Damages to UCC equipment and systems shall be the responsibility of UCC. FHSU is not responsible for business interruptions, or any other damages maintained by UCC, and nothing herein shall be construed to limit UCC's liability or expand FHSU's liability under the UCC food service contract, or otherwise modify its terms.

7. Breach Statement

Fort Hays State University may terminate this agreement at any time if it is deemed any university owned equipment has been intentionally modified, damaged, altered, or serviced by anyone other than Fort Hays State University's Office of Technology Services staff.

8. State/FHSU Contractual Provisions Attachment

The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 12/19), which is attached hereto, are hereby incorporated in this contract and made a part thereof.

State of Kansas
Fort Hays State University
DA-146a (Rev. 12/19)

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 12/19), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof.

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- 2. Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require Fort Hays State University or any of its affiliates ("University") to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The terms, conditions, and limitations of liability of the State of Kansas, the University, and their employees are defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
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- 4. Kansas Law and Venue:** All matters arising out of or related to this agreement shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit arising out of or related to this agreement shall reside only in courts located in the State of Kansas.
- 5. Required Non-Discrimination Provision:** Contractor agrees to comply with all applicable state and federal anti-discrimination laws. Contractor specifically agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission or if it is determined that the contractor has violated applicable provisions of ADA, such violation(s) shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the University. The provisions of this paragraph (except the provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the University cumulatively total \$5,000 or less during the fiscal year.

Contractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance individuals in employment without regard to race, color, religion, sex, national origin, protected veteran status or disability.

6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the University has agreed to binding arbitration, or the payment of damages or penalties. Further, the University does not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages or rights of action available to the University at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.
8. **Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The University shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The University shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require the University to establish a "self-insurance" fund to protect against any such loss or damage.
11. **Information/Confidentiality:** As a state agency, the University's contracts are generally public records. Accordingly, no provision of this contract shall restrict the University's ability to produce this contract in response to a lawful request or from otherwise complying with the Kansas Open Records Act (K.S.A. 45-215 et seq.). Moreover, no provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.
12. **The Eleventh Amendment:** The Eleventh Amendment is an inherent and incumbent protection of the State of Kansas and need not be reserved, but the University here reiterates that nothing in or related to this contract shall be deemed a waiver of the Eleventh Amendment.
13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.
14. **Privacy of Student Records:** Contractor understands that the University is subject to FERPA (Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g) and agrees to handle any student education records it receives pursuant to this Agreement in a manner that enables the University to be compliant with FERPA and its regulations. Contractor agrees to protect the privacy of student data and educational records in a commercially reasonable manner and shall not transmit, share, or disclose any data about a student without the student's written consent, except to other University officials who seek the information within the context of his/her professionally assigned responsibilities and used within the context of official University business. Contractor shall promptly report to the University any disclosure of University's student educational records.
15. **Boycotts of Israel Prohibited:** Kansas 2018 HB 2482 generally prohibits the University from entering into a contract with a company to acquire or dispose of services, supplies, information technology or construction, unless such company submits a written certification that such company is not currently engaged in a boycott of Israel. For the purposes of this Section, "company" means an organization, association, corporation, partnership, venture or other entity, its subsidiary or affiliate, that exists for profitmaking purposes or to otherwise secure economic advantage. Accordingly, by executing this contract, Contractor hereby certifies that it is not currently engaged in a boycott of Israel.
16. **Harassment Policy:** Fort Hays State University prohibits sexual harassment, discrimination, and retaliation. The University's applicable policies on sexual harassment, discrimination, and retaliation are available at <https://fhsu.edu/policies/documents/harassment-policy/index.pdf> and include the procedures for submitting a complaint of sexual harassment, discrimination, or retaliation, including an anonymous complaint. Contractor and its employees, officials, agents, or subcontractors shall at all times comply with the University's policies on sexual harassment, discrimination, and retaliation.