



FORT HAYS STATE UNIVERSITY

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CONTRACT RENEWAL

Date of Award: March 1, 2023

Contract Number: **17015**

Replaces Contract: 11011

Location: Fort Hays State University Purchasing Office
Telephone: 785-628-4251
E-Mail Address: purchasing@fhsu.edu
Web Address: <http://www.fhsu.edu/purchasing/>

Item: **Construction, On-Call**

Agency: Fort Hays State University
Location(s): Hays, KS

Term of Contract: March 1, 2023 through February 28, 2026

Scope: This Contract shall cover the procurement of On-Call Construction Projects for Fort Hays State University, Hays, Kansas, during the contract period referenced above.

Contractors: See Attached

Prices: See Attached

Payment Terms: Net 30

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

Procurement Cards: May not use the State of Kansas Business Procurement Card for purchases from this contract.

Conditions: Renewal – three-year term with updated pricing.

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/>



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CONTRACT RENEWAL

Date of Award: March 1, 2022

Contract Number: **17015**

Replaces Contract: 11011

Fort Hays State University Purchasing Office

Telephone: 785-628-4251

E-Mail Address: purchasing@fhsu.edu

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

Item: Construction, On-Call

Agency: Fort Hays State University
Location(s): Hays, KS

Term of Contract: March 1, 2022 through February 28, 2023

Scope: This Contract shall cover the procurement of On-Call Construction Projects for Fort Hays State University, Hays, Kansas, during the contract period referenced above.

Contractors: See Attached

Prices: See Attached

Payment Terms: Net 30

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

Procurement Cards: May not use the State of Kansas Business Procurement Card for purchases from this contract.

Conditions: Final renewal

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CONTRACT ADDENDUM

Date of Award: June 24, 2021

Contract Number: **17015**

Replaces Contract: 11011

Fort Hays State University Purchasing Office

Telephone: 785-628-4251

E-Mail Address: purchasing@fhsu.edu

Web Address: [http://www.fhsu.edu/ purchasing/](http://www.fhsu.edu/purchasing/)

Item: **Construction, On-Call**

Agency: Fort Hays State University

Location(s): Hays, KS

Term of Contract: March 1, 2019 through February 28, 2022

Scope: This Contract shall cover the procurement of On-Call Construction Projects for Fort Hays State University, Hays, Kansas, during the contract period referenced above.

Contractors: See Attached

Prices: See Attached

Payment Terms: Net 30

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

Procurement Cards: May not use the State of Kansas Business Procurement Card for purchases from this contract.

Conditions: Remove Cornerstone Building & Design, Inc. of Plainville, KS. (No longer in business).



FORT HAYS STATE UNIVERSITY

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CONTRACT RENEWAL

Date of Award: January 15, 2019

Contract Number: **17015**

Replaces Contract: 11011

Fort Hays State University Purchasing Office

Telephone: 785-628-4251

E-Mail Address: purchasing@fhsu.edu

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

Item: Construction, On-Call

Agency: Fort Hays State University

Location(s): Hays, KS

Term of Contract: March 1, 2019 through February 28, 2022

Scope: This Contract shall cover the procurement of On-Call Construction Projects for Fort Hays State University, Hays, Kansas, during the contract period referenced above.

Contractors: See Attached

Prices: See Attached

Payment Terms: Net 30

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

Procurement Cards: May not use the State of Kansas Business Procurement Card for purchases from this contract.

Conditions:

1. SCOPE OF WORK

Fort Hays State University will be requesting bids for general construction to include all labor and materials at various times. All pre-approved contractors will be allowed to bid on any or all of the requests. The value of the projects constructed under this contract will typically be **under \$250,000.00 dollars and over \$10,000.00 less than \$1,000,000.00 dollars**. All projects awarded under this contract will be executed under the general conditions that have been attached.

2. Contract renewed for three (3) years from March 1, 2019 through February 28, 2022.

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/>



FORT HAYS STATE UNIVERSITY

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CONTRACT RENEWAL

Date of Award: March 1, 2017

Contract Number: **17015**

Replaces Contract: 11011

Fort Hays State University Purchasing Office

Telephone: 785-628-4251

E-Mail Address: purchasing@fhsu.edu

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

Item: **Construction, On-Call**

Agency: Fort Hays State University

Location(s): Hays, KS

Term of Contract: March 1, 2017 through February 28, 2019
(with the option to renew for three (3)
additional one (1) year periods)

Scope: This Contract shall cover the procurement of On-Call Construction Projects for Fort Hays State University, Hays, Kansas, during the contract period referenced above.

Contractors: See Attached

Prices: See Attached

Payment Terms: Net 30

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

Procurement Cards: May not use the State of Kansas Business Procurement Card for purchases from this contract.

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:

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FORT HAYS STATE UNIVERSITY

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CONTRACT ADDENDUM

Date of Award: March 13, 2017

Contract Number: 17015

Addendum 1

Fort Hays State University Purchasing Office

Telephone: 785-628-4251

E-Mail Address: purchasing@fhsu.edu

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

Item: Construction, On-Call

Agency: Fort Hays State University

Location(s): Hays, KS

Conditions:

Professional Liability Insurance is not required. Line (d) has been removed on page 5 of the contract award:

16. **Proof of Insurance:** Upon request, the vendor shall present Certificates of Insurance to the FHSU Purchasing Office evidencing the following coverage during the performance of the Services:
- (a) Worker's Compensation with statutory limits;
 - (b) Employers Liability, with a minimum \$1,000,000 limit of liability per occurrence;
 - (c) Commercial General Liability, including Contractual Liability coverage, with the following minimum limits of liability: \$1,000,000 per occurrence for Bodily Injury and Property Damage, and \$1,000,000 General Aggregate; and
 - (d) ~~Professional Liability in the minimum amount of \$1,000,000 per claim.~~

The percentage has been added to the Performance Guaranty/Bond on page 10 of the contract award:

60. **Performance Guaranty/Bond:** The Contractor shall file with the FHSU Purchasing Office a performance guaranty/bond in the amount of one hundred percent (100%) of the contract price. The guaranty shall be released upon the completion of this contract subject to total or partial forfeiture for failure to adequately perform the terms of this contract. If damages exceed the amount of the guaranty, FHSU may seek additional damages.

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:

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FORT HAYS STATE UNIVERSITY

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CONTRACT AWARD

Date of Award: March 1, 2017

Contract Number: **17015**

Replaces Contract: 11011

Fort Hays State University Purchasing Office

Telephone: 785-628-4251

E-Mail Address: purchasing@fhsu.edu

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

Item: **Construction, On-Call**

Agency: Fort Hays State University

Location(s): Hays, KS

Term of Contract: March 1, 2017 through February 28, 2018
(with the option to renew for four (4)
additional one (1) year periods)

Scope: This Contract shall cover the procurement of On-Call Construction Projects for Fort Hays State University, Hays, Kansas, during the contract period referenced above.

Contractors: See Attached

Prices: See Attached

Payment Terms: Net 30

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

Procurement Cards: May not use the State of Kansas Business Procurement Card for purchases from this contract.

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 for a one (1) year period from the date of award with four (4) 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. This FHSU Contract Award #17015 and attachments;
 - d. The above referenced Request for Proposal (RFP) including any addenda;
 - e. Contractors response including any addenda, appendices and exhibits.
4. **Prices:** Prices shall remain firm for the entire contract period and subsequent renewals. Prices quoted 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.
5. **Method of 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.

6. **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: Bid number see page 1

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

7. **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.

8. **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.
9. **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.
10. **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.

11. **Force Majeure:** The Contractor shall not be held liable if the failure to perform under this contract arises out of causes beyond the control of the Contractor. 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.
12. **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.
13. **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.

14. **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.

15. **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.
16. **Proof of Insurance:** Upon request, the vendor shall present Certificates of Insurance to the FHSU Purchasing Office evidencing the following coverage during the performance of the Services:
 - (a) Worker's Compensation with statutory limits;

- (b) Employers Liability, with a minimum \$1,000,000 limit of liability per occurrence;
 - (c) Commercial General Liability, including Contractual Liability coverage, with the following minimum limits of liability: \$1,000,000 per occurrence for Bodily Injury and Property Damage, and \$1,000,000 General Aggregate; and
 - (d) ~~Professional Liability in the minimum amount of \$1,000,000 per claim.~~
17. **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.
18. **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.
19. **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.
20. **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.
21. **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.
22. **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.
23. **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.
24. **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.

25. **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.
26. **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.
27. **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.
28. **Third Party Beneficiaries:** This contract shall not be construed as providing an enforceable right to any third party.
29. **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.
30. **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.
31. **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.
32. **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.
33. **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.
34. **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.
35. **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.

36. **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.
37. **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.
38. **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.

39. **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.
40. **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.

41. **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 / setoff 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.

42. **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.

43. **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.
44. **Definitions:** A glossary of common procurement terms used by the State of Kansas is available at <http://da.ks.gov/purch>, under "Purchasing Forms".
45. **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.
46. **Indefinite Quantity Contract:** This Request is for an open-ended contract between a vendor 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.
47. **HIPAA Confidentiality:** Per the Health Insurance Portability and Accountability Act (1996) (HIPAA), the agency is a covered entity under the act and therefore Contractor is not permitted to use or disclose health information in ways that the agency 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 the agency 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

48. **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.

49. **On-Site Inspection:** Failure to adequately inspect the premises shall not relieve the successful vendor from furnishing without additional cost to FHSU any materials, equipment, supplies or labor that may be required to carry out the intent of this RFP. Submission of a bid shall be construed as evidence that the vendor has made necessary examination, inspection and investigation. Failure to properly inspect the site may result in rejection of the vendor's bid.
50. **Experience:** All bidders must have a minimum of five (5) years continuous active participation in the applicable industry, providing equipment/services comparable in size and complexity to those specified herein.

Bidders may be required to furnish information supporting the capability to comply with conditions for bidding and fulfill the contract if receiving an award of contract. Such information may include, but not be limited to, a list of similar size and type projects the Bidder has completed.

- 51. **Unit Pricing:** Each item required by the bid must be individually priced (i.e. priced per single unit) and be able to be ordered individually.
- 52. **Upgrades:** Bidders shall indicate the upgrade price and policy for any software, firmware, or hardware upgrades anticipated for the equipment bid. If the upgrades are provided without cost, this should be indicated.
- 53. **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.
- 54. **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.

- 55. **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.
- 56. **Demonstration Requirements:** A demonstration of the selected devices/equipment/solution for FHSU may be required before final contract approval. FHSU reserves the right to request said devices/equipment/solution fully configured/operational for testing, which shall be furnished at no expense to FHSU within ten (10) days after receipt of request. Devices/equipment will be returned at the bidder's expense if found to be non-compliant with the specifications as set forth in this RFP.
- 57. **Subcontractors:** Kansas Statute K.S.A. 75-3741, as amended, requires a Bidder to list and identify the "Major Sub-Contractors" for Mechanical Construction, Plumbing Construction, and/or Electrical Construction included as a part of the Proposed, when a single contract for the "Project as a whole" is to be awarded.

FHSU requires tax clearance certificates for all subcontractors be submitted with the proposal, and that the bidder additionally provide subcontract(s) legal company name, contract information and tax ID number (FEIN/TIN) as well.

- 58. **Bid Guaranty:** The FHSU Purchasing Office requires that a bid guaranty in the amount of five percent (5%) of the total bid be submitted by all bidders to ensure faithful performance with the conditions of this RFP. A bid guaranty must be one of the following: 1) certified check, cashier check, or certificate of deposit payable to Fort Hays State University; or 2) a properly executed bid bond payable to Fort Hays State University.

All checks or certificates of deposit submitted as a bid guaranty shall be returned after contract award unless the guaranty shall serve as a performance guaranty for the successful bidder. Bonds will not be returned. If the successful bidder fails to enter into a written contract, FHSU shall retain the bid guaranty as liquidated damages.

- 59. **Public Works Bond:** The Successful Contractor shall file with the FHSU Purchasing Office a Public Works Bond as required by K.S.A. 60-1111, as amended, in an amount equal to one

hundred percent (100%) of contract price and shall be filed with the Clerk of the District Court in the County where the project is being constructed.

The bond funding will be released upon the completion of this contract subject to total or partial forfeiture for failure to perform adequately the terms of this contract. If damages exceed the amount of the guaranty, FHSU may seek additional damages. A Public Works Bond is not required for projects with a contract price below \$100,000.00.

Necessary bond forms will be furnished by the FHSU Purchasing Office. The forms can be completed by any General Insurance Agent. Bonds shall be issued by a Surety Company licensed to do business in the State of Kansas

60. **Performance Guaranty/Bond:** The Contractor shall file with the FHSU Purchasing Office a performance guaranty/bond in the amount of one hundred percent (100%) of the contract price. The guaranty shall be released upon the completion of this contract subject to total or partial forfeiture for failure to adequately perform the terms of this contract. If damages exceed the amount of the guaranty, FHSU may seek additional damages.

A performance guaranty must be one of the following: 1) certificate of deposit payable to Fort Hays State University; or 2) a properly executed bid bond payable to Fort Hays State University.

Necessary bond forms will be furnished by the FHSU Purchasing Office. The forms can be completed by any General Insurance Agent. Bonds shall be issued by a Surety Company licensed to do business in the State of Kansas.

Contractor agrees and shall pay \$200 to Fort Hays State University per day for failure to timely meet the stated deadline of the project. Responds to Legislative Requests are regularly due within two business days.

- A. Reassignment of key personnel without the FHSU's timely written approval. Contractor agrees and shall pay FHSU \$1,000 per occurrence for failure to timely get written approval of reassignment of key personnel.
- B. Failure to timely and diligently respond in a case of a disaster assistance request. Contractor agrees and shall pay all damages, costs, and expenses associated with this type of event for failure to timely respond.
- C. Failure of Contractor to timely and successfully provide the KITO an approved, detailed project plan. Contractor agrees and shall pay the State \$10,000 for this failure.
- D. Responds to Legislative Requests are regularly due within two business days. Contractor agrees and shall pay \$200 to the State per occurrence for failure to timely meet the stated deadline for Legislative Requests.

Prompt resolution of problems or issues is expected but will not reduce or eliminate any performance guarantee amounts imposed due to failure to meet the standards outlined below. Performance guarantees shall be automatically assessed unless otherwise waived in writing by PSU. If Contractor fails to meet the proposed standards, the performance guarantee described herein will be one remedy available to the State for such failure, along with all other remedies at law and in equity. Contractor has 30 calendar days to dispute in writing any amounts due. However, all performance guarantees are due within 60 calendar days after assessment regardless of the status of any disputed amount. Otherwise, Contractor shall pay an additional amount of \$500 per day payment if not received by the State when due unless otherwise setoff by the State. The State has final authority to determine whether a disputed assessment of performance guarantee will be credited to Contractor. The State will respond to any dispute within 30 days of receipt. The Contractor shall also pay the State's reasonable attorney's fees, costs, and expenses incurred should any matter be contested by Contractor, including but not limited to court and mediation fees

and costs. In the event the State agrees with any dispute, the assessment and collection of any disputed amount will be refunded to Contractor.

61. **Equipment:** All proposed equipment, equipment options, and hardware expansions must be identified by manufacturer and model number and descriptive literature of such equipment must be submitted with the bid.
62. **Implied Requirements:** All products and services not specifically mentioned in RFP, but which are necessary to provide the functional capabilities described by the specifications, shall be included. Other products required to make the described software functional shall be identified in the vendor's response.
63. **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.

64. **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.
65. **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.
66. **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.
67. **Data:** Any and all data required to be provided at any time during the bid process or contract term shall be made available in a format as requested and/or approved by FHSU.
68. **Submission of the Bid:** Submission of the bid will be considered presumptive evidence that the vendor is conversant with local facilities and difficulties, the requirements of the documents and of pertinent State and/or local codes, state of labor and material markets, and has made due allowances in the RFP for all contingencies. Later claims for labor, work, materials, equipment, and tax liability required for any difficulties encountered which could have foreseen will not be recognized and all such difficulties shall be properly taken care of by Contractor at no additional cost to FHSU.
69. **Alternate Proposals/Equivalent Items:** Bids on goods and services comparable to those specified herein are invited. Whenever a material, article or piece of equipment is identified in the specifications by reference to a manufacturer's or vendor's name, trade name, catalog number, etc., it is intended to establish a standard, unless otherwise specifically stated. Any material, article or equipment of other manufacturers or vendors shall perform to the standard of the item specified. Equivalent bids must be accompanied by sufficient descriptive literature and/or specifications to provide for detailed comparison. Samples of items, if required, shall be

furnished at no expense to the university and if not destroyed in the evaluation process, shall be returned at vendor's expense, if requested.

FHSU reserves the right to determine and approve or deny "equivalency" in comparison of alternate bids.

70. **Certification of Materials Submitted:** The response to this RFP, together with the specifications set forth herein and all data submitted by the vendor to support the response including brochures, manuals, and descriptions covering the operating characteristics of the item(s) proposed, shall become a part of any contract between the successful vendor and FHSU. Any written representation covering such matters as reliability of the item(s), the experience of other users, or warranties of performance shall be incorporated by reference into the contract.
71. **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.
72. **Inspection:** FHSU reserves the right to reject, on arrival at destination, any items which do not conform with specification of this RFP.
73. **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.
74. **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.)
75. **Contract Price:** University-wide contracts are awarded by the FHSU Purchasing Office to take advantage of volume discount pricing for goods and services that have a recurring demand from one or more department. However, if a University department locates a vendor that can provide the **identical item** at a **lower price**, a waiver to "buy off state contract" may be granted by the FHSU Purchasing Office.
76. **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.
77. **Award:** Award will be by line item or group total, whichever is in the best interest of FHSU.
78. **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

SCOPE OF WORK

Fort Hays State University will be requesting bids for general construction to include all labor and materials at various times. All pre-approved contractors will be allowed to bid on any or all of the requests. The value of the projects constructed under this contract will typically be ~~under \$250,000.00 dollars and over \$10,000.00 less than \$1,000,000.00 dollars~~. All projects awarded under this contract will be executed under the general conditions that have been attached.

SPECIAL PROVISIONS

Subcontractors: The contractor shall be the sole source of contact for the contract. The State 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.

CONTRACTOR: ~~Cornerstone Building & Design, Inc. Removed 6/24/2021 no longer in business~~
~~110 N Jefferson~~
~~Plainville, Kansas 67663~~
~~Telephone: 785-434-4892, Cell 785-259-3353~~
~~Fax: 785-434-2788~~
~~FEIN: 20-3983677~~
~~E-Mail: mmreed@ruraltel.net or qakrehbiel@hotmail.com~~
~~Contact Person: Mike Reed or Quinn Krehbiel~~

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

Procurement Cards: Agencies **may not** use State of Kansas Business Procurement Card for purchases from this contract.

LABOR RATES

Superintendent:	\$ <u>35.00</u>	Sprinkler Installer:	\$ <u>85.00</u>
Cement Finisher:	\$ <u>27.00</u>	Millwrights:	\$ <u>88.00</u>
Mason:	\$ <u>46.00</u>	HVAC Technician:	\$ <u>75.00</u>
Carpenter:	\$ <u>27.00</u>	Pipefitter:	\$ <u>55.00</u>
Laborer:	\$ <u>19.00</u>	Plumber:	\$ <u>60.00</u>
Drywall Finisher:	\$ <u>28.00</u>	Sheet Metal Worker:	\$ <u>60.00</u>
Plasterer:	\$ <u>32.00</u>	Electrician:	\$ <u>58.00</u>
Ironworker Foreman:	\$ <u>90.00</u>	Ironworker:	\$ <u>85.00</u>
Painter:	\$ <u>28.00</u>	Floor Layer:	\$ <u>30.00</u>

Other Charges:

Material:	Billed at cost +	<u>12</u> %.
Tools costing over \$500.00:	Billed at regular rental rates +	<u>12</u> %.
Equipment Rates	Billed at regular rental rates +	<u>12</u> %.

Updated 02/22/2023

CONTRACTOR: **PWC, Inc.**
 1102 E. 8th
 P.O. Box 1311
 Hays, Kansas 67601
 Telephone: 785-625-8220
 Fax: 785-625-8222
 FEIN: 48-1075537
 E-Mail: matta@pwcinc.net
 Contact Person: Matt Allen

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

Procurement Cards: Agencies **may not** use State of Kansas Business Procurement Card for purchases from this contract.

LABOR RATES

Superintendent:	\$ <u>65.00</u>	Sprinkler Installer:	\$ <u>115.00</u>
Cement Finisher:	\$ <u>37.50</u>	Millwrights:	\$ <u>85.00</u>
Mason:	\$ <u>60.00</u>	HVAC Technician:	\$ <u>85.00</u>
Carpenter:	\$ <u>37.50</u>	Pipefitter:	\$ <u>85.00</u>
Laborer:	\$ <u>32.00</u>	Plumber:	\$ <u>85.00</u>
Drywall Finisher:	\$ <u>50.00</u>	Sheet Metal Worker:	\$ <u>85.00</u>
Plasterer:	\$ <u>56.00</u>	Electrician:	\$ <u>70.00</u>
Ironworker Foreman:	\$ <u>110.00</u>	Ironworker:	\$ <u>100.00</u>
Painter:	\$ <u>50.00</u>	Floor Layer:	\$ <u>60.00</u>

Other Charges:

Material:	Billed at cost +	<u>20</u> %.
Tools costing over \$500.00:	Billed at regular rental rates +	<u>20</u> %.
Equipment Rates	Billed at regular rental rates +	<u>20</u> %.

Updated 02/22/2023

CONTRACTOR: **QMC Inc.**
 2520 Castle Rock Rd
 Quinter, KS 67752
 Telephone: 785-754-3310, Cell 785-754-8290
 Fax: 785-754-2178
 FEIN: 48-0929069
 E-Mail: jesse@quintermfg.com
 Contact Person: Jesse Bauman

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

Procurement Cards: Agencies **may not** use State of Kansas Business Procurement Card for purchases from this contract.

LABOR RATES

Superintendent:	\$ <u>65.00</u>	Sprinkler Installer:	\$ <u>Subcontractor</u>
Cement Finisher:	\$ <u>40.00</u>	Millwrights:	\$ <u>Subcontractor</u>
Mason:	\$ <u>Subcontractor</u>	HVAC Technician:	\$ <u>Subcontractor</u>
Carpenter:	\$ <u>40.00</u>	Pipefitter:	\$ <u>Subcontractor</u>
Laborer:	\$ <u>35.00</u>	Plumber:	\$ <u>Subcontractor</u>
Drywall Finisher:	\$ <u>40.00 or Subcontractor</u>	Sheet Metal Worker:	\$ <u>40.00</u>
Plasterer:	\$ <u>Subcontractor</u>	Electrician:	\$ <u>Subcontractor</u>
Ironworker Foreman:	\$ <u>45.00</u>	Ironworker:	\$ <u>40.00</u>
Painter:	\$ <u>40.00 or Subcontractor</u>	Floor Layer:	\$ <u>Subcontractor</u>

Other Charges:

Material:	Billed at cost +	<u>20</u> %.
Tools costing over \$500.00:	Billed at regular rental rates +	<u>15</u> %.
Equipment Rates	Billed at regular rental rates +	<u>15</u> %.

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.