

EXHIBIT I

NOTE: FINAL LEASE AGREEMENT AND CONTRACT DOCUMENT WILL BE TAYLORED TO REFLECT TERMS AND CONDITIONS OF SUCCESSFUL OFFEROR'S PROPOSAL.

(5/28/15)

LEASE AGREEMENT AND CONTRACT

THIS LEASE AGREEMENT, entered into on this _____ day of _____, 2015, by and between the COMMONWEALTH OF KENTUCKY, acting by and through Lori H. Flanery, Secretary of the Finance and Administration Cabinet, hereinafter referred to as the "Lessor", and _____, whose address is _____, hereinafter referred to as the "".

WITNESSETH:

WHEREAS, the Lessor operates a facility, known as the Frankfort State Office Building (hereinafter "FSOB"), 309 Sower Boulevard, Frankfort, KY; and,

WHEREAS, pursuant to Chapters 45 and 56 of the Kentucky Revised Statutes, the Lessor has publicly advertised for proposals for the lease, fit up, and operation of food services at the FSOB; and,

WHEREAS, _____ proposal(s) was received in response to the Lessor's RFP for food services; and,

WHEREAS, the Lessor recommended acceptance of the Lessee's proposal, and the Finance and Administration Cabinet has approved the final accepted proposal.

NOW, THEREFORE, the Lessor and Lessee hereby agree as follows:

1. This Lease Agreement shall consist of (1) this Lease Agreement and Contract; (2) the RFP (and any addenda thereto), and (3) the Lessee's final accepted proposal submitted in response to the RFP. In the event of a conflict in language between the documents referenced above, the provisions and requirements set forth and/or referenced in the Lease Agreement shall govern. All written addenda and supplements shall take precedence over the documents they modify. In the event the Lease Agreement and Contract does not address an issue, then the provisions of the RFP shall prevail over contrary provisions in the Lessee's submittal. However, the Lessor reserves the right to

clarify any Lease relationship, in writing, with the concurrence of the Lessee and the written clarification shall govern in case of conflict with the applicable requirements stated in the RFP or the Lessee's final accepted proposal. In all other matters not affected by the written clarification, if any, the Lease shall govern.

2. Premises: This Lease is granted to the Lessee for use of the following areas within the FSOB (all as identified on Exhibit A, attached hereto and made a part hereof):

- a. The Lessor shall lease to the approximately 4,102 square feet of 'white' or 'shell' space located on the first floor of the FSOB, for the fit up and operation of food services/café for the FSOB, by and at the Lessee's sole expense.
- b. The Lessee shall also be allowed the non-exclusive use of 217 square feet of shared storage space (to be shared with sundry shop storage space).
- c. Also, the Lessee shall be allowed the non-exclusive use of the public restrooms indicated on Exhibit A as Women RR1.3 and Men RR1.4. These restrooms are available for use by patrons and employees of the food service area, as well as occupants and visitors to the FSOB.
- d. The Lessee shall be allowed non-exclusive use five (5) parking spaces located

The Commonwealth makes no guaranty or warranty, either expressed or implied, with respect to the leased premises.

3. Use of Premises: This Lease is granted solely for the construction and operation of a café/food services operation, all as described in the Lessee's final accepted proposal to the RFP, which is attached hereto and made a part hereof as Exhibit __, and for no other purpose, to include, but not be limited to, the following:

- a. Food services for FSOB will include, as a *minimum* indoor dining facility (café) for one meal per day (lunch), five days per week (Monday through Friday, excluding state holidays (see Section ___ herein). The mandatory, minimum, hours of operation are 11:00 a.m. to 2:00 p.m. (lunch). The Lessee may also utilize an adjacent, outdoor dining patio with a capacity of 45 seats, but will be also available to building occupants without dependence on occupants' utilization of the Lessee's food services.

[Option Breakfast: While the primary goal is to provide food service for a minimum of one meal per day (lunch), five days per week (excluding state holidays), the vendor may also elect to provide a second meal per day (breakfast), five days per week, excluding state holidays. Should vendor opt to provide breakfast as well as lunch, the mandatory hours of operation for breakfast would be 7:00 a.m. to 10:00 a.m.]

[Option Food/Beverage Service to Conference Center: The food services operation may include the opportunity to provide food/beverage services to the conference center also located on the first floor of the FSOB and to special events to be potentially held in the indoor or outdoor dining areas during 'after-hours' of the food service operation. This potential food /beverage service for the conference center will be at the option of the

groups sponsoring the special events. Vendors should indicate in their proposal if they need to have 'first-right-of-refusal' as part of their proposal; however, all vendors should consider that even without the 'first-right-of-refusal', the potential exists to offer services for the conference center.]

[Option Additional Food Services Operations: The Commonwealth of Kentucky manages three (3) food services operations in three (3) additional state-owned buildings in Frankfort, KY, which are not part of this solicitation at this time. However, if vendors are interested in including these three, additional, food services areas, the Lessor would consider and potentially pursue that option.]

b. The Lessee shall be required to provide all food services operation/café space fit up, labor, food, equipment and supplies necessary to operate quality dining services. See Section ___ herein.

c. Prior to commencing operation of the food services business, the Lessee shall have same inspected/passed by the Health Department of the Commonwealth of Kentucky The Lessee shall also adhere to all applicable regulations, codes, laws, pertaining to or regulating food services.

d. The Lessee shall not be authorized to construct, erect, or place any structure or other facility upon the premises, or to make any alteration to an existing structure or facility, without the prior written approval of the Lessor. Requests for same shall be made in writing to the Division of Real Properties, Department of Facilities and Support Services. Provided, however, it is understood and agreed that the Lessee is authorized to make those changes to the existing 'white' space or 'shell' space as are described in Lessee's proposal necessary to use the leased premises as a food services operation, attached hereto and made a part hereof as Exhibit _____.

e. The Department of Facilities and Support Services shall routinely monitor all construction/renovation work performed by the Lessee or its agents under the terms of this Agreement.

f. The Lessee shall obtain all occupancy and/or other permits required by state law prior to permitting the general public to patronize the food services area.

g. The Lessee may not remove the structures, improvements, and equipment erected or placed upon the premises without the prior written approval of the Lessor, except upon termination of this Lease as provided herein. Upon approval from the Lessor to remove any structures, improvements, or equipment placed upon the premises, the Lessee must repair any damage to the premises resulting from the removal of the structures, improvements, or equipment.

h. The Lessee shall be responsible for assuring that the food services operation, authorized by this Lease, provides services to the best standards prevailing for similar businesses.

i. The Lessee shall provide first class quality food and beverages, and such other services as are of the highest quality commensurate with industry standards and as agreed to by the Lessee in its proposal. The most important consideration of this Lease Agreement and Contract is that the Lessee provides excellent quality of food and services with reasonable prices.

j. The Lessee shall comply with such price, quantity and quality standards as Lessor may from time to time require, and shall promptly change, correct or modify the price or quality of any item after written notice to do so; provided, however, the Lessor shall exercise all authority and rights of approval under this Section in a reasonable manner. The selection, prices, portion sizes and quality of all items so established shall not be changed without the written consent of the Lessor. All goods and services offered for sale must be in good taste and consistent with the Lessee's obligation to its employees and other patrons of the food services. The Lessor reserves the right to approve all goods and services sold on the premises. Services shall be provided to all employees and other patrons without discrimination.

k. The Lessee shall use its best efforts to produce the maximum amount of gross sales possible without limiting the quality of the products sold or the services provided. The Lessor will encourage employees to utilize the food services provided by the Lessee, but makes no guarantees as the percentage of employees that will patronize the food services, since this is dependent upon the food service offerings of the Lessee.

l. The Lessee shall not remove any Lessor owned equipment from the premises. The Lessee shall be required to repair or replace any Lessor owned equipment that is damaged by the Lessee, its employees or others related to the food service operations.

m. The Lessor will not be responsible for any Lessee owned or leased equipment on the premises. The Lessee shall be required to provide any and all equipment necessary for the food services operation and shall be required to maintain this equipment in working order, at the Lessee's sole expense.

n. The Lessee shall not perform any modifications to the food service facility without the prior written approval of the Lessor. The Lessor shall consider reasonable suggestions from the Lessee for desired modifications; however, the Lessor shall decide upon modifications at its sole discretion.

o. The Lessor shall have the right to use the indoor and outdoor dining areas of the dining facility for special occasions, meetings, or other assemblies at any time other than regular operating hours of the food service Lessee. The Lessor shall also have the right, if Lessee exercises their first right of refusal or is unable to provide catering service, to engage other food service providers (such as caterers) for the performance of special functions held within FSOB, or on the grounds surrounding the buildings, except during the regular operating hours of the food service Lessee. Should any outside provider/caterer or

Lessor department desire to utilize the kitchen or food preparation facilities provided by the Lessee, that provider/caterer/department will be required to negotiate an agreement with the Lessee and make reasonable payment for the use of this area to the Lessee. The Lessee agrees to reasonable accommodate this use for a reasonable price. Any outside provider/caterer or Lessor department shall be expected to return the premises to the condition in which it was found.

p. In order to promote the Lessee's operations in a more efficient manner, the parties hereto agree that any advertisement or promotional material, whether in print form or through the media, shall be submitted to the Lessor for written approval, prior to the publication or broadcast of such material. Any rejection of said material by the Lessor shall be accompanied by a written explanation for said rejection.

q. Lessor shall be responsible for ensuring that such provisions are enforced. Major deviations from these provisions will not be made without the prior written approval of the Division of Real Properties, Finance and Administration Cabinet.

4. Consideration: In consideration of the granting of this Lease, the Lessee agrees to pay to the Lessor _____ percent (___ %) of gross receipts derived from the food services operation. Payments shall be made to the Lessor by the 15th day of each month or a late penalty of 1.5% shall be assessed.

5. Lease Term: The Lease Agreement entered into as a result of the solicitation # _____ will be for a period commencing from the date the Lease is fully executed between the Lessee and the Commonwealth or the date the Lessee is granted written permission to begin construction and site preparation for the food services operation, whichever date is earlier, and ending five (5) years thereafter, with the option for ten (10) one-year renewal periods upon written mutual consent of the parties. The Lessee's use of the premises and the food services operation are subject to, and the Lessee shall comply with, all applicable state and federal statutes and regulations. The Lessor anticipates that this Agreement shall commence upon signature of the Secretary of Finance for purposes of Lessee's assistance with layout of kitchen design, etc. The food services operation facility shall not become operational until notification from the Lessor, based on notice that the construction of the food services operation at the FSOB is completed and all regulatory agencies have approved said operation.

6. Hours of Operation: The Lessee's food services operations/dining facilities, as a minimum, are expected to be available Monday – Friday (except state holidays below) as follows: Note: change if Lessee's proposed hours go beyond minimum

Employee Dining Services	Customer Access 7:00 am – 2:00 pm Breakfast (if offered): 7:00 am – 10:00 am Lunch: 11:00 am – 2:00 pm
Extended Services (During Building Operations)	Optional Extensions: 7:00am to 5:30pm
Extended Services (After-Hour Building)	Optional Extensions: 7:00am to 10:00pm

Operations)	
Delivered Meeting Rooms Refreshments and Special Functions Catering	Various locations, as requested and scheduled

Full menu(s) for required meal offerings shall be available, at a minimum, during lunch between 11:00 a.m. and 2:00 p.m.

b. The Lessee shall close the food services operation pursuant to observance of the following holidays:

- New Years Day – First Day in January +1 Day
- Martin Luther King, Jr.'s Birthday – Third Monday in January
- Good Friday – ½ Day
- Memorial Day – Last Monday in May
- Independence Day – Fourth Day of July
- Labor Day – First Monday in September
- Veterans' Day – Eleventh Day of November
- Thanksgiving Day – Fourth Thursday in November +1 Day
- Christmas Day – Twenty-fifth Day of December +1 Day

The additional day for Thanksgiving and Christmas holidays shall be the holiday dates designated by the Secretary of the Kentucky Personnel Cabinet or notice by Lessor.

c. The Lessee may close the food services operation on any day that Lessor closes its operations by order of the Governor for adverse weather, natural or man-made disasters, observance of special holidays, etc.

On adverse weather days, when Lessor's offices are open, but employee attendance has been impacted significantly, the Lessee may adjust the operations of the food services to provide reasonable accommodate of the needs of patrons during the weather period. (i.e. hazardous road conditions due to snow, area-wide flooding, etc.) The Lessee is required to formulate a contingency plan for this adjustment in operations for the food services and obtain approval of the Lessor in advance for implementation on an 'as-needed' basis. This contingency plan should indicate the conditions of significant impact that would need to be present before such an adjustment is implemented.

7. Food Services Operation Responsibilities: The Lessee shall provide first class quality food and beverages, and such other services as are of the highest quality commensurate with industry standards and as agreed to and included in the Lessee's proposal. The Lessee shall provide excellent quality of food and services within reasonable prices. The Lessee shall comply with such price, quantity and quality standards as the Lessor may from time to time require, and shall promptly change, correct or modify the price or quality of any item after written notice to do so; provided, however,

the Lessor shall exercise all authority and rights of approval under this Section in a reasonable manner. The selection, prices, portion sizes and quality of all items so established shall not be changed without the written consent of the Lessor.

- a. This Agreement allows the Lessee to utilize, fit up and furnish of the Lessor's 'white space' area within the FSOB and for the operation, staffing, management, and maintenance of a food services operation, which shall include a small café-type food service/dining facility, an outdoor terrace dining area, and potential opportunities for special functions catering, coffee service and carry out. The Lessee shall provide and/or is amenable to:
1. Develop innovative menus which emphasize variety, nutrition, quality, and take advantage of fresh foods and seasonal foods, whenever possible. Menu shall contain at a minimum of ten percent (10%) healthy choice items.
 2. Purchase Kentucky-grown agricultural products, if the products are available and the Kentucky vendor can meet the applicable quality standards and pricing requirements. The Lessee shall support/adhere to KRS 45A.645 (see attached Exhibit ____).
 3. Develop menu for special functions catering. (If Lessee is interested in/proposed to provide this service)
 4. Utilize creative food displays and merchandising techniques to ensure customer satisfaction.
 5. Provide printed menus for cafeteria guests at the beginning of each week and have available at the cash registers located in the cafeteria.
 - ~~6. Average meal (which includes an entrée and two dishes) price shall not exceed \$7.50.~~
 7. Provide a health awareness program that includes and identifies foods that are low in calories, sodium, sugar content and saturated fats.
 8. Provide service of high quality recognizing the Lessor's need to economize on space and utility costs.
 9. Be responsive to changing meal trends, special requests by Lessor staff and visitors, and patron preferences.

10. Be able to produce the menu with Lessee's staffing plans, adjusted as needed in accordance herewith and the equipment available on the premises.
 11. A menu board, provided by the Lessee, will be prominently displayed at the entrance of the food services area. Descriptions of daily specials are to be merchandised at the individual service area stations by use of point-of-sale signs, small posters or other attractive signs that are not ostentatious. Any such signs shall be removed at Lessor's request.
 12. The Lessee shall be required to provide all labor and supplies necessary to operate high quality dining services at the FSOB.
 13. The Lessee shall use its best efforts to produce the maximum amount of gross sales possible without limiting the quality of the products sold or the services provided.
- b. The Lessee shall not do, or permit to be done, in or about the FSOB or in connection with its operation of dining facilities, anything which is illegal or unlawful, or which is of a hazardous or dangerous nature. The Lessee shall not use these FSOB facilities to cater, or prepare food which will be sold or catered, to any non-state related entity and on any property other than that owned by the FSOB, unless specifically approved in writing by the Lessor.
 - c. Services shall be provided to all patrons without discrimination.
 - d. If Lessee chooses not to include in its proposal the opportunity for special events catering, or is unable to provide catering service, Lessor shall have the right to use the dining areas of the employee dining facility for special occasions, meetings, or other assemblies at any time other than regular operating hours except during the regular operating hours in the employee dining facility (breakfast and lunch—refer to Section ___ Hours of Operation). The Lessor shall also have the right, if Lessee chooses not to include in its proposal the opportunity for conference center and special events catering, or is unable to provide catering service, to engage other food service providers (such as caterers) for the performance of special functions held within FSOB, or on the grounds surrounding the buildings. Any outside provider/caterer or Lessor department shall be expected to return the premises to the condition in which it was found.
8. Lessee's Procurement of Products: The Lessee shall procure all food, beverages, and cleaning supplies for all food service facilities described herein. The Lessee shall take advantage of all available trade, cash and quantity discounts to be able to maintain the lowest possible prices in the food service operations.
- a. Lessee shall comply with the following minimum purchase specifications:
 - All food shall be fresh, frozen or canned.

- Beef shall be USDA Grade Choice, yield grade 2 or 3
 - Pork shall be USDA Grade Choice No. 1
 - Veal shall be USDA Grade Choice, yield 2 or 3
 - Lamb shall be USDA Grade Choice, yield 2 or 3
 - Poultry shall be US Grade A, USDA Inspected
 - Pizza
 - Cured meats and sausages shall be made according to federal and state laws
 - Fresh fish and seafood shall be top grade; frozen fish and seafood shall be a nationally distributed brand, packed under continuous inspection of the USDA
 - Cheese shall be US Grade A
 - Eggs shall be US Grade A
 - Milk and milk products shall be US Grade A. Skim milk, 2% milk and whole milk shall be made available.
 - Butter shall be USDA Grade "A" (92) score
 - Frozen foods shall be US Grade A Fancy
 - Fruits and vegetables shall be US Grade A US #1
 - Grains and grain products will be wholesome, free of contamination and purchased from a reputable vendor
 - Beverages shall include milk, fresh brewed coffee including specialty flavored coffees, teas, fruit and vegetable juices (regular and low sodium) and soft drinks. Decaffeinated coffee and tea shall be made available as well as Cappuccino. Alcoholic beverages shall not be kept, sold, served or furnished by the Lessee, the Lessee's employees, servants or agents on the leased premises
 - Dry stored items and canned goods – Grade "A" Fancy
- b. The Lessee shall be responsible for acquiring all small wares and shall be responsible for costs associated with all necessary replacement of same. Title to all such small wares (tableware, tumblers, and silver flatware) shall rest solely in Lessee's name. Food and beverage purchase records shall be maintained on a perpetual basis. Title to all foods, beverages, small ware shall remain with the Lessee.
- c. State employees/guests will be asked to participate in recycling of aluminum, glass and plastic products. Lessee's dish room labor must remove paper, etc.
- d. The Lessee is responsible for breaking down cardboard boxes and transferring them to the appropriate recycling areas.
- e. The Lessee is responsible for removal of all trash from the dish room, serving and kitchen areas and transferring it to the appropriate disposal location.

f. The Lessee is responsible for housekeeping of the complete kitchen, the serving and dishwashing area, the employee food service area, outside terrace tables, including emptying of trash receptacles in all related areas and transferring it to appropriate disposal location.

9. Dining Service and Food Preparation: The employee dining facility *may* include the following suggested stations:

- Tray/Silver Pick-up
- Soup/Salad/Dessert Station (self-service)
- Deli Station (attended or self-service)
- Pizza Station (self-service)
- Special Coffee Station including cookie display, ice cream novelties cabinet, popcorn machine, frozen yogurt
- Hot Food Station (attended)
- Grill (attended)
- Beverages, Hot and Cold (self-service)

The Lessee shall provide, at its sole expense, disposable service wares for beverages and takeout orders, and for dine-in orders, if preferred by Lessee. Every attempt must be made by the Lessee to refrain from utilizing Styrofoam containers and shall utilize only biodegradable containers.

All Lessee's deliveries will be made directly to the FSOB receiving area.

10. Food Service Goals: Major food service goals of the Lessee's food services facility shall be as follows:

- Quality: Lessee shall offer food products meeting the highest standards for taste, freshness, and quality of ingredients, at a reasonable and competitive cost. To include seasonal offerings which must not be limited to daily, weekly, and monthly specials/new dishes that appeal to customers and reflect customers' food preferences. The Lessee shall support KRS 45A.645 (and 260.017) by acquiring, when available, Kentucky grown agricultural products, and if products vendor(s) can meet the applicable quality standards and pricing requirements.
- Affordability: The Lessee shall offer high quality food products at various price levels to meet the needs of all customers.
- Full Service Capabilities: The Lessee shall provide a full range of food services, i.e., salad bar, sandwich bar, hot foods, cold foods, etc., to meet individual employee, department and agency needs and preferences.
- Healthy Food: The Lessee shall provide healthy, well-balanced, and nutritional meals or food items and to provide nutritional information on items

served. The Lessee shall ascertain that a minimum of ten percent (10 %) of the menu items shall be healthy choices.

- Prompt and Pleasant Service: The Lessee shall offer a food service program that is attentive and responsive to customer expectations, and delivered in the most expedient manner possible to reduce wait time of customers.
- Environment: The Lessee provides a comfortable and pleasant environment to relax or discuss business with a positive and productive attitude.
- Financial: The Lessee shall operate the complete food service program at a straight profit and loss basis without subsidy by the Lessor.

11. Equipment Provided by Lessor: the Lessor shall provide tables and chairs for the food services area (café), and tables, chairs, and umbrellas for the outdoor terrace dining area, in the quantity indicated as the capacity of the two dining areas in the Lessee's proposal. (Intended targeted capacity is 200 for the indoor food services area and 40 for the outdoor dining area). The Lessee shall work with the Lessor's space planning personnel to make the selection of the tables, chairs, and umbrellas from the available selections determined by the Lessor. The Lessee shall not remove any Lessor owned equipment from the premises.

12. Utilities: Basic utilities shall be brought by the Lessor to the shell space as part of the Lessor's FSOB construction project, but not distributed. All food services fit-up construction shall be at the Lessee's sole expense.

a. The Lessee shall be responsible for obtaining all necessary regulatory agency approvals (federal, state and local).

b. The food service area shall be separately metered, by and at the Lessee's sole expense, from the remainder of the FSOB for domestic water, gas, and electric; and the Lessee shall solely be responsible for placing in its own name all of the utilities connected with the food service area and shall be solely responsible for paying all utilities for the food services operation.

Electric – FRANKFORT PLANT BOARD

Electric service shall be provided through the electrical distribution wires and facilities of the FSOB; food service area separately metered, with Lessee to be solely responsible for utilities for its area.

Telephone

The Lessee shall be responsible for obtaining any required direct-line telephone service. The Lessee shall pay any/all charges assessed for telephone service.

Waste Water

Waste water sewer for the food services operation, and dining facilities, area shall be through the FSOB sanitary sewer system. The construction of the FSOB

includes a 1,000 gallon grease trap located outside the building. Maintenance/service of this grease trap shall be the sole responsibility of the Lessee.

Domestic Water – Frankfort Plant Board

Domestic water service shall be provided through the plumbing distribution system and facilities of the FSOB; food service area separately metered, with the Lessee to be solely responsible for utilities for its area.

Gas – Columbia Gas of Kentucky

Gas service shall be provided through the gas distribution system and facilities of the FSOB; food service area separately metered, with the Lessee to be solely responsible for utilities in this area.

d. Garbage and trash collection for the food service area and the outdoor terrace dining area, and the areas immediately surrounding these facilities shall be the responsibility of, and at the sole expense of, the Lessee. The Lessee shall furnish sufficient and suitable containers for the collection of trash and garbage in the food service areas inside and out. The Lessee is responsible for emptying its garbage and trash receptacles into the FSOB's trash/recycling dumpsters located in the loading dock area of the building on a daily basis. The Lessee shall be responsible for contracting with a trash removal service for the removal of garbage collected in from the loading dock area. The Lessee shall be responsible for maintaining the indoor and outdoor dining areas in a trash/garbage and litter free manner, commensurate with the highest industry standards and as determined by the Lessor.

13. Maintenance: The Lessee shall maintain, at all times, the FSOB food service facility in a clean and sanitary manner in accordance with the highest industry standards and will comply with all federal, state and local laws, codes, and regulations. The Lessee shall train all employees to follow a "clean-as-you-go" policy. The food service facilities are subject to inspection by state and/or county authorized health department officials, fire department, and other agencies relative to safety requirements. The Lessee shall immediately notify the Lessor, in writing, of any potential violations. The Lessee shall immediately notify the Lessor, in writing, of any notices of violations that are received during or in connection with inspections. A copy of ALL inspection reports received by Lessee shall be immediately sent to the FSOB superintendent. The Lessee shall include action plans to correct conditions causing the violation. The Lessee shall immediately notify the FSOB superintendent of all inspection dates, and the Lessor shall have the option to be present at all inspections and shall be given prior notice thereof whenever possible.

a. In the event the Lessee does not take immediate action fully satisfactory to the Lessor to cure all conditions causing said violations, Lessor retains the right (at the non-reimbursable cost and expense of the Lessee, unless such violation resulted from failure of Lessor to perform its obligations hereunder) to take all acts and actions that Lessor believes to be reasonably necessary to promptly correct all conditions which caused said violations or potential violations. Any fees

incurred/action required to satisfy stated or potential violations, shall be the sole responsibility of the Lessee.

- b. The Lessee shall be required to repair any damage to any facility at the FSOB, including damage to plumbing and electrical systems, caused by negligence, reckless or willful conduct of the Lessee or anyone acting on its behalf, including but not limited to its agents or suppliers.
- c. The Lessee, at its sole expense, agrees to repair fully any portion of the facilities damaged or affected by remodeling except in the case of remodeling done at the Lessor's request, in which case such repair shall be the responsibility of the Lessor.
- d. The Lessee shall, at its sole expense, maintain all fixture connections within the facilities and keep all lines between fixtures and basic systems free from obstructions and free from damage resulting from the Lessee's operations.
- e. The daily cleaning of floor and wall areas in the kitchen, service area, and all tables and chairs shall be the responsibility of the Lessee. Upon closing each day, the Lessee shall stack the chairs on the dining tables to allow major scrubbing and/or vacuuming of the dining room floors by the evening janitorial crew. The Lessee shall pay the cost of building and equipment maintenance or repairs resulting from the acts or omissions of the Lessee or its employees.
- f. The Lessee shall, at its own expense, be responsible for the periodic cleaning of hood ducts, hood and filters, plenums and related vents and fans. All of the aforementioned fixtures shall be cleaned no less frequently than on a monthly basis. The Lessee shall be responsible for all required inspections and testing of all air and hood exhaust systems and related maintenance costs. Copies of all inspection reports shall be forwarded by the Lessee to the Lessor. The Lessor shall be responsible for the replacement cost of all air and hood exhaust systems. The Lessor shall, at its own expense, be responsible for maintaining all other HVAC systems, including associated auxiliary units.
- g. The Lessee shall be responsible for general maintenance and repair, including but not limited to minor plumbing and electrical repairs, serving line counter repairs, lubricating equipment, and periodic maintenance checks. The Lessee shall be responsible for cleaning the grease traps every six months. The Lessee shall be responsible for all required testing, inspection, and maintenance cost associated with the fire prevention system.
- h. The Lessor shall be responsible for maintenance and repair of permanent structures including, but not limited to walls, floors, doors, ceiling, and roofing repairs, major plumbing and electrical system repairs, bathroom fixtures, sprinkler systems, windows, and permanently affixed table and chair repairs. Purchase and installation of all replacement equipment and/or personal property shall require the approval of the Lessor.

14. Site Maintenance and Cleanliness: The Lessee shall, at its sole expense, maintain and keep the interior and the area immediately surrounding the food services operation and outdoor eating area at all times in excellent order and repair and in an exceptionally clean and sanitary condition, in accordance with the highest industry standards pertaining to operations at similar facilities, upon the request of the Lessor. Public restrooms are the responsibility of the Lessor and are excluded from this provision. All leased premises floors shall be policed and mopped, countertops, tables and chairs policed and cleaned, outside dining area cleaned, and trashcans emptied, by and at the expense of the Lessee, on an as needed basis and/or as determined by the Lessor. The Lessor has the right to disallow the use of any cleaning products, practices or equipment which, in the opinion of the Lessor, may do damage to FSOB property.

The Lessee shall adhere to the following standards in the preparation, production and service area in addition to those set forth herein:

- Clean all kitchen and service area surfaces (walls and floors) and equipment including food preparation equipment on a continual basis and following each meal period.
- Perform regular daily cleaning of all kitchen and service area floors and walls, inside filter line of exhaust hoods, condiment stands, water fountains, doors, posts, pillars and spot cleaning of dining area floors. (The Lessor will be responsible for the major scrubbing and vacuuming of dining room floors by the evening janitorial crews.)
- Keep public areas free of hazardous conditions.
- Adhere to industry accepted sanitation regulations and Kentucky laws for recommended ware washing temperatures and the use of chemical sanitizers.
- Monitor the dining areas before and during service hours to maintain dining rooms in a clean and orderly fashion. Tables and chairs are to be aligned and clean. Lessee shall continually bus any remaining dishes, trays, and trash during operating hours. All tables shall be cleaned and chair seats brushed off continually and upon the completion of each meal period.
- Store all cleaning supplies in non-food areas. All cleaning chemicals used by Lessee shall have appropriate MSDS information posted in an area common to all its employees and Lessor.
- The Lessee is responsible for properly disposing all trash in the receptacles provided. Proper disposal must include a program to recycle all glass and aluminum that meets the Lessor current recycling policies.

Furthermore, Lessor and the Lessee shall jointly develop evaluation checklist and customer satisfaction surveys to monitor and evaluate mealtime delivery and food quality. The Lessee (at different times) will be responsible to complete three (3) checklists to monitor compliance with the standards set forth in this agreement.

Lessee shall assist in the Lessor maintenance program by completing the following at no additional cost to Lessor:

- At the request of Lessor, the Lessee shall provide manufacturer recommended scheduled maintenance or maintenance agreements for equipment to the FSOB superintendent. The Lessee shall immediately notify FSOB superintendent of any major equipment failure that will adversely affect the food service operations or result in spoilage of food, etc.
- Lessee will repair the item or call the appropriate service agency for equipment repairs as specified in above section. If the Lessee notices any condition which is unsafe, unhealthy, or in any way could cause an accident, the Lessee shall immediately make or cause to be made appropriate repairs to remedy the condition.
- Lessee immediately shall notify FSOB superintendent, in writing, of any accident or safety hazard. Lessee shall also advise FSOB superintendent in writing, of whatever action the Lessee has taken to remedy any safety hazard. The Lessee and its employees shall abide by and practice all Commonwealth of Kentucky and county safety standards and regulations. The Lessee shall take all necessary and proper precautions to protect the safety of employees and other persons and to protect all property from any damages from whatever cause.
- The Lessee and any subcontractors shall give access to the authorized representatives of the Labor Cabinet for the purpose of inspecting or carrying out any of the Secretary's duties under the Occupational Safety and Health Act of 1980, as amended. The Lessee shall be responsible for any violation of it or any citation issued thereunder and shall immediately remedy any conditions

15. Taxes: The Lessee shall be responsible for paying all state, federal, and local taxes, including but not limited to the operations conducted on the Leased premises. The Lessee shall pay any sales, use, and personal property taxes arising out of this Agreement and the transactions contemplated thereby. Any other taxes levied upon this contract, the transactions, or the equipment or services delivered pursuant hereto shall be the responsibility of the Lessee.

16. Liens Against the Leased Premises: Nothing in this agreement shall in any way be deemed or construed as constituting an order or request by the Lessor, expressed or implied, to any contractor, sub-contractor, supplier, materialman, or laborer for the performance of any labor or the furnishing of any materials for the maintenance of any improvements on, alterations to, or other improvements of the Leased premises; nor as giving the any right, power, or authority to grant for or permit the rendering of any services or furnishings of any materials that would give rise to the filing of any mechanic's liens against the Lessor's property or the Lessee's Leasehold interest therein.

Furthermore, the shall not suffer or permit any mechanic's or materialman lien to be

filed against the Lessor's property or the Lessee's Leasehold interest in the Leased premises by reason of work, labor, services, or materials supplied to or claimed to be supplied to the . If a mechanic's or materialman's lien shall be filed against the Leased premises or the Lessee's Leasehold interest at any time, the Lessee shall cause the same to be discharged within thirty (30) days after the notice of filing thereof by payment, deposit, bond, an Order of a Court of competent jurisdiction or otherwise. If the Lessee, in good faith, disputes the validity or correctness of any such lien, then it may refrain from paying or causing the same to be discharged of record, but it shall diligently proceed to initiate and conduct appropriate proceedings to determine the correctness or validity of such lien. The Lessee shall not be deemed to be in default under this agreement while such proceedings or litigation are being conducted in good faith by it. However, if the Lessee fails to cause any such lien to be discharged within the period aforesaid, or fails to contest the same as provided above, then the Lessee shall be deemed to be in default of this Lease which shall be a basis for termination of said Lease.

17. Subleasing, Assignments, or Mortgages of Lessee's Interest: During the course of the Lease agreement, the Lessee shall not, voluntarily, involuntarily, or by operation of law assign, sublet, mortgage, or transfer the Lease agreement or any interest created therein to any other person, partnership, corporation, or other entity without first notifying and obtaining the prior written consent of the Lessor. Any attempt to assign, sublet, mortgage, or transfer the Lease agreement or any interest created therein without such consent shall be void. If an assignment, sublet, mortgage, or transfer of this agreement is made with the consent of the Lessor, the Lessee shall not be relieved from payment of all rent according to the terms of the Lease or from the performance of all other terms, covenants, and conditions of the Lease. If consent is once given by the Lessor to any such assignment, mortgage, or subletting, such consent shall not operate as a waiver of the necessity for obtaining the Lessor's consent to any subsequent assignment, mortgage, or subletting. Furthermore, any change in the Lessee's business status (i.e., partnership, corporation) should be reported to the Lessor immediately.

No assignment, subletting, transfer, or mortgage of Lessee's interest in the property shall be effective or binding against the Lessor until such time as the assignee and the Lessor execute an amendment to this agreement reflecting such transfer.

18. Alterations/Renovations of the Premises: The Lessee understands that the food services area shall be made available as unfinished shell space only. Basic utilities shall be brought to the shell space as part of the FSOB construction project, but not distributed. Distribution shall be by and at the sole expense of the Lessee. All food services fit-up construction shall be at the Lessor's sole expense.

The Lessor reserves the right to implement future capital improvements at the expense of the Lessor. The Lessee shall make no alterations to the facilities or other capital improvements, including interior décor, without first submitting a schematic drawing of its proposed changes and obtaining prior written approval from the Finance and Administration Cabinet's Division of Engineering and Contract Administration.

The parties hereto agree that the Leased premises are to be utilized in their "as is" condition, with fit up for a food services operation according to the Lessee's proposal submitted in response to RFP# _____. As soon as practical, but no longer than one hundred and twenty (120) days after the execution of the Lease between the parties, the Lessee shall submit for prior written approval all plans and specifications for the food services operation, and the Lessee shall obtain prior written approvals from all local, state, and federal regulatory agencies, including but not limited to Finance and Administration Cabinet, Division of Engineering; and the Department of Housing, Buildings, and Construction prior to beginning construction. The Lessee shall not be authorized to construct, erect, or place any structure or other facility upon the premises without the prior written approval of the Finance and Administration Cabinet. Requests for same shall be made in writing to the Finance and Administration Cabinet.

The Lessor shall provide the Lessee with the leased premises, i.e., 'white space', which includes the perimeter metal stud partitions around the food services areas, security grilles and doors at server entrances, access to basic heating, cooling, ventilation, plumbing, fire protection, electric, and communications services, but not specific domestic water, gas, electric, and sanitary sewer service beyond rough-in and metering. Exhibit ___, attached hereto, depicts a drawing that clearly shows the limits of the food services areas and Exhibit ___ depicts the rough-in and metering of electrical, domestic water plumbing, gas, sanitary sewer and HVAC services being provided by the Lessor under the FSOB construction agreement and may be utilized by the Lessee.

- a. All construction, alterations, renovations, repairs to the premises shall be subject to all applicable building codes of the Commonwealth of Kentucky and the Americans with Disabilities Act (ADA). This shall include any and all building inspections, which are required by law to be performed prior to commencement of the Lessee's operation of the food services facility.
- b. The following items shall be addressed, at the Lessee's sole expense:

The Lessee shall, at the Lessee's sole expense and cost, provide to the Lessor design and construction document services for the food services areas. The Lessee's kitchen designer shall coordinate the food services design with DECA. DECA shall have review and consent authority over the food services design. The Lessee shall be able and prepared to interact with the FSOB design team throughout the preparation and execution of the food services design/construction documents. The Lessor shall provide such consulting services in a timely manner so as not to delay the project schedule appended hereto, and fully incorporated herein as Exhibit ___.

Fit-up, by and at the Lessee's sole expense, shall include all gypsum drywall on the perimeter stud walls of the 'white space', interior partitions, finishes, equipment, mechanical, electrical, plumbing, fire protection systems and other necessary improvements not a part of the food services 'shell' or 'white space' construction provided under the FSOB construction documents

The Lessee shall provide, install, and hook-up, at no cost to the Lessor, all equipment and casework specifically necessary for the food services areas. Food services exhaust hoods shall be purchased/installed by the Lessee; however, the Lessor will provide a primary exhaust fan and exhaust duct routed through the FSOB _____. Modifications to the FSOB-provided exhaust fan and duct, if necessary to accommodate the Lessee's fit-up, shall be the sole responsibility of the Lessee. All required testing and approvals of the entire food services exhaust system shall be the Lessee's responsibility and at the Lessee's sole cost.

- c. Any alteration, renovation, major repair, or other improvements which the Lessee desires to make to the premises shall receive the prior written approval of the Lessor. Upon receiving a written request from the Lessee for permission to make alterations, renovations, major repairs, or other improvements to the premises, the Lessor shall, within a reasonable amount of time of receipt thereof, either approve or disapprove said request in writing. This request must include copies of any and all construction/renovation plans.
- d. The Lessor shall routinely monitor all construction/renovation work performed by the Lessee or its agents under the terms of this Agreement.
- e. The Lessee shall obtain all occupancy permits required by state law prior to permitting the general public to patronize the food services operation.
- f. The Lessee shall not remove the structures, improvements, and equipment erected or placed upon the premises without the prior written approval of the Lessor except upon termination of this Lease as provided herein. Upon approval from the Lessor to remove any structures, improvements, or equipment placed upon the premises, the Lessee must repair any damage to the premises resulting from the removal of the structures, improvements, or equipment.
- g. Such improvements, structures and equipment so placed in or upon or attached to the premises shall remain the property of the Lessor, unless such improvements, structures, and equipment can be removed without damage to the Lessor's property. Upon the removal of said improvements, structures, and equipment, or any portion thereof, the Lessee shall promptly repair any damage to the Leased premises resulting from the installation or removal of same and return the Leased premises to its original condition, at the Lessee's sole expense. Structures and equipment not removed from the premises at the termination, cancellation or expiration of this Lease Agreement shall become the property of the Lessor, which may, at its sole discretion, assess the costs of removal or repair incurred by said Commonwealth as a result of the Lessee's failure, howsoever caused, to effect the removal or repair required herein.
- h. Prior to initiating any renovation or alteration or construction to the Leased

premises, such renovation or alteration or construction must be approved by the Lessor; the Division of Engineering/Finance and Administration Cabinet; and the Department of Housing, Buildings and Construction/Public Protection and Regulation Cabinet.

- i. The Lessee shall comply with all standards set by the State Fire Marshal's Office, the Kentucky Occupational Safety and Health Standards Board, and any and all other local or state laws.
 - j. Nothing in the this Lease Agreement shall in any way be deemed or construed as constituting an order or request by the Lessor, expressed or implied, to any contractor, subcontractor, supplier, materialsman, or laborer, for the construction of any improvements on, alteration to, or other improvements of the Leased premises; nor as giving the any right, power or authority to contract for or permit the rendering of any services or furnishing of materials that would give rise to the filing of any mechanic liens against the Lessor's property or the Lessee's Lease hold interest in the Leased premises by reason of work supplied to the . If a mechanic's or materialman's lien shall be filed against the Leased premises at any time, the Lessee shall immediately notify the Lessor in writing of such lien, and shall cause the same to be discharged within thirty (30) days after the notice of filing thereof by payment, deposit, bond, or Order of Court of competent jurisdiction or otherwise. If the Lessee, in good faith, disputes the validity or correctness of any lien, then the Lessee shall immediately notify the Lessor in writing of such dispute and may refrain from paying or causing the same to be discharged of record, but the Lessee shall diligently proceed to initiate and conduct appropriate proceedings to determine the correctness or validity of such lien. The Lessee shall not be deemed to be in default under this Lease Agreement while such proceedings are being conducted in good faith by them. However, if the Lessee fails to cause any such lien to be discharged with the period aforesaid or fails to contest the same as provided above, the Lessee shall be deemed to be in default of this Lease Agreement, which shall be a basis for termination of said agreement under the "Termination for Default" condition contained herein.
 - k. The Lessor shall monitor and inspect on a periodic basis the quality of all services and products offered, to insure that the image and public perception of this operation is equal to or exceeds that of RFP# _____.
 - l. The Lessor reserves the right to implement future capital improvements at the expense of the Lessor. The Lessee shall make no alterations to the facilities or other capital improvements, including interior décor, without first submitting a schematic drawing of its proposed changes and obtaining prior written approval from the Finance and Administration Cabinet's Division of Engineering and Contract Administration.
19. Performance Bonds: The Lessee or its assignee shall furnish separate performance and payment bonds to the Lessor. The Lessee, or its designee, shall furnish a

performance bond satisfactory to the Lessor in an amount equal to one hundred percent (100%) of the food services operation construction project, as set forth in Lessee's final accepted proposal, as security for the faithful performance of the project. The Lessee or its designee shall also furnish a payment bond satisfactory to the Lessor in an amount equal to one hundred percent (100%) of the construction project for the protection of all persons performing labor or furnishing materials, equipment or supplies for the Lessee, its subcontractors for the performance of the work provided for in the project, including security for payment of all unemployment contributions which become due and payable under Kentucky Unemployment Insurance Law.

a. Each bond furnished by the Lessee or its designee shall incorporate by reference the terms of the project as fully as though they were set forth verbatim in such bonds. In the event the construction project is adjusted by written document executed by both parties, the penal sum of both the performance bond and the payment bond shall be deemed increased by like amount.

b. The performance and payment bonds shall be executed by a surety company authorized to do business in this Commonwealth, and the contract instrument of bonds must be countersigned by a duly appointed and registered resident agent.

c. Unless the project is exempt from the prevailing wage requirements of KRS 337.505-337.550, the Lessee's bond(s), or contract secured by said bond, shall include a provision as will guarantee the faithful performance and payment of the prevailing hourly wage.

20. Protection of Work, Property, Employees, and Public: The Lessee shall continuously maintain adequate protection of all its work from damages and shall protect the Lessee's and the Lessor's property from injury or loss arising in connection with this Lease Agreement. The Lessee shall make good any such damage, injury, or loss.

The Lessee shall take all necessary precautions for the safety of employees on the work site and shall comply with all applicable provisions of the Kentucky workers compensation laws and all federal, state, and municipal safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to the premises where the work is being performed. The Lessee shall designate a responsible member of its organization on the work as safety officer, whose duty shall be to enforce safety regulations. The name and position of the person so designated shall be reported to the Division of Engineering and Contract Administration (DECA), 2nd Floor, Bush Building, 403 Wapping Street, Frankfort, KY.

The Lessee shall submit a safety plan to the Lessor that complies with OSHA industry regulations, including but not limited to the use of hard hats, fall protection, hazardous material handling and clean-up.

21. Title to Improvements and Additions and Removal of Equipment and Supplies Upon Expiration or Termination of Agreement: It is understood and agreed by the parties that

the Offeror shall have the right, during the term of the resulting agreement, to erect structures and install equipment in or upon the premises, which structures and equipment so placed in or upon or attached to said premises shall be and remain the property of the Offeror and may be removed therefrom by the Offeror, at Offeror's sole expense, at any time prior to any termination or expiration of the resulting agreement, so long as Offeror has the written approval of the Commonwealth; provided, however, that no structures may be erected upon the premises until and unless the design and proposed location thereof have been approved by the Commonwealth; provided, further, the Offeror shall, upon the removal of said structures and equipment, or any part thereof, promptly repair any damage to the premises resulting from the installation or removal of said structures and equipment.

All structures and equipment of the Offeror placed in or upon or attached to the premises shall be at the sole risk of the Offeror. Nothing herein contained, however, shall be construed to confer any right upon the Offeror to construct, operate or maintain any structure without compliance with requirements of the Commonwealth of Kentucky.

Structures and equipment not removed from the premises within sixty (60) days after any termination or expiration of the resulting agreement shall become the property of the Commonwealth of Kentucky to dispose of as it determines to be in the interest of the Commonwealth.

22. Hold Harmless: The Lessee shall indemnify and hold harmless the Lessor and any of their agents, employees, or representatives, from any and all claims, demands, damages, actions, costs (including attorney fees), and charges which the Lessor or the Lessee may have to pay by reason of injury to any person or property or loss of life or property resulting from or in any way connected with the character, condition, or use of the Leased premises or any means of ingress thereto, or egress therefrom, or resulting from the Lessee's construction and operations on the Leased premises, unless such injury or loss arises directly from the negligence of the Lessor, or any of its departments, agencies, officers or employees while acting within the scope of their employment.

The Lessee shall, at its own expense, assume defense of such claims and actions for damages arising out of such injuries or losses which may be brought against the Lessor by a third person; and shall pay such judgments that may be rendered in such actions, unless such claims or actions for damages and/or judgments arise directly from the negligence of the Lessor, any of its departments or agencies, or any of its officers, agents, or employees while acting within the scope of their employment.

23. Attorney's Fees: In the event either party deems it necessary to take legal action to enforce any provision of this Lease Agreement entered into as a result of this solicitation, and in the event the Lessor prevails in such litigation, the agrees to pay the reasonable attorney fees and legal expenses incurred by the Lessor in such action.

24. Notices: All notices under this Lease shall be either mailed by registered or certified mail addressed or hand-delivered to the receiving party. The customary receipt shall be

conclusive evidence of such service.

25. Conflict of Interest: No official or employee of the Lessor, and no other public official of the Commonwealth of Kentucky or the federal government who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the project shall, prior to the completion of the project, voluntarily acquire any personal interest, direct or indirect, in the Lease or proposed Lease.

The Lessee covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Lessee further covenants that in the performance of the Lease no person having any such known interests shall be employed. By entering into the Lease agreement, the Lessee covenants that it is not in violation of KRS Chapter 11A (Executive Branch Code of Ethics).

26. Maintenance of Commonwealth's Property: Subject to the provisions of Section ___ of this Lease, the Lessee shall be responsible for the care and custody of any Commonwealth property furnished for Lessee's use in connection with the performance of the Lease. This responsibility includes the repair and/or replacement due to loss, damage, or negligence, normal wear and tear expected, and to cure deficiencies noted in regular inspection of the food services operation and facilities by the Lessor. Non-compliance with deficiencies outlined in the annual inspection report within the permitted time frame may result in the Lessee being declared in default of the Lease Agreement.

The Lessee shall do those acts necessary to (1) maintain the property in a reasonably attractive, clean, efficient, and safe condition; (2) prolong the useful life of the property, and (3) cause the property to be in conformity with all federal, state, and local regulatory standards. All new construction pursuant to the Lease Agreement shall become the sole responsibility of the Lessee for its repair and replacement.

DECA and the Lessee shall annually inspect the property together by June 30 of each year to determine (1) whether the is in conformity with the provisions of this section, and (2) to specify what act or acts are necessary to conform with the provisions of this section. As soon thereafter as practicable, the Lessor shall provide to the Lessee a written inspection report detailing the findings and recommendations pertaining to maintenance. The Lessee shall have thirty (30) days following receipt of the Lessor's report to either (1) complete the maintenance recommendations made by the Lessor's representatives or (2) present a written plan, for approval by the Lessor's representatives, which details the actions to be taken in order to correct any maintenance deficiencies including an anticipated completion date. In the event the Lessee fails either to (1) complete the maintenance recommendations made by the Lessor within thirty (30) days, or (2) submit a reasonable plan within thirty (30) days, together with a projected date of completion by which to accomplish those maintenance recommendations made by the Lessor's representatives, and to complete such plan of maintenance as agreed, unless good cause be shown for delay, then the Lessor may enter upon the property and do that which is necessary to maintain or repair the property. The Lessee shall indemnify and hold

harmless the Commonwealth from all costs and expenses of any such maintenance accomplished by the Commonwealth. Should the Lessor be required to do that which is necessary to maintain or repair the property, then the Lessor may, at its sole discretion, declare the Lessee in default of this Lease Agreement.

27. Insurance: The Lessee shall procure and maintain during the period of this Agreement, the insurance described and in the amounts specified in the following subparagraphs:

- a. **Commercial General Liability Insurance**
Throughout the term of this contract, the Lessee shall maintain and pay for insurance which shall insure on a primary basis, the Lessee, the Lessor, and its officers, employees, and agents against all claims for personal injury, bodily injury, death, or property damage, all costs and expenses including attorney fees, caused by reason of the operations conducted by the Lessee at the FSOB, or ways adjacent thereto, or elsewhere, including and covering, but not limited to, products liability and any and all claims arising out of the consumption of any food or beverage sold or otherwise provided by the Lessee, with limits of \$1,000,000 for each occurrence, \$1,000,000 for personal injury and advertising, with a \$1,000,000 aggregate and a \$1,000,000 products-completed operations aggregate for:
 - Premises and operations
 - Products and completed operations
 - Contractual liability for the liability assumed by the Lessee
 - Fire damageIn addition, the Lessee shall provide excess limits of \$1,000,000 per occurrence and \$1,000,000 aggregate.
- b. Throughout the term of this contract, the Lessee shall maintain and pay for, in the name of the Lessor, insurance covering the food service areas and covering all furnishings and equipment owned by the Lessee against loss or damage, all costs and expenses including attorney's fees. The Lessor shall be held harmless in regard to any damages sustained to the Lessee's property and its employees' property. The amount of such insurance shall be the replacement value of the food service areas and of furnishings and equipment and such amount shall be determined by the Lessor. The Lessor shall be named the loss payee on the policy.
- c. **Limits of Liability**
The limits of liability requirements set forth in this Section can be met by the Lessee's use of an Umbrella Liability or Excess Liability policy or policies.
- d. **Worker's Compensation Insurance**
As required by law, the Employer's Liability Insurance portion of the Workers Compensation coverage shall have a limit of not less than \$1,000,000 or as

required by law, throughout the terms of this contract. The Lessee shall maintain and pay for Worker's Compensation on all the Lessee's employees.

e. Comprehensive Automobile Liability Insurance

The Lessee shall be responsible for acquiring and maintaining comprehensive automobile liability insurance with a \$1,000,000 combined single limit bodily injury and property damage for each occurrence for all owned, non-owned, and hired vehicles used by the Lessee while performing operations in connection with this Agreement.

f. Copies of Policies and Certificates to be delivered to the Lessor

Certified copies of the above described insurance policies and all certificates and proof of renewals thereof shall be furnished to the Lessor effective as of the date of this contract. Certificates of Insurance and renewals thereof shall reflect the terms and conditions stated above and shall be provided to the Lessor prior to the Lessee occupying the FSOB premises.

g. Insurance companies

Insurance shall be with a company or companies licensed to do business in the Commonwealth of Kentucky and acceptable to Lessor. The insurance company must have a "Best" rating of at least "A+".

h. Contents of Insurance Policies

All liability insurance policies shall name Lessor as an additional insured and shall include a severability of interest clause with respect to claims, demands, suits, judgments, costs, charges, and expenses arising out of, or in connection with any loss, damage, or injury resulting from the negligence or other fault of the Lessee, Lessee's agents, representatives, and employees. The following provisions shall be included in Lessee's insurance policies:

1. Notwithstanding any other provision in this policy, the insurance afforded hereunder to the Lessor shall be primary as to any other insurance or reinsurance covering the FSOB, and such other insurance or reinsurance shall not be required to contribute to any liability until the appropriate limit of liability afforded hereunder is exhausted.
2. This policy may not be canceled or materially changed until thirty (30) days after receipt by the Lessor of written notice of such cancellation or change in coverage, as evidenced by receipt of a certified letter.

The Lessee agrees that the Lessor is not responsible or liable for any loss, liability, damage, cost or expense (a "loss") related to any act, failure to act, or omission of Lessee or his/her agents, servants, or assigns; including without limitation any loss which is not covered by Lessee's insurance whether by reason of an exclusion or deductible under the

Lessee's policy of insurance, a loss in excess of the policy limits, or otherwise. The Lessee expressly waives any claim against the Lessor (whether as a reimbursable costs or otherwise) for any loss.

28. Security: The Lessee and all of its employees shall comply with all Lessor rules and regulations governing access to and conduct on Lessor property. The Lessor may issue keys or access cards to Lessee's key employees (management, cash handlers, and opening cooks) on an as-needed basis at Lessor's discretion. Employees will enter the building through a designated entrance. The Lessee shall furnish the Lessor with a list of the names of all its employees and provide additions and deletions to the same immediately upon any change therein.

The Lessee shall be responsible for all keys, access cards, employee identification badges, etc. issued to its staff, and shall recover all such items from employees prior to their leaving. Any lost or non-recovered item will be replaced by the Lessor at a cost of \$25.00 each to the Lessee.

It shall be the Lessee's responsibility to immediately notify the Lessor of personnel no longer employed or for employees no longer working on the premises, and return immediately to the Lessor all access cards and/or keys for these individuals. The Lessee shall indemnify and hold the Lessor harmless against any claims, expenses, and liabilities arising out of or in connection with the failure of the Lessee to immediately notify the Lessor of personnel no longer employed or for employees no longer working on the premises.

The Lessee shall have the responsibility for determining that all appropriate equipment and lights have been turned off, and appropriate doors locked at the close of operation within the kitchen, service areas, and dining rooms.

29. Lessee's Employees: The Lessee shall, at its own expense, provide adequate personnel so as to provide quality food services to the patrons at the FSOB without unreasonable delay as determined by the Lessor. Such personnel shall be trained in food handling, shall be courteous, efficient and sanitary. Persons handling the food and beverage items under this Contract shall at all times be clean, wear disposable plastic gloves, pull back hair, wear hair nets, and be free from any communicable disease.

The FSOB shall be a non-smoking facility. There shall be no smoking permitted by the Lessee's employees. See attached Exhibit ____ for Lessor's smoking policy.

Personal appearance and courteous service to the patrons of the FSOB is deemed to be of the utmost importance to the Lessor. No agent or employee of the Lessee shall be deemed objectionable because of race, color, religion, national origin, sex, disability, or age.

The Lessee shall recruit, hire, train, supervise, direct, discipline and, if necessary, discharge any and all personnel working in Lessee's food service facilities. All employees shall be the sole responsibility of the Lessee and not the Lessor.

The Lessee is an independent contractor and will not, under any circumstances, be considered an employee, servant or agent of Lessor, nor will the employees, servants or agents of the Lessee be considered employees, servants or agents of Lessor and neither the Lessee nor its employees, servants or agents will have any authority to bind the Lessor in any respect whatsoever.

The Lessee will properly screen all applicants prior to employment, including but not limited to a criminal investigation check (the Lessee is responsible for all charges associated with the employment screening), finger printing, background check and health screening, to reduce the possibility of the Lessee hiring any person who would pose a security/health risk to Lessor or its employees/guests/facilities. All food service employees will be subject to Lessor pre-employment, random and suspect drug testing. The Lessee and the Lessee's employees shall follow the Lessor's work rules and guidelines, including the no smoking policy. The Lessee shall require all its employees to meet the appropriate health standards prescribed by municipal, state, and federal laws and regulations.

The Lessee shall require its employees to comply with all instructions, regulations, and codes of conduct as specified by Lessor related work rules. The Lessor maintains a policy to provide a workplace that is free of substance abuse. The Lessee's employees shall be required to comply with this policy. Any Lessee employee that is found to be in violation of this policy shall be required by the Lessee to leave the premises permanently. In addition, any illegal substances shall be turned over to a law enforcement agency and may result in criminal prosecution.

The Lessee shall issue name badges to its employees and the Lessee's logo may appear on badges (Lessor shall issue security badges to the Lessee's employees as needed, which shall be worn and displayed by the Lessee's employees).

The Lessee agrees to comply with all federal, state, and local laws and regulations, including but not limited to those pertaining to nondiscrimination in hiring and employment practices, and federal immigration laws pertaining to employment. Rules, regulations and laws will be displayed within the food services area in a prominent place where these licenses, permits and/or regulations as required by law are to be so posted.

All employees shall be citizens of the United States or legal immigrants with proper work permit or other appropriate documentation authorizing employment of a non-United States citizen to work in the United States, and shall be able to understand and speak English.

The Lessee shall require all its employees to utilize the designated entrance and exit door, restrict its employees to assigned areas only, and be on the premises only during working hours, unless the Lessor designates otherwise.

The Lessee shall provide at all times adequately trained personnel to maintain the high quality of food service as required by the Lessor. A trained relief staff shall be available to substitute for the Lessee's regular personnel during absences.

The Lessee shall assure that the general manager or qualified replacement ("person in charge at all times"), acceptable to the Lessor, shall be in the employee food services area during all operating hours.

The Lessee shall indemnify and hold the Lessor harmless for any vandalism or loss due to acts (or failure to act) of its employees. The Lessee shall implement and maintain appropriate control measures to guard against pilferage of food, supplies, cash, and equipment. The Lessor requires that the Lessee have all cash handling employees bonded.

The Lessee shall notify the Lessor, in writing, as soon as it is practical of any anticipated labor, employee, or vendor problems or any other circumstances that could adversely affect the operation of the food service facilities. If applicable, the Lessee shall provide a current Union Labor Contract governing his associates to the Lessor, including date of expiration and anticipated changes.

The Lessee shall continue to provide services under this agreement in the event of strikes and other labor disturbances of its employees.

The Lessee shall maintain all terms and conditions of this agreement and the Lessor operations in the strictest of confidence and shall not in any manner use the designated food service facilities for advertising, publicity, marketing, or public relations purposes without the prior written approval of the Lessor. Furthermore, any visitors to the food services facilities (other than vendors or suppliers) must have permission by the FSOB security before access shall be granted to the food services spaces.

Should the Lessor be dissatisfied with services received by Lessee's personnel, the Lessor, in addition to the other remedies set forth in the contract, shall have the right to request replacement personnel, which the Lessee shall provide at no additional cost to the Lessor. The Lessee agrees to honor all such requests and replace such personnel, at no cost to the Lessor, within ten (10) days. The replacement personnel shall be comparably qualified and acceptable to the Lessor.

30. Employment Practices:

- a. The Lessee shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliation, or disability. The Lessee shall take affirmative action to ensure that employees, as well as applicants for employment, are treated without discrimination because of their race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliation or disability. Such action shall include,

but is not limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates or pay or other forms of compensation, and selection for training, including apprenticeship. The Lessee agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this clause.

- b. The Lessee shall, in all solicitations or advertisements for employees placed by or on behalf of the Lessee, state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliation, or disability, except where it relates to a bona fide occupational qualification.
- c. The Lessee shall comply with the non-discrimination clause contained in Federal Executive Order 11246, as amended by Federal Executive Order 11375, relative to Equal Employment Opportunity for all persons without regard to race, color, religion, sex, or national origin, and the implementation rules and regulations prescribed by the Secretary of Labor and with Title 41, Code of Federal Regulations, Chapter 60. The Lessee shall comply with related Commonwealth of Kentucky laws and administrative regulations.
- d. The Lessee shall comply with regulations issued by the Secretary of Labor of the United States in Title 20, Code of Federal Regulations, Part 741, pursuant to the provisions of Executive Order 11748 and the federal Vocational Rehabilitation Act of 1973, as amended.
- e. The Lessee shall comply with the Civil Rights Act of 1964, and any amendments thereto, and the regulations thereunder; Section 504 of Title V of the Vocational Rehabilitation Act of 1973, as amended; the Kentucky Civil Rights Act; and the ADA.

31. Right of Entry: The right is hereby reserved to the Lessor, its officers, agents, and employees, and agents, to enter upon the Leased premises at reasonable times to inspect the premises, operation, and equipment, or for any purposes in connection with work necessary to the benefit of the Lessor, including, if necessary, any ingress or egress in the form of an easement that shall not unreasonably interfere with the s operations.

32. Termination and/or Cancellation of Lease: The Lease agreement shall be subject to the following termination provisions:

Termination for Default. If at any time during the period in which the proposed Lease agreement is in effect, the Lessee, in the opinion of the Lessor, defaults on any obligation incurred hereunder, including, but not limited to, the payment of rental due the Lessor or the failure to maintain standards of service required or in any manner fails to provide adequate service to the public, then the agreement shall be subject to termination by the Lessor, with no right of recourse remaining in the Lessee. All rights and benefits herein conferred shall be deemed forfeited, and the Lessee shall quietly surrender possession of the demised premises to the Lessor; provided, however, that before any termination shall occur under this Section, the shall be given written notice and be allowed thirty (30) days

from receipt of notice in which to cure such default or non-compliance. If said default or non-compliance is cured within the above time period, then the agreement shall remain in full force and effect. In the event of termination for default, the Lessee shall be responsible for paying to the Lessor any monetary sum due, up to and including the date of termination.

If, in a 12 month period, the Lessee has been notified three times or more by the Lessor that it is in default on its monetary obligation to be paid to the Lessor, then the Lessor may, at its sole option, declare the Lease in immediate default and the 30 day cure provision shall not apply.

The various rights, options, elections, powers, and remedies contained in the Lease shall be construed as cumulative and not one of them shall be exclusive of any of the others, or of any other legal or equitable remedy which either party might otherwise have in the event of breach or default in the terms hereof, and the exercise of one right or remedy by such party shall not impair its right to any other right or remedy until all obligations upon the other party have been fully performed.

Termination for Convenience. Either party may terminate the proposed Lease agreement for convenience by giving the other party thirty (30) days notice of intent to termination. Such termination for convenience shall be governed by the provisions of 200 KAR 5:312.

Procedure on Termination: Upon delivery by certified mail of Notice of Termination specifying the nature of the termination, the extent to which performance of service under the agreement is terminated and the date upon which such termination becomes effective, the Lessee shall stop service under the agreement on the date indicated and to the extent specified in the Notice of Termination. Then, and in any of such cases, immediately or at any time thereafter, at its option, the Lessor shall have the right to immediately reenter and take possession of the property, and, as the Lessor elects, either:

- (1) Declare this Lease to be terminated, in which event this Lease, all rights of the Lessee, and all duties of the Lessor shall immediately cease and terminate and the Lessor may possess and enjoy the property as though this Lease had never been made, without prejudice, however, to any and all rights of action against the Lessor may have for rent, damages, or breach of covenant, in respect to which the Lessee shall remain and continue liable notwithstanding such termination; or,
- (2) Relet the property or any part thereof, for such term or terms and on such conditions as the Lessor determines for and on behalf of the Lessee, for the highest rental reasonably obtainable in the judgment of the Lessor, which reletting shall not be considered as a surrender or acceptance back of the property or a termination of this Lease, and recover from the any deficiency between the amount of rent, additional rent and all other charges payable under this Lease, plus any expenses incurred by the Lessor in connection

with repairs, or alterations the Lessor deems necessary or appropriate to make in connection with such reletting, all costs incurred in actually reletting the properties, and sums expended for reasonable attorney's fees; but the Lessor shall be under no duty to relet the property.

The Lessor reserves the right to cancel the Lease for convenience when requirements under the Lease no longer exist, or changes in general conditions render the Lease as not responsive to the needs of the Lessor. A written notice will be given to the Lessee at least thirty (30) days prior to such proposed cancellation date. Upon the cancellation date specified in the written notice, all privileges of Lessee shall cease, and the Lessee shall no longer be permitted to use the leased premises and shall remove any personal property of from premises by the cancellation date.

Upon cancellation of the Lease, the Lessee shall restore the leased premises and structures used in Lessee's operation in as good a condition as of the date the Lease was entered into by the parties. Reasonable wear and tear and damage by the elements is expected.

Upon termination for convenience by the Lessor, Lessee, in addition to the remedies set forth in 200 KAR 5:312, shall be authorized to remove all personal property, provided that the Lessee promptly repairs any damage to the Leased premises resulting from the removal.

33. Force Majeure: The Lessee shall not be liable to the Lessor if failure to perform the agreement arises out of causes beyond the control and without the fault or negligence of the Lessee. Such causes may include, but are not restricted to, acts of God, fire, quarantine restrictions, strikes, and freight embargoes. In all cases, the failure to perform must be beyond the control and without fault or negligence of the Lessee. The Lessee shall take all possible steps to recover from such occurrences.

34. Conflict of Law and Choice of Law Provision: It is agreed by the parties hereto that all questions as to the execution, validity, interpretation, construction, and performance of this Lease Agreement shall be governed by the laws of the Commonwealth of Kentucky. Furthermore, the parties hereto agree that any legal action which is brought on the basis of said agreement shall be filed with the Franklin County Circuit Court of the Commonwealth of Kentucky. In the event that either party deems it necessary to take legal action to enforce any provision of this Agreement, and in the event the Commonwealth prevails, the agrees to pay all expenses of such action, including attorneys' fees and costs at all states of litigation, as set by the court or hearing officer.

35. Waiver: No covenant, condition, duty, obligation, or undertaking contained in, or made a part of, the contract shall be waived except by the written agreement of the parties, and forbearance or indulgence in any other form or manner by either party in any regard whatsoever shall not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed, or discharged by the party to which the same may apply; and until complete performance or satisfaction of all undertakings, and other party

shall have the right to invoke any remedy available under law or equity, notwithstanding any such forbearance or indulgence.

Any consent by any party to, or waiver of, a failure of the other, whether expressed or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent failure.

36. Disclosure of Financial Information: The Lessee, as defined in KRS 45A.030(9), agrees that the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records or other evidence which are directly pertinent to this Lease for the purpose of financial audit or program review. Furthermore, any books, documents, papers, records or other evidence provided to the Finance and Administration Cabinet, the Auditor of Public Accounts, or the Legislative Research Commission which are directly pertinent to the contract shall be subject to public disclosure pursuant to 200 KAR 5:314, regardless of the proprietary nature of the information, unless specific information is identified and exempted and agreed to by the Secretary of the Finance and Administration Cabinet as meeting the provisions of KRS 61.878(1)(c) prior to the execution of the Lease. The Secretary of the Finance and Administration Cabinet shall not restrict the public release of any information which would otherwise be subject to public release if a state government agency was providing the service.

37. Severability Clause: If any provision of this Lease Agreement is declared invalid or unenforceable, then the remainder of said agreement shall continue in full force and effect.

38. Accounting System and Reports: The Lessee shall use GAAP accounting in all transactions dealing with operation of all areas of the FSOB facility.

On a monthly basis, the Lessee shall submit a written report for the previous month's customer counts for the entire operation.

The Lessee shall handle all accounting for catering and any other special events, up to the point of the Lessee's invoices issued to Lessor that itemize departmental charges for each preceding accounting period.

The Lessee shall prepare and present to the Lessor by June 30th of every year an annual budget for all FSOB operations, including detail for each like item of expense and all appropriate assumptions and justifications.

The Lessor will handle all interdepartmental transfers. Each month during the term of the Lease Agreement and Contract, the Lessee shall submit to the Lessor a written Gross Sales Summary Statement on a form approved by the Lessor and subscribed to by the Lessee's on-site general manager. This Gross Sales Summary Statement shall include a separate itemization of gross sales generated from the food service operation during the preceding monthly accounting period. The gross sales on this statement will be the basis for the percentage return to the Lessor.

The Lessee shall maintain an accounting system at the FSOB which shall provide a clear understanding of how gross sales are determined. This accounting system shall provide detailed support for the Gross Sales Summary Statement. This support shall, at a minimum, consist of cash register receipts, and group invoices, and shall be organized to provide easy reconciliation to the Gross Sales Summary Statement. This support shall be submitted monthly to the Lessor at the same time as the Gross Sales Summary Statement.

The Lessee agrees to permit the Lessor and its agents and representatives, at reasonable intervals, at any and all times during the Lessee's usual business hours to inspect all books, records and accounts of the Lessee showing gross sales from all business conducted under this contract, provided that such inspections do not interfere unduly with the Lessee's operations hereunder. Further, the Lessee shall, within sixty (60) days after June 30 of each year under contract following the actual opening of the FSOB, supply a statement of gross sales for the previous 12 months certified by its chief financial officer, and certified by an independent Certified Public Accountant.

If any such verification or inspection of the Lessee's books or any such annual certified report reveals that the Lessee has understated gross sales during any monthly accounting period, then the Lessee shall be deemed to be in default of this Agreement according to Section _____ herein.

39. Records, Books, and Audits: The Lessee shall keep accurate and complete written records of all revenues and expenses in connection with the operation of the food facility. The Lessee shall keep records for the current fiscal year and for a minimum of three (3) previous years and such additional time that the Lessor deems necessary. The Lessee shall make these records available for inspection, examination, and audit by the Lessee and its agents. The cost of such audits shall be borne by the Lessee. Such records shall be maintained on FSOB premises by the Lessee for the duration of this agreement, and be available for inspection and/or audit by the Lessor or its agents with at least 24-hours notice.

Appropriate vendor invoices must support all expenditures. The Lessee shall pay, on a timely basis and in accordance with all vendor terms, all proper bills and other expenses incurred in the normal operation of FSOB food service.

The Lessee shall also be subject to periodic, unannounced operating audits of the food service facilities by representatives of the Lessor. Such audits may include, but not be limited to a comprehensive review of:

1. Service quality, efficiency of service, courteousness, etc.
2. Food quality, presentation, and merchandising
3. Sanitation practices and conditions
4. Personnel appearance
5. Training program techniques, schedules, and records

6. Safety conditions
7. Trends of purchases (from cash register receipts)
8. Operational performance from a financial perspective
9. Other related operational conditions and/or practices
10. Working condition of equipment

The Lessee shall be notified in writing by the Lessor of conditions needing correction or improvement. The Lessee shall comply with any such notice within a two-day period, from the date of notice.

Restricted, authorized Lessor personnel ONLY shall have 24-hour access to all parts of the premises, including the employee dining facility and other areas in which Lessee may be working. The Lessor shall maintain a complete set of keys to the facility.

40. Fire and Other Emergencies: The Lessee shall immediately call 911 in the event of fire or other emergency and then notify the Lessor's FSOB Superintendent of the incident. The Lessee shall train all employees to respond to fire, civil defense, bomb threats, evacuations, and other emergencies based on procedures established by the Lessor. The Lessee shall give the Lessor prompt written notice of any fire or damage occurring to the premises and a copy of all notices received by the Lessee of any claim for bodily injury occurring within the building.

41. Offer of Gratuities: By execution of this Agreement, the Lessee certifies that no member of or delegate of Congress, nor any elected or appointed official or employee of the Commonwealth of Kentucky has or will benefit financially or materially from this procurement. This Lease Agreement may be terminated by the Lessor if it is determined that gratuities of any kind were either offered to or received by any of the aforementioned officials or employees from the Lessee, his agents, or employees.

42. Entire Agreement: This Lease Agreement represents the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral, between the parties hereto relating to the subject matter hereof and shall be independent of and have no effect upon any other agreement.

43. Protection of Use, Property, Employees and Public: The Lessee shall continuously maintain adequate protection of all his/her work from damage and shall protect the Lessor's property from injury or loss arising in connection with this Lease Agreement. Lessee shall make good any such damage, injury, or loss. Lessee shall adequately protect adjacent property as provided by law and the Lease documents.

The Lessee shall take all necessary precautions for the safety of employees on the work site and shall comply with all applicable provisions of the state's workers' compensation laws and all federal, state and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the work is

being performed. The Lessee shall designate a responsible member of his/her organization on the work as safety officer, whose duty shall be to enforce safety regulations. The name and position of the person so designated shall be reported to the architect by the Lessee.

No official or employee of the Commonwealth, and no other public official of the Commonwealth of Kentucky or the federal government who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the project shall, prior to the completion of the project, voluntarily acquire any personal interest, direct or indirect, in the Lease or proposed Lease.

The Lessee covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Lessee further covenants that in the performance of the Lease no person having any such known interests shall be employed. By entering into the Lease agreement, the Lessee covenants that it is not in violation of KRS Chapter 11A (Executive Branch Code of Ethics).

44. Prevailing Wages: If applicable, the Lessee is obligated to adhere to the prevailing wages laws (KRS 337.530-337.550) for one hundred percent (100%) of the entire food services project at this state administered building.

45. Registration with the Secretary of State by a Foreign Entity: Pursuant to KRS 45A.480(1)(b), an agency, department, office, or political subdivision of the Commonwealth of Kentucky shall not award a state contract to a person that is a foreign entity required by KRS 14A.9-010 to obtain a certificate of authority to transact business in the Commonwealth ("certificate") from the Secretary of State under KRS 14A.9-030 unless the person produces the certificate within fourteen (14) days of the bid or proposal opening. Therefore, foreign entities should submit a copy of their certificate with their solicitation response. If the foreign entity is not required to obtain a certificate as provided in KRS 14A.9-010, the foreign entity should identify the applicable exception in its solicitation response. Foreign entity is defined within KRS 14A.1-070.

For all foreign entities required to obtain a certificate of authority to transact business in the Commonwealth, if a copy of the certificate is not received by the contracting agency within the time frame identified above, the Lessee's solicitation response shall be deemed non-responsive or the awarded contract shall be cancelled.

Businesses can register with the Secretary of State at <https://secure.kentucky.gov/sos/ftbr/welcome.aspx>.

46. Lessor Facilities: The Lessor shall, at its expense, assume the following responsibilities with respect to the food service facilities, as follows:

- Provide adequate ingress and egress, including reasonable use of the corridors, passageways, and loading platforms.

- Maintain and repair the building structures in the area assigned for the Lessee's use, including painting and redecoration; the maintenance of water, steam, sewer and electrical lines, ventilation, and air conditioning lines; electrical lighting fixtures (including relamping); space heating systems; floor coverings; walls and ceilings; and equipment repairs; provided, however, the Lessee shall bear the expense (which shall be non-reimbursable hereunder) of repairs necessary because of its own or its employees', vendors', or agents' acts or omissions or as otherwise provided herein or on any vendors', or agents', acts or omissions or as otherwise provided herein or on any attachments hereto.
- The Lessor shall provide the connections only for utilities; the Lessee shall provide all else at its sole expense.
- Provide space for General Manager (or "Person in Charge at all times) and for administrative activities such as purchasing, invoice reconciliation, and payroll. All office equipment shall be provided by the Lessee, at its sole expense. The Lessee shall supply calculators and other office items as needed. The Lessee shall provide a written list to the FSOB Superintendent annually, of all Lessee-owned and leased furniture, equipment, inventory, etc. brought on site.
- Provide for periodic major cleaning of dining room carpet, walls, and ceilings.
- The Lessor shall be responsible to provide recycling containers for aluminum cans and glass bottles in the employee dining facility area, as well as, any area where these items may be provided. The Lessor shall be responsible for disposing of all these recyclable items.
- The Lessor shall be responsible for disposing of all food service items properly placed in designated waste receptacles by the Lessee.
- The Lessor shall maintain an effective program for extermination of pests, rodents and vermin in all areas assigned to the Lessee by the Lessor.
- The Lessor shall not guarantee the uninterrupted provision of the above utilities and service except to ensure that all reasonable and diligent efforts will be pursued in restoring interrupted service. The Lessor shall not be liable for losses in profits which may result from interruptions or failure of services, or any other event beyond the control of the Lessor. The Lessor shall not be liable for food inventory losses caused by interruptions in utilities and services that are beyond the control of the Lessee. The Lessee's insurance coverage shall apply to such losses.

IN WITNESS WHEREOF, the parties hereto have set their hand on this the day

and year first above written.

RECOMMENDED:

_____ By: _____

_____, Commissioner
Department of Facilities & Support
Services

Date: _____

LESSOR:
COMMONWEALTH OF KENTUCKY

By: _____
Lori H. Flanery, Secretary
Finance and Administration Cabinet

EXAMINED AS TO FORM AND LEGALITY:

Patrick W. McGee, Attorney
Office of Legal and Legislative Services
Finance and Administration Cabinet

DRAFT

EXHIBIT J

RETURN THIS FORM FILLED OUT WITH PHASE I SUBMITTAL**MINORITY BUSINESS ENTERPRISE (MBE) PARTICIPATION**

- 1.01 **CERTIFICATION OF MBE:** Any MBE utilized pursuant to this Section shall be certified as an MBE by one of the following: Kentucky Transportation Cabinet or other state Transportation agencies, the Louisville Metropolitan Sewer District, the Kentucky Minority Supplier Development Council or other state Minority Supplier Development Councils, the Kentucky Certification Cooperative, or the Small Business Administration.
- 1.02 **OBLIGATION OF BIDDER/CONTRACTOR:** Bidder/Contractor shall make a good faith effort to meet the MBE contract goal set by the Commonwealth by including MBE's as subcontractors and/or material suppliers on 10% of the total estimated cost of the Contract. The failure to meet the foregoing goal shall not result in disqualification from bidding or being awarded a contract. However, Bidders/Contractors not meeting the MBE goal shall be expected to provide written proof of their good faith efforts. Award of the contract shall be conditioned upon satisfaction of the requirements established by this section. The Bidder/Contractor shall attempt to divide the work in the contract to facilitate use of MBE's (however, there is no requirement that the work be artificially divided or divided in a way that raises the bid price of the Bidder/Contractor).
- 1.03 **PROOF REQUIRED:** Each bidder shall furnish written proof in their bid package that they reached the MBE participation goal for this Contract, or of their good faith efforts to meet the MBE participation goal. A copy of each participating MBE's certification shall accompany the required forms. All submissions shall be subject to verification of the Commonwealth.
- A. Proof that the apparent successful bidder reached the MBE goal shall consist of the following and shall be made on form MB-2-A, attached hereto:
1. The names and addresses of MBE firms that will participate in the contract;
 2. A description of the work each named MBE firm will perform;
 3. The dollar amount of participation by each named MBE firm;
 4. The percentage amount of participation by each named MBE firm;
- B. Proof that the apparent successful bidder made a good faith efforts to meet the MBE participation goal may include the following:
1. Advertisement by the Bidder/Contractor of MBE contracting opportunities associated with this contract in at least one of each of the following periodicals: a periodical in general circulation throughout the Commonwealth, a trade periodical focused on MBE contractors/suppliers in general circulation throughout the Commonwealth, and a minority-focused periodical in general circulation throughout the Commonwealth. The Bidder/Contractor shall include copies of the dated advertisements in his bid package;
 2. Written notice of MBE opportunities in this contract to at least five pertinent MBE's at least seven days prior to the bid opening date. Copies of the written notices shall be included in the bid package;
 3. The Bidder/Contractor's response(s) to those MBE's who requested plans, specifications and/or contracting requirements. Copies of said responses shall be included in the bid package;
 4. Documentation on form MB-2-B of good faith negotiations with at least three MBE's, with no rejection of a qualified MBE without sound reason, including price quotes that are above other subcontractor's price quotes;
 5. Utilization of the Finance and Administration Cabinet's Office of Equal Employment Opportunity and Contract Compliance for referrals to organizations that assist in locating MBE's. Proof of use of such referrals and contacts made as a result thereof shall be included in the bid package.

MINORITY BUSINESS AVAILABILITY VERIFICATION

_____ does commit itself that on the following project:

NAME OF COMPANY

PROJECT NAME

BID INVITATION NUMBER

ENGINEERING FILE NUMBER

The Bidder agrees to furnish information required by the Commonwealth of Kentucky to indicate the Minority Business which it intends to utilize. Breach of this commitment constitutes breach of the Bidder's contract if awarded.

NAME OF MINORITY BUSINESS

TELEPHONE

TYPE OF WORK

DOLLAR VALUE

PERCENT

MINORITY CLASSIFICATION

The undersigned shall enter into a formal agreement with the minority business firms for work listed in this schedule conditioned upon execution of a contract with the Commonwealth of Kentucky.

Minority business firms listed above by the Bidder and accepted by the Owner and the Architect/Engineer shall be used on the work for which they were proposed and accepted and shall not be changed except with the written approval of the Owner and the Architect/Engineer. The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the Bidder to the commitment herein set forth.

Signature and title of authorized official of the company and the data shall be properly executed on this document or the bid will be deemed nonresponsive.

NAME OF AUTHORIZED OFFICER

TITLE

SIGNATURE

DATE

If you are bidding as a General Contractor on this project i.e. direct bidding and a Minority as defined herein, please provide a copy of your MBE Certification.

Submit with Bid.
(Please copy additional Minority Business Availability Forms as necessary.)
MB-2-B

MINORITY BUSINESS UNAVAILABILITY VERIFICATION

I, _____, _____ (TITLE)

of _____ (PRIME BIDDER)

certify that on _____ I contacted the following minority owned business by: (circle one) Certified Mail, Phone, In Person to obtain a bid for work items to be performed on the Contract.

MINORITY	CONTRACTOR	WORK ITEMS SOUGHT	FORM OF BID SUPPORT (I.E., UNIT PRICE, MATERIALS LABOR & LABOR ONLY)

To the best of my knowledge and belief, said minority owned business was unavailable (exclusive of unavailability due to lack of agreement on price) for work on this project, or unable to prepare a bid, for the following reason(s):

SIGNATURE _____

DATE _____

_____ was offered an
(NAME OF MINORITY BUSINESS)

opportunity to bid on the above-identified work on _____ by

(SOURCE)

The above statement is a true and accurate account of why I did not submit a bid on this project.

(SIGNATURE OF MINORITY BUSINESS)

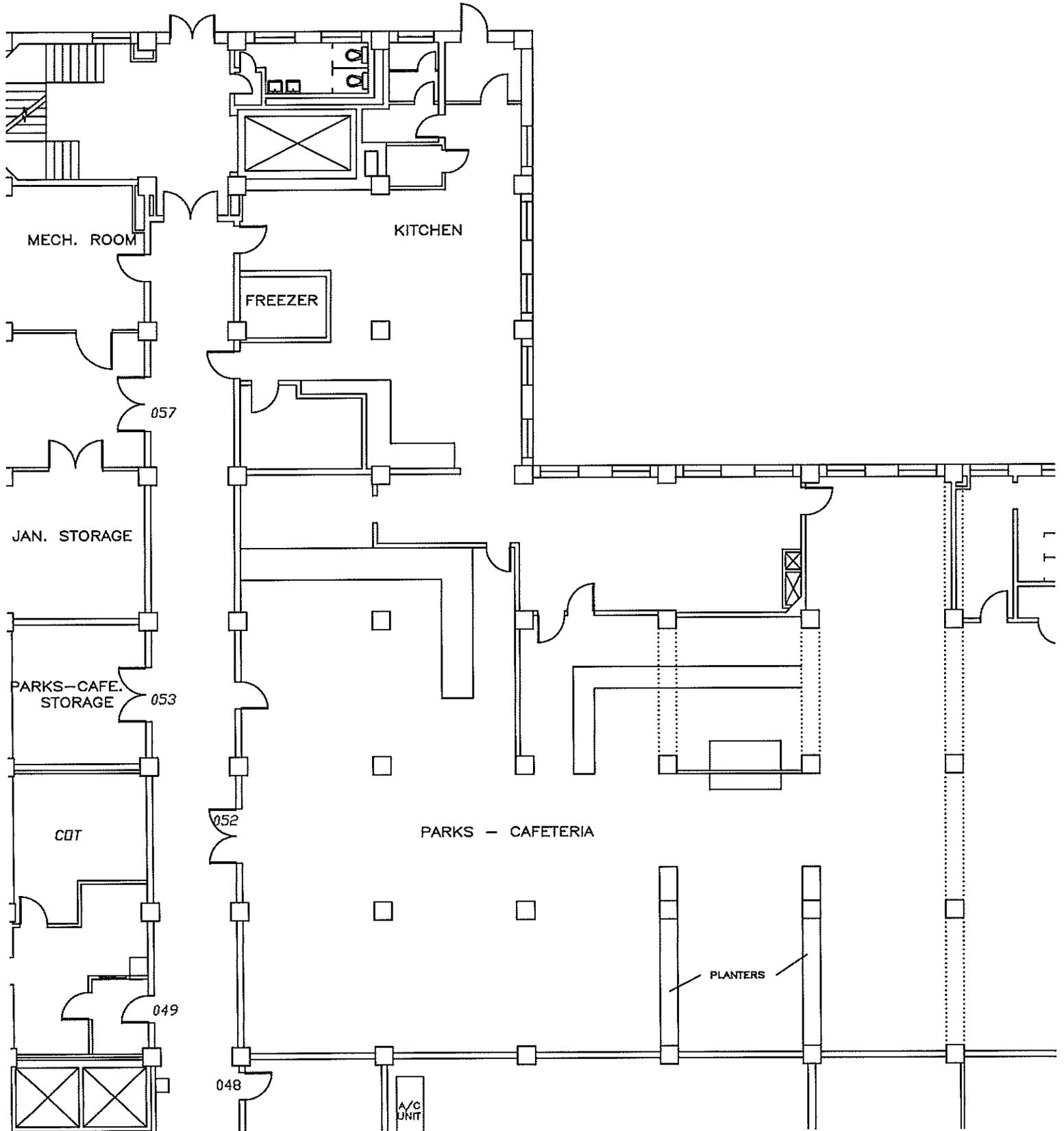
(TITLE) (DATE)

Submit with Bid if Applicable.
(Please copy additional Minority Business Unavailability Forms as needed.)

EXHIBIT K

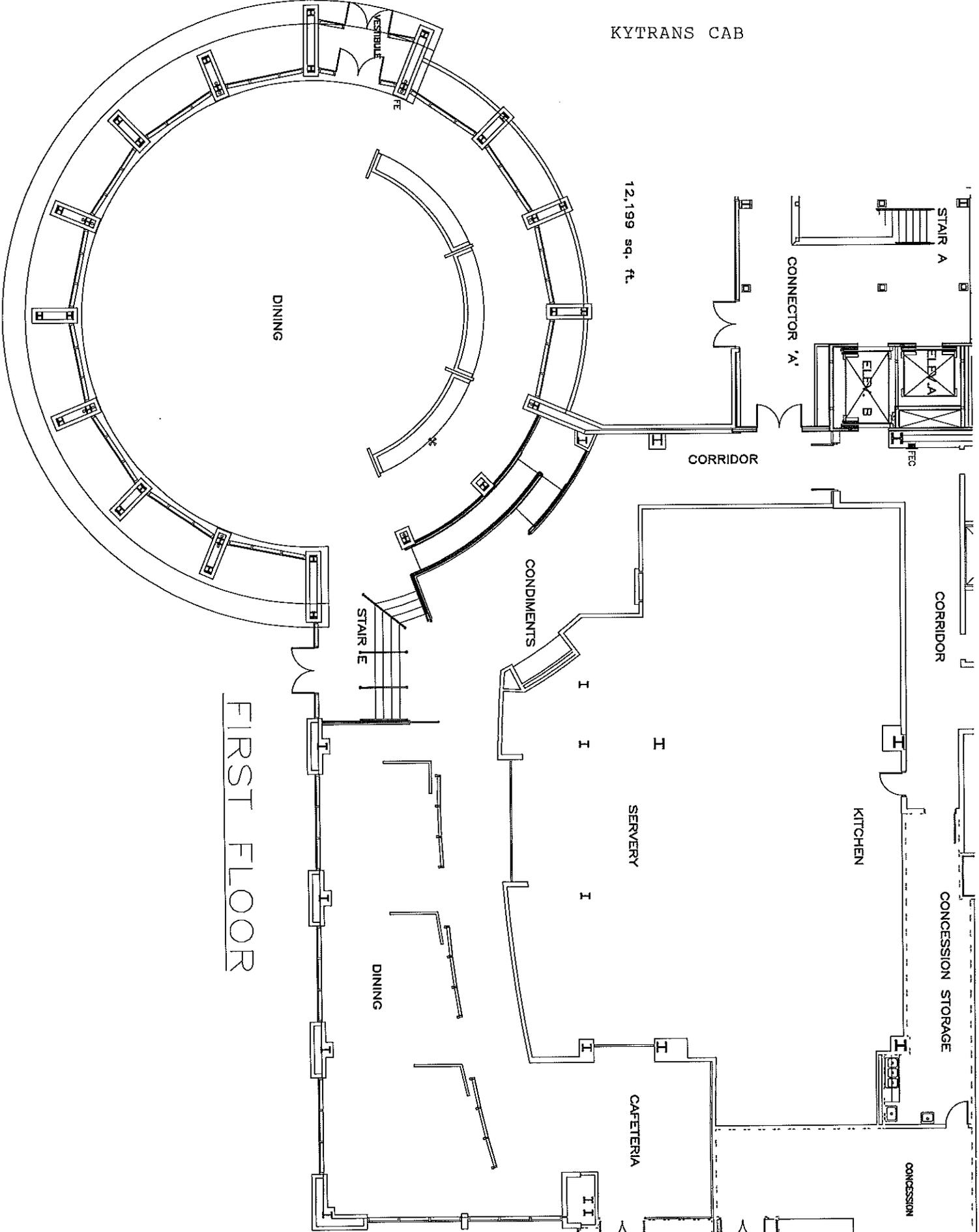
EXHIBIT K

CAPITOL ANNEX



KYTRANS CAB

12,199 sq. ft.



FIRST FLOOR

CHFS BLDG.

