

**JOHNSON COUNTY LIBRARY**

**Board Report  
March 14, 2024**

## AGENDA

JOHNSON COUNTY LIBRARY BOARD OF DIRECTORS  
REGULAR MEETING, MARCH 14, 2024  
CENTRAL RESOURCE LIBRARY  
**Conference Room Number 20**  
9875 W 87th St Overland Park, KS 66212  
4:00 p.m.

The public can view the broadcast of the meeting on the Johnson County Library [YouTube Channel](#). for a live feed or later when the video is posted to the Library's website.

If you have information or comments related to any item on our agenda that you would like to have presented to the Library Board, we encourage you to submit that information in writing. If you wish to submit information, please email comments or statements to [kangethep@jocolibrary.org](mailto:kangethep@jocolibrary.org) before noon on the Wednesday before the Thursday Library Board meeting. Comments received by noon will be shared with the entire Board and be made part of the record prior to the meeting.

I. Call to Order	
II. Citizen Comments .....	4
III. Remarks	
A. Members of the Johnson County Library Board of Directors	
B. Board Chair, Bethany Griffith	
C. Development Department: Written reports presented by Shanta Dickerson, Executive Director of the Friends of the Johnson County Library .....	7
D. Liaison, Board of County Commissioners, Janeé Hanzlick	
IV. Reports	
A. Board Counsel – Andrew Logan and Fred Logan	
1. Review addition of policies to address Public Social Media Commenting and limited public forum.	
2. Review Library Board's role within advocacy.	
B. County Librarian Report – Tricia Suellentrop, County Librarian	
1. Finances and Statistics	
a) Financial Report, Dave Vratny, Finance Director.....	10
i. 2024 Budget Calendar .....	15
b) IT Trends and Statistics, Michelle Beesley, IT Manager .....	17
2. Comprehensive Library Master Plan – Megan Clark, Project Coordinator	
a) Merriam Plaza Library .....	20
i. Fixtures and Furniture, Lisa Davis, Facilities Project Manager III .....	24
b) Lackman Building Sale .....	31
c) Capital Projects: Timeline Summary .....	36
3. Updates – Tricia Suellentrop, County Librarian	
a) Prairie Village Citizens Engagement and Online Survey Report, Elissa Andre, Marketing & Communications Manager .....	39
b) Joint Board Meeting, Tricia Suellentrop, County Librarian	
V. Consent Agenda	
A. Action Items:	
1. Minutes of the February 8, 2024 Regular Library Board meeting.....	42

B. Information Items

1. Financial and Personnel

- a) The County Librarian and the Finance Director certify those payment vouchers and personnel authorizations for January 2024 were handled in accordance with library and County policy.
- b) The January 2024 Revenue and Expenditure reports produced from the County’s financial system reflect the Library’s revenues and expenditures

C. Gift Fund Report

- 1. Treasurer’s Report .....54

VI. Old Business

- A. Information Item: Update to ARM 20-10-90 Fee Schedule to Reflect Addition of Remote/Cloud Printing Service, Michelle Beesley, IT Manager.....55
- B. Action Item: ARM 20-10-40 Social Media Commenting, Ben Sunds, Associate Director for Customer Service and Elissa Andre, Marketing and Communication Manager .....79
- C. Action Item: Consideration for contract for west wall work at Central Resource, Kyle Heltne, Division Director of Planning Design Construction, and David Vratny, Finance Director .....90

VII.

New Business

- A. Informational Item: Proposed 2025 Budget, Dave Vratny, Finance Director..... 130

VIII. Adjournment

# CITIZEN COMMENTS

March 2024

February 7, 2024

I was recently at cedar roe library and I was required to add my middle name to my library information. As a victim of identity theft, I give as little information as possible. I sent this to the manager:

Hello Anna,

I was just at Cedar Roe and required to give/add my middle name. The library information is not very well secured. I have not seen the same person at any library desk twice. I do not want to provide any PCC data to the library. I'm sure the library does not want any liability for a data breach. I have been a victim of identity theft and know how difficult resolving the issues can be.

At this point, I will return the item I have out, and request my information be removed from the library system. I'm going to need proof, being inactivated will not be enough, deleting is necessary. My next step will be to contact my state representatives and request legislation in Kansas to protect residents private information.

In addition, I will not vote in favor of any additional funding for the library, nor will I donate any additional money to the library. I am sorry, that the libraries disregard of personal information is has caused me to remove my support of the library.

Sincerely,  
Cathy Stevens

I have since had the library delete my information. I will no longer donate to the library or vote for any additional funding. What happened to me does not seem to align with the stated values.



February 8, 2024

Thank you Anna van Ophem, for defending human rights (Free Speech) tonight. I applaud you.

I'm watching the meeting live, right now. And I am appalled that Fred would recommend involving the government in limiting the speech of a free people.

What is "Abusive and Obscene", is for the constitution to be regarded so frivolously, by an institution devoted to sharing knowledge and encouraging dialogue. It is shameful that this would even make it onto the agenda and I am disappointed as a constituent, resident, and taxpayer.

The government may not base its decisions on the CONTENT of speech. Full Stop.

# CITIZEN COMMENTS

March 2024

That is the supreme court's current interpretation of the constitution.

Time, Place, and Manor, is all that the court permits government to interfere with. And even that doesn't mean it's moral to restrict Time, Place, or Manor-- Just that you won't be sued for it.

Whether someone can appeal their message being delete or not, is irrelevant. The moment the government has engaged in behavior or words to subvert speech, based on the content of the speech, it has violated law, constitution, and human rights. And it's just dishonest to think someone will notice and make an appeal when they have been censored.

As annoying as it may be to staff or the board, it is really not even relevant if a public comment on Facebook is "on topic". It's a 'public forum'. Evaluating a citizen's speech to pass judgement on "relevance" is disgusting, constitutionally.



February 15, 2024

Now that there are no fines for late returns of material, those of us who always return our materials on time are penalized by those who have no consequences and keep materials beyond the return date. Now I am waiting indefinitely for material I place on hold and have no idea when it will be ready for me. This is a disservice to compliant users.



February 18, 2024

Dear JOCO Library Board,  
I have been a resident and patron of the JOCO Library since the early 1960s, the Corinth branch mostly. I've used the MakerSpace since it opened, even though I'm in my late 60s.

It is undeniable that things have been improving continuously. In fact, 2024 has been the best year so far. The staff is now more knowledgeable than ever before and extremely supportive towards the patrons. They are also very helpful in assisting the customers. Several years ago, I used to dread going in because the Makers were very competent, but not very friendly unless you already knew what you were doing. That trend has completely died off.

The rave reviews are what I hear again and again now. I don't know if you all on the Board know what a jewel you have and how you must guard/protect it with everything you can. I'm positive there are competing factors for budget dollars, and it is hard for you to keep the Makerspace. Hang in there and keep it on the upward trajectory. Olathe Library may have its Makerspace, which is bigger and offers more classes, but ours is still very good. Don't let anyone tell you otherwise. Plus, now the JOCO County Museum is offering Maker Classes, which should help build even more interest in this kind of

# CITIZEN COMMENTS

March 2024

creative work and thinking. It's very synergetic. I can only hope all three entities work together for the benefit of the citizens and to maximize how the budgets can stretch as far as possible.

Being a public figure is hard. I say on this topic, you're doing A+ work.

Sincerely,  
Marsha Ratzel



Monthly Report  
of the Friends of Johnson County Library  
to the Board of Directors of Johnson County Library  
March 2024

**New Board Members**

At the February 13 regular meeting of the Board of Directors, two new board members were elected, thus filling all twelve seats. Please welcome:

- Emily Null Miller (she/her) – A resident of Overland Park and Johnson County District 3, Emily works for LLH Recruitment Solutions as an executive recruiter for legal & compliance expertise. She earned her Juris Doctor from UMKC School of Law in 2010. Emily also has a “side hustle” as a skilled baker and designer, operating as Emily’s Oven, LLC. She will serve on our Community Engagement & Advocacy Committee.
- Tyler Reese (he/him) – A resident of Lenexa and Johnson County District 2, Tyler works for CBIZ, Inc. as corporate counsel. He earned his Juris Doctor from KU School of Law in 2017. Tyler is an avid traveler, and recently returned to the Kansas City metro area from Denver to be closer to family. He will join Emily on our Community Engagement & Advocacy Committee.

**Community Engagement & Advocacy**

As you may recall from last month’s report – we are investing much of our time and energy into expanding community awareness of our organization as the advocacy support arm of Johnson County Library. Friends representatives have attended all 2024 Legislative Coffee sessions held by JCL and League of Women Voters of Johnson County. These events are a great way to find out what’s happening in Topeka and to learn about the concerns that are weighing heaviest on the minds of constituents.

I attended a short notice hearing for House Bill 2700, introduced by Representative Adam Thomas, Chair of the Education Committee. This bill would create a school library rating system task force required to develop and implement a rating system for school library materials. Our nearly 1,000 dues-paying members were alerted, and a wave of responses were delivered to the members of the Education Committee as well as state legislators across Johnson County. Representative Linda Featherston reported receiving more than 100 emails in opposition to the bill, and none of the thirteen individuals who delivered testimony were proponents as of the time of the hearing.

We are now monitoring Senate Bill 531, which would “create a civil cause of action against schools that give or make available harmful material to minors and remove the affirmative defense to promotion to minors of harmful material to minors for public and nonpublic schools.” While the bill currently targets schools and school librarians, we know that bills such as these can easily be adapted to include non-school libraries and librarians with the swipe of a pen.

Shanta Dickerson (she/her)

Executive Director

**Libraries for all. All for libraries.**



Monthly Report of the  
Volunteer & Friends Engagement Coordinator to the  
Board of Directors of Johnson County Library  
March 2024

### **Volunteer Appreciation Planning**

Although national volunteer appreciation week is April 21-27, a committee of volunteers and the staff are working on recognition throughout the year. In February, each onsite weekly volunteer received an old school valentine and chocolate candy. Special activities during the month of April will include a volunteer book recommendation list and display, recognition for teens who have earned the annual Presidential Service Awards, a proclamation from the Board of County Commissioners, and much more. The theme for this year's volunteer appreciation week is "The Library – The Most Dangerous Place to Volunteer for a Book Lover." Please mark your calendars for Friday, April 26<sup>th</sup> to join us at the Central Resource Library in Carmack for the annual volunteer appreciation luncheon at 11:30 am.

### **Friends Membership Committee**

Amber Bourek Slater has been working with the Friends Membership Committee to expand their membership reach. In January and February, the Membership Committee hosted two focus groups where members shared great feedback on their experiences, expectations, and how we might be able to grow. To reengage former members, an email campaign was created for Leap Day to encourage people to renew their membership. The Membership Committee is also growing by adding non-board members and teen volunteers to help us expand our reach.

### **Friends Database Update**

Bloomerang has completed Friends membership data migration to the new database. The next step verification everything has transferred and database clean-up. Amber and Chris Hickam, the Friends Online Sales and Office Manager, have begun training to learn how to use the new software for membership as well as email communication tool.



Monthly report of the  
Johnson County Library Foundation to the  
Board of Directors of the Johnson County Library  
March 2024

### Calendar Reminders

- **Matt Stewart**, from Fox 4, and Curt Nelson, from the Kansas City Royals Hall of Fame, will be at the Lenexa City Center Library on Thursday, March 21<sup>st</sup> to discuss Matt's new book on the Royals. The event starts at 6:30 pm. It is free and open to the public.
- **Save the date:** Wednesday, April 17<sup>th</sup> at 6:30 pm is the 1952 Society event with author Matt Eicheldinger. You won't want to miss Matt and his funny stories that have become very popular on Instagram. Invitations will be out soon. This is a wonderful way to meet library supporters, and volunteers. Thank you to library volunteer extraordinaire, Caroline McKnight, who has been working behind the scenes to make this event happen.

### Sponsors for Library Lets Loose

The development department is in the midst of confirming corporate sponsors for Library Lets Loose 2024. As the event is growing it is becoming year-round work. Event coordinator Steph Neu and her event co-chair volunteers have been meeting with current and potential new sponsors to get the word out. If you have any ideas, please let us know.

A big thank you to Menorah Medical Center, Creative Planning, and Kansas Gas Service, who have already signed up to sponsor the 2024 Library Lets Loose. We appreciate your commitment to our community and libraries.

### Tri Board Meeting

A staff planning committee met last month to discuss when to host the next Tri Board meeting. We are looking at Fall 2024 or in 2025. In the meantime, we will be inviting all three boards to various library, development, and Friends events. We want to encourage members of all three boards to attend when able and wear your name tags. Please introduce yourself to the members of the other boards. The more we get to know each other, the more we are one community.

**JOHNSON COUNTY LIBRARY: Summary of Expenditures by Cost Category (.75 Increase Only)**  
**January 2024**  
**8% of Year Lapsed**

**OPERATING FUND**

	<b>2024</b>	<b>Budget</b>
<b>Programs</b>		
Revenue		5,054,089
Administrative Services		
Information Technology		
Collection Development		
Branch/Systemwide Services		241,881
Transfer to Capital Projects		
Interfund Transfers		
<b>TOTAL OPERATING FUND EXPENDITURES</b>		<b><u>\$241,881</u></b>
<b>TOTAL .75 INCREASE FUNDS REMAINING OPERATING</b>		<b><u><u>\$4,812,208</u></u></b>

**SPECIAL USE FUND**

	<b>2024</b>	<b>Budget</b>
Revenue:		2,920,125
Expenses:		
Contractual Services (General Maintenance)		
Commodities (Capital Equipment)		32,215
Transfer to Debt Payment		
Transfer to Debt Payment - CLMP		
Transfer to Capital Projects		
<b>TOTAL SPECIAL USE FUND EXPENDITURES</b>		<b><u>\$32,215</u></b>
<b>TOTAL .75 INCREASE FUNDS REMAINING SPECIAL USE</b>		<b><u><u>\$2,887,910</u></u></b>
<b>TOTAL .75 INCREASE FUNDS REMAINING ALL FUNDS</b>		<b><u><u>\$7,700,118</u></u></b>

# JOHNSON COUNTY LIBRARY TOTAL REVENUE REPORT

January 2024  
8% of Year Lapsed

REVENUE ALL FUNDS	2024 Year to Date	2024 Budget	% Budget Year to Date	% Budget YTD Prior Year
Ad Valorem	24,839,202	45,612,939	54%	55%
Ad Valorem Delinquent	46,418	151,009	31%	-38%
Motor Vehicle	640,052	3,387,672	19%	18%
Library Generated - Copying/Printing	6,901	108,206	6%	6%
Library Generated - Overdues / Fees	4,733	38,000	12%	5%
Sale of Library Books	0	50,000	0%	0%
Misc Other	100	18,703	1%	1%
Reimbursements	88,618	740,000	12%	0%
Library Generated - Other Charges	0	0	0%	0%
Investment	292,277	825,000	35%	33%
Unencumbered Balance Forward	0	6,499,696	0%	0%
Transfer from Capital Projects	0	0	0%	0%
Recreational Vehicle Tax	7,619	16,922	45%	42%
Commercial Vehicle Tax	10,512	63,117	17%	24%
Heavy Trucks Tax	2,997	4,733	63%	45%
Rental Excise Tax	29,046	66,002	44%	70%
Payment in Lieu of Taxes	195,795	0	0%	0%
State and Federal Grants	0	273,607	0%	0%
<b>TOTAL REVENUE</b>	<b>26,164,271</b>	<b>57,855,606</b>	<b>45%</b>	<b>49%</b>

**Expenses ALL FUNDS with Collection  
Encumbrance**

Categories	2024 Year to Date	2024 Budget	% Categories Expended
Salaries and Benefits	1,835,848	27,178,537	7%
Contractual Services	1,324,364	7,374,266	18%
Commodities	4,671,114	5,295,453	88%
Risk Management Charges	0	266,103	0%
Capital / Maintenance / Repair	0	10,399,696	0%
Transfer to Capital Projects	0	3,640,620	0%
Grants	0	273,607	0%
Interfund Transfer	0	3,427,324	0%
<b>TOTAL EXPENDITURES</b>	<b>7,831,326</b>	<b>57,855,606</b>	<b>14%</b>

Revenue - Expenses as of January 31, 2024 18,332,945

RESERVES ALL FUNDS	As of 12/31/22
Reserves Operating Fund	17,438,848
Reserves Special Use Fund	2,464,433
<b>Total JCL Reserves</b>	<u><u>19,903,281</u></u>

**JOHNSON COUNTY LIBRARY: Summary of Expenditures by Cost Category**  
**January 2024**  
**8% Year Lapsed**

<b>OPERATING FUND</b>	<b>2024</b>	<b>2024</b>	<b>% Program</b>
<b>Programs</b>	<b>Year to Date</b>	<b>Budget</b>	<b>Expended</b>
Administrative Services	428,923	7,406,324	6%
Information Technology	699,547	4,906,803	14%
Collection Development	279	4,063,002	0%
Branch/Systemwide Services	1,710,935	23,259,611	7%
Risk Management Charges	0	266,103	0%
Grants *	0	273,607	0%
Transfer to Capital Projects	0	10,399,696	0%
Interfund Transfer	0	3,360,335	0%
<b>TOTAL OPERATING FUND EXPENDITURES</b>	<b>2,839,685</b>	<b>53,935,481</b>	<b>5%</b>

<b>SPECIAL USE FUND</b>	<b>2024</b>	<b>2024</b>	<b>% Budget</b>
	<b>Year to Date</b>	<b>Budget</b>	<b>Expended</b>
Contractual Services (General Maintenance)	0	152,505	0%
Commodities (Capital Equipment)	32,215	127,000	25%
Transfer to Debt Payment	0	0	0%
Transfer to Capital Projects	0	3,640,620	0%
<b>TOTAL SPECIAL USE FUND EXPENDITURES</b>	<b>32,215</b>	<b>3,920,125</b>	<b>1%</b>

<b>TOTAL EXPENDITURES</b>	<b>2,871,900</b>	<b>57,855,606</b>	<b>5%</b>
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**JOHNSON COUNTY LIBRARY: Summary of Expenditures by Type**  
**January 2024**  
**8% Year Lapsed**

<b>ALL FUNDS</b>	<b>2024</b>	<b>2024</b>	<b>% Categories</b>
<b>Categories</b>	<b>Year to Date</b>	<b>Budget</b>	<b>Expended</b>
Salaries and Benefits	1,835,849	27,178,537	7%
Contractual Services	866,855	7,374,266	12%
Commodities	169,196	5,295,453	3%
Risk Management Charges	0	266,103	0%
Capital / Maintenance / Repair	0	10,399,696	0%
Transfer to Debt Payment	0	0	0%
Transfer to PBC Capital Leases	0	3,640,620	0%
Grants	0	273,607	0%
Interfund Transfer	0	3,427,324	0%
<b>TOTAL EXPENDITURES</b>	<b>2,871,900</b>	<b>57,855,606</b>	<b>5%</b>

GRANTS*	Expenditures through 01/31/2024	Source	Received	Expenditures	Grant Award	Budget Remaining
285000091	2023-State Aid	State	3/29/2023	\$132,233.29	\$132,568.53	\$335.24

\*Includes all expenditures and revenues over the life of the grant.

# Expenditure of Friends of the JCL Donations 2024

<i>Expenditure Details</i>	<i>January</i>	<i>YTD</i>
Volunteer Recognition	\$0.00	\$0.00
Advertising/Promotion	0.00	0.00
Collection Materials	0.00	0.00
Professional Development/Staff Recognition	0.00	0.00
Technology/Recruitment Consulting & Expenses	0.00	0.00
Strategic Planning meeting supplies	0.00	0.00
GEM Award/Staff Recognition	0.00	0.00
Homework Help and Tutor.com	0.00	0.00
Summer Reading Club/Elementia	0.00	0.00
Other Library Programming	0.00	0.00
MidAmerica Regional Council	0.00	0.00
Joint Board Meeting Expense	0.00	0.00
Board Travel Expenses	0.00	0.00
Board Retreat Expenses	0.00	0.00
Miscellaneous	0.00	0.00
<b>Total Expenditures</b>	<b>\$ -</b>	<b>\$ -</b>

# Johnson County Library Budget Calendar Key Dates for Library Board 2024

March 2024

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JOHNSON COUNTY LIBRARY

# JCL Budget Process Timeline

- OCT/NOV/DEC 2023 and JAN 2024 - Library Budget Committee Meetings to Plan 2025 Budget and Review Multi-Year Financial Forecast
- JAN JCL Board - Informational Item - 2025-2029 Capital Improvement Plan (CIP)
- FEB JCL Board - Informational Item - 2025 Personnel Requests and CIP Approval
- APR JCL Board - 2025 Library Budget Proposal - Action Item for Approval
- APR/MAY - Library Budget Committee Receiving the “Balanced Budget” Summary
- MAY/JUN - 2025 Library Budget Presentation to Board of County Commissioners
- AUG - BOCC Budget Public Hearing & Adopting Neutral Rate Resolutions for 2025
- SEP - BOCC Adopt 2025 Budget Resolution & Library Board Adopts Neutral Rate Resolution for 2025
- OCT/NOV/DEC 2024 - Library Budget Committee Meetings to Plan 2026 Budget and Review Multi-Year Financial Forecast



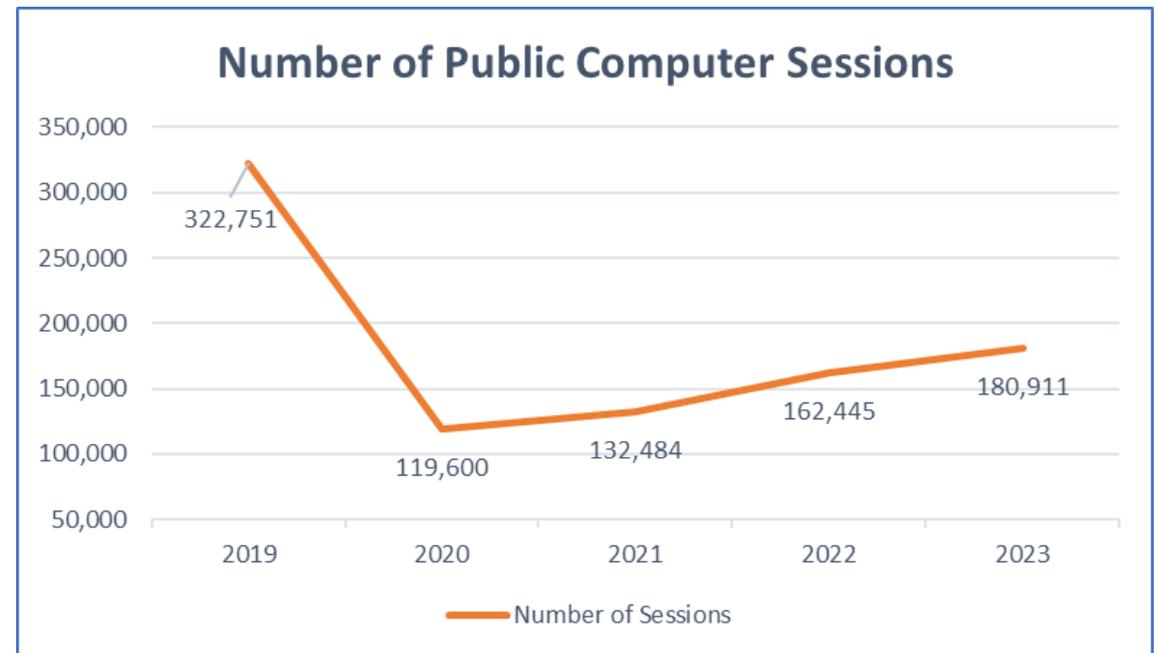
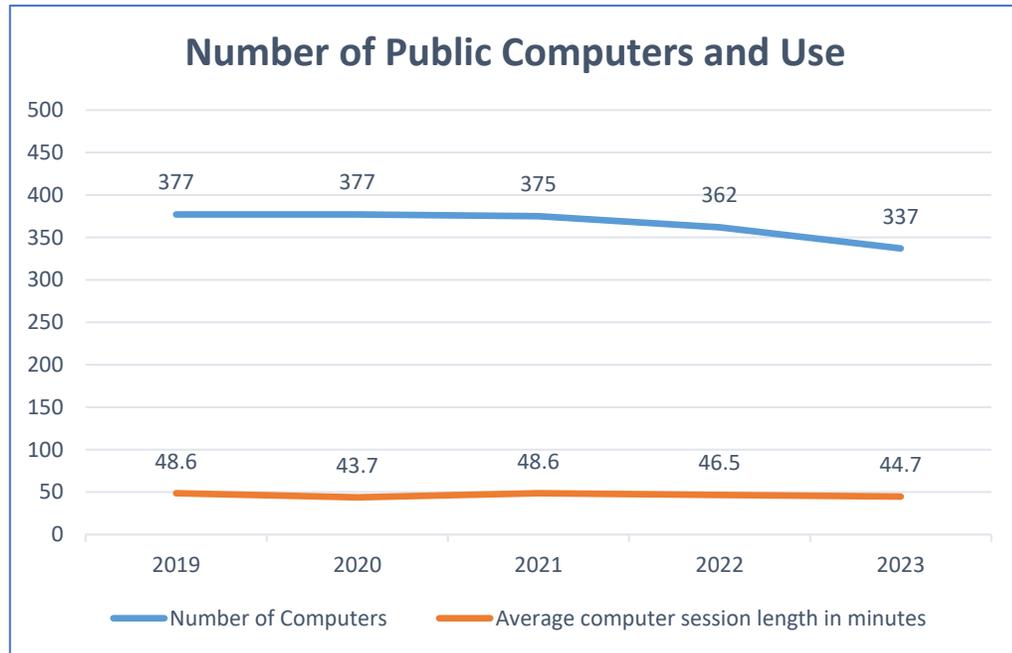
# Information Technology Trends

March 2024

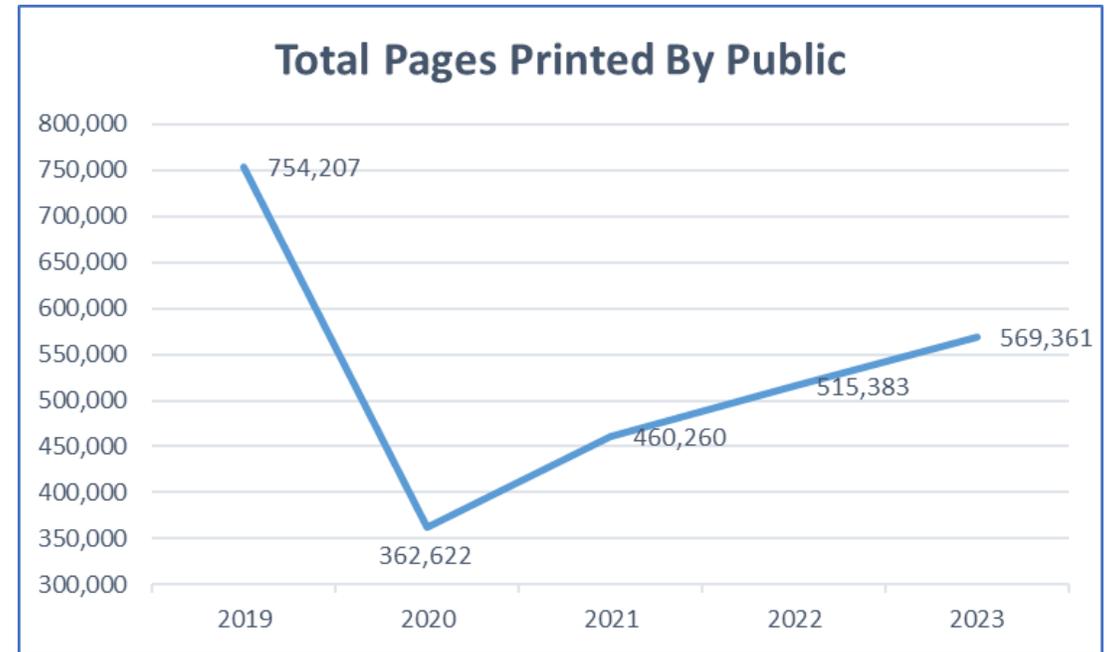
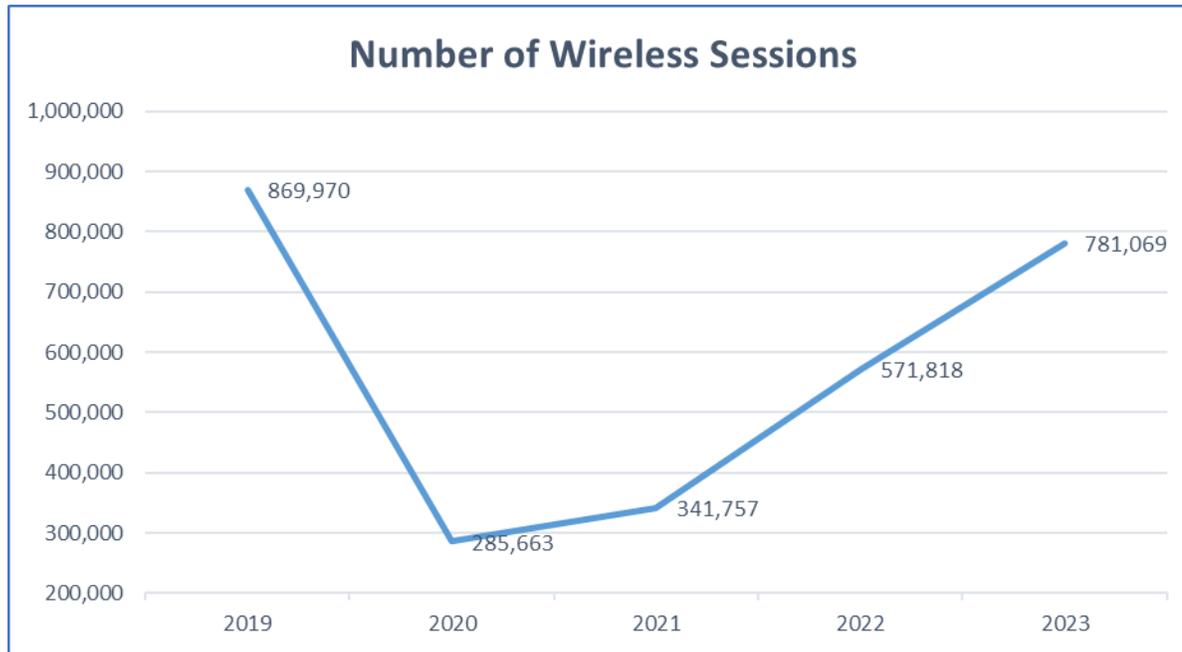
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JOHNSON COUNTY LIBRARY

# Information Technology



# Information Technology



# Merriam Plaza Library

March 2024



# Updates

- Antioch Library closure
- Next steps
- Timeline

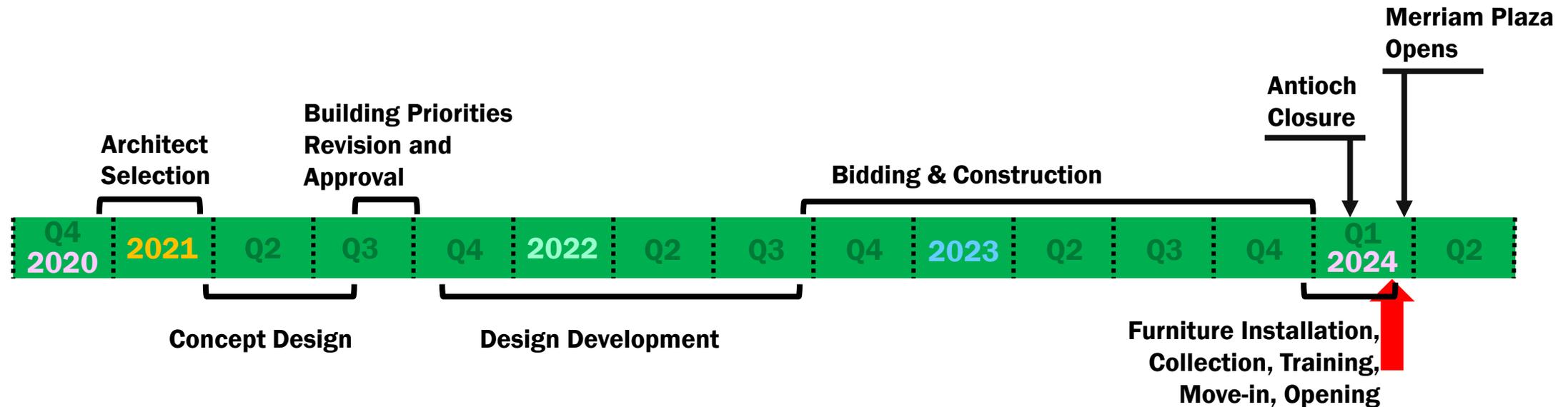


# Next Steps

- Continuing relationship development with campus leadership
- Ribbon Cutting on Wed, 3/20 at 9am
- Project team updates – Lisa Davis, Interiors Project Manager at County Facilities



# Merriam Plaza Library: Updated Anticipated Project Timeline



# Merriam Plaza Fixtures & Furniture

March 2024

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JOHNSON COUNTY LIBRARY

# Merriam Plaza- Fixtures & Furniture

**LIBRARY PARTNERS** 

- IT
- Finance
- Administration
- Branch Managers
- Materials Handling
- Program Operations

**PROJECT LEAD** 

Lisa Davis, Facilities Management

**VENDORS** 

Term & Supply Furniture Dealers  
Daniel's Moving and Storage, Inc.  
Southwest Solutions Group, Inc.

**PROJECT MANAGEMENT** 

Juan Lopez-Tamez  
Scott Sime & Megan Clark

**CONTRACTOR** 

Titan Built



# Fixtures & Furniture Design: Tasks

- **Determine Needs of Staff and Patrons**
  - Support back of house operations
  - Offer patrons solutions for their needs
- **Coordinate with library staff and contractor**
  - Ensure furniture aligns with building systems
  - Align with IT devices
- **Specifications & Procurement**
  - Utilize County Wide Term & Supply Contracts
- **Installations**
  - Coordinate with contractor and staff
  - On site solutions with IT
  - Assist in Antioch move
  - Manage punch lists



# Project Phases

Information Gathering

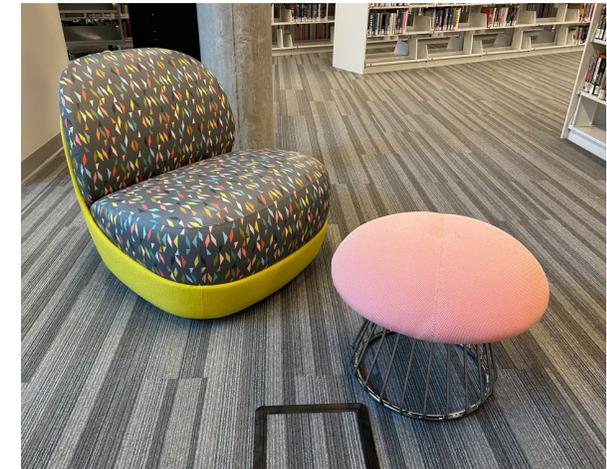
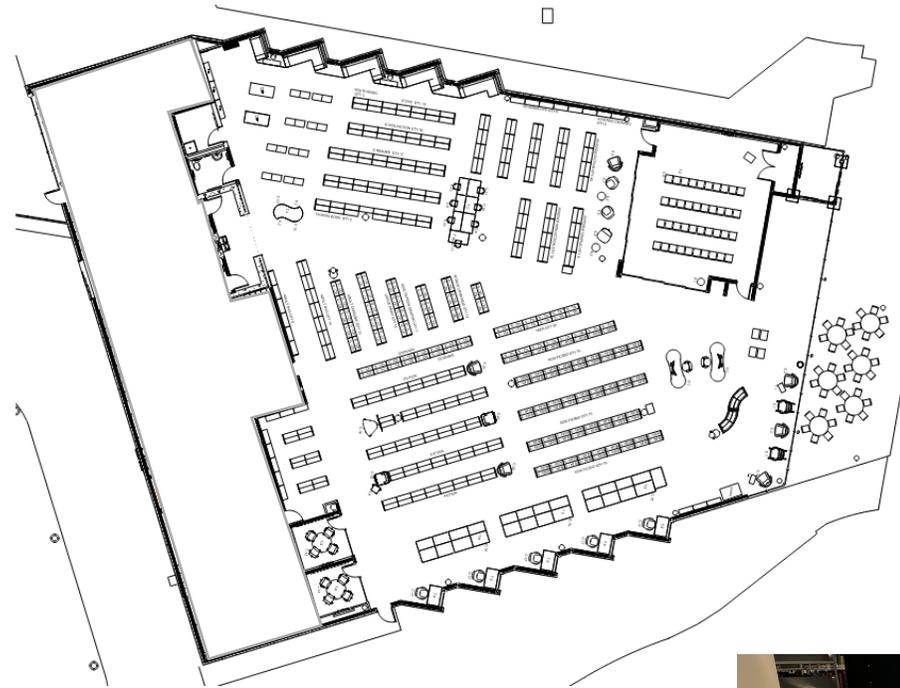
Design for both staff and patrons

Review & Revisions

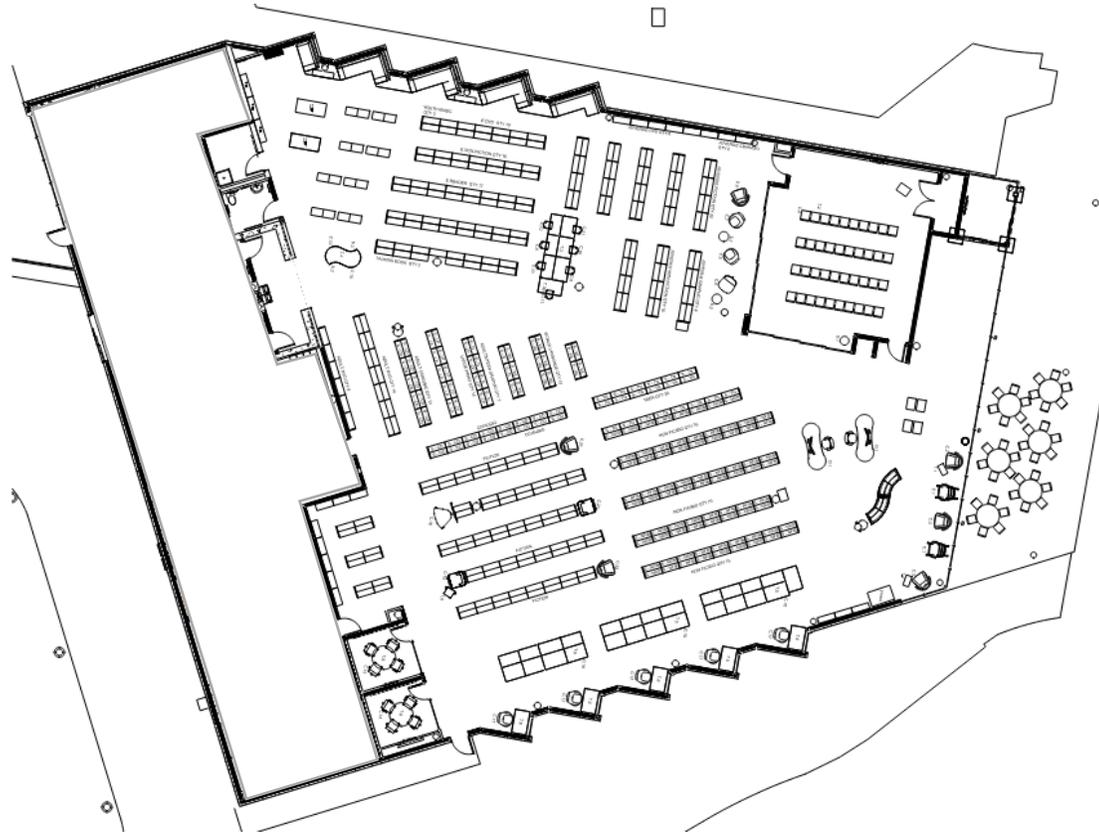
Procurement

Move Collection & Install

Installation at Merriam Plaza



# Overall Plan & Design

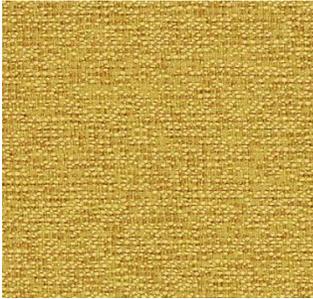


## Design for:

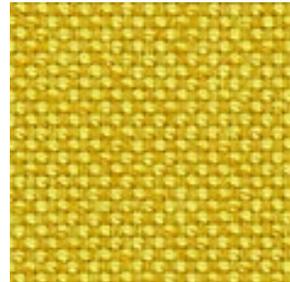
- youth and aging population
- high traffic wear and tear
- cleanability
- accessibility
- modern aesthetic
- functionality
- operations



# Meeting Spaces



# Children Spaces



# Lackman Building Sale

March 2024



# Updates

- Marketing Campaign
- Showings
- Next Steps



# Marketing Campaign

- Creation of Marketing Brochure
- Listing on Campaign Logic, Costar, Loopnet, and Crexita listing services
- Targeting existing interest and appropriate local, regional, and national brokerage and development communities
- Very responsive to pre-marketing interest so far



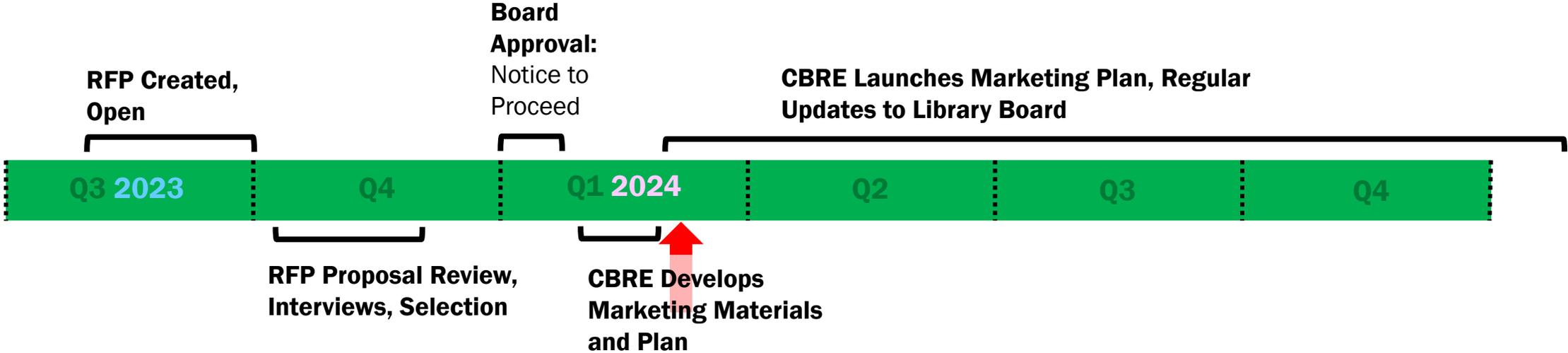
# Next Steps

- Monthly updates at Board meetings
- Executive Session at April Board meeting
- Marketing, showings continue



# Lackman Building Sale:

## Anticipated Project Timeline

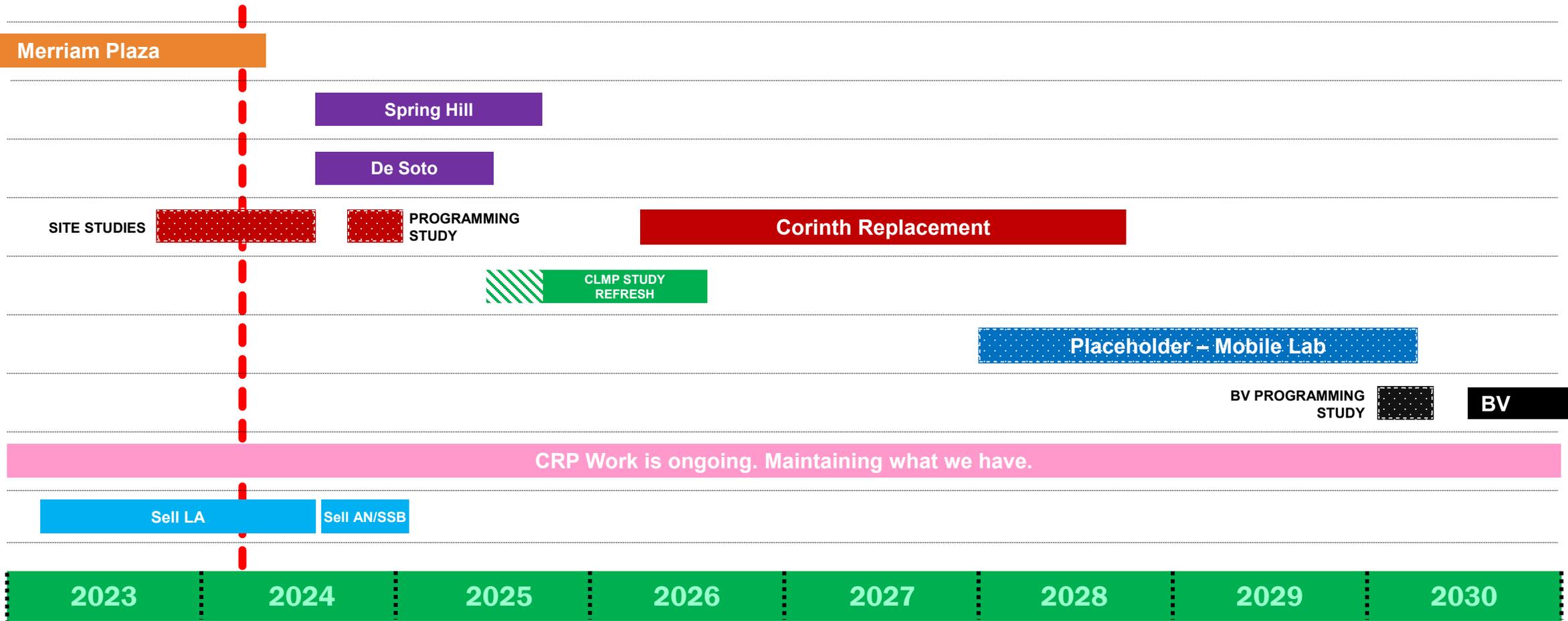


# Capital Projects: Timeline Summary

March 2024



# Capital Improvement Projects: Anticipated Timeline

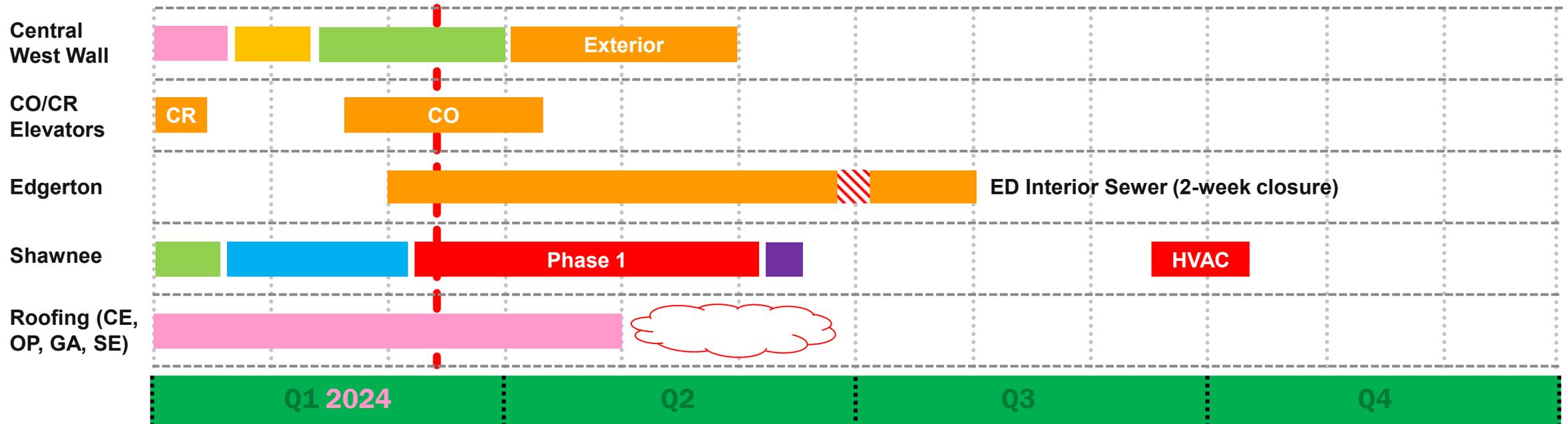


This visual is shown as an illustration with anticipated dates and may change.



# 2024 CRP Anticipated Timeline

- Proposals / Design
- Bidding
- Contracts / Board Action
- Product / Material Submittals / Lead Time
- Building Closure
- FAC Activity / No Closure
- Substantial Completion / Move-in / Punch List Completion



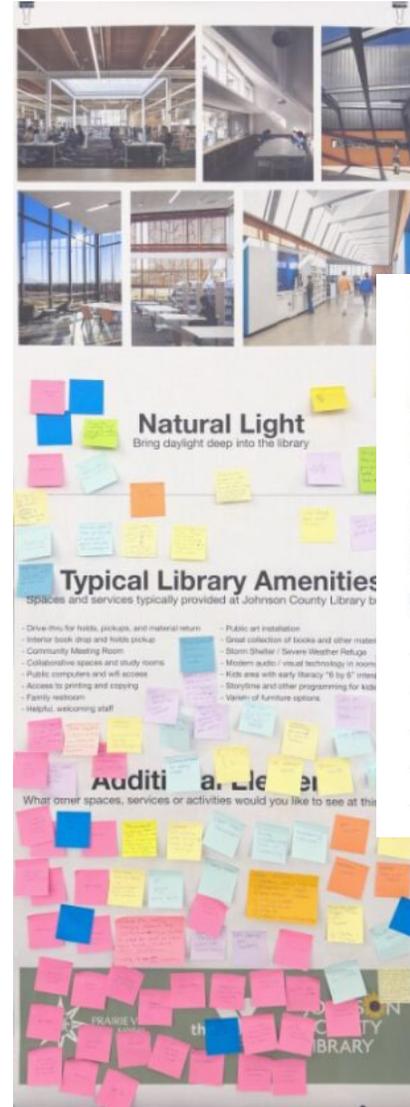
This visual is shown as an illustration with anticipated dates and may change.



# Prairie Village Conceptual Study Update

## Part 1 Summary:

- In-Person Meeting:
  - January 25, 2024 @ Meadowbrook Park Clubhouse
  - Promoted in-person and online through email and web.
  - 300+ attendees
  - Video, reaction boards + paper questionnaires
- Online Option:
  - Open Jan. 28-Feb 9, 2024 on PVKansas.com.
  - Promoted in-person and online through email and web.
  - 1,058 respondents
  - Video, reaction boards as images, open-ended questionnaire



### Prairie Village Community Center Campus PUBLIC MEETING

Feedback Form  
Meeting Date: \_\_\_\_\_

#### YOUR FEEDBACK IS IMPORTANT!

1. How did you hear about this public meeting?  
(check all that apply)

- Email from project team
- YMCA website/newsletter
- PV website/newsletter
- Library website/newsletter
- Neighborhood/Community group
- Other \_\_\_\_\_

- Facebook
- Instagram
- Twitter
- Word of mouth
- Other \_\_\_\_\_

2. How do you want to receive public meeting notices?  
(check all that apply)

- Email from project team
- YMCA website/newsletter
- PV website/newsletter
- Library website/newsletter
- Neighborhood/Community group
- Other \_\_\_\_\_
- Facebook
- Instagram
- Twitter
- Word of mouth
- Other \_\_\_\_\_

#### FEEDBACK:

*Totally on board with either option. Would like high priority to energy & water efficiency and a pollinator friendly landscape*



# Prairie Village Conceptual Study Update

## Themes:

- Corinth Library
  - Excitement for an updated library with modern amenities and conveniences.
  - Concerns about true need and cost.
- Community Campus concept
  - Excitement for convenience/efficiency of co-located facilities and opportunities for shared spaces.
  - Concerns about cost and financial impact, traffic congestion, and parking availability.

already think anything tools equipment PV work fine separate Looks great currently coffee suggestions large taxes music plenty S children s community new library covered updated classes art list place book clubs keep reading everything current make also sound great see 3d printer building Outdoor space meet groups maker space add think N kids many area community center library public None technology space less need children books Quiet use Corinth Library room meeting space current library looks good great meeting room Coffee shop go services good etc computers want old Looks open Nothing site love study rooms need new library sounds good time amenities activities outside small Makerspace ONE research nice necessary Please wonderful project space community Well kids section Teen programming



# Prairie Village Conceptual Study Update

## Future Feedback Opportunities:

- Meeting #2 – Thursday, April 4, 4-7p.m. @ Meadowbrook Park
  - To present conceptual designs that respond to community input.
  - Communication focused on increasing diversity of attendees and clarity on Library funding/timeline.
- Meeting #3 – Thursday, June 20, 4-7p.m. @ Meadowbrook Park
  - Agenda TBD



**MINUTES JOHNSON COUNTY LIBRARY BOARD  
REGULAR MEETING**

February 14, 2024  
at Central Resource Library  
4:00 p.m.

**BOARD:** Bethany Griffith, Kelly Kilgore, David Sims, Anna Van Ophem, Charles McAllister and Mitra Templin.

**ABSENT:** Jeffrey Mendoza.

**BOARD ATTORNEY:** Fred Logan and Andrew Logan.

**BOCC:** Commissioner Hanzlick was unable to attend the meeting.

**STAFF:** (All JCL, FAC staff) Tricia Suellentrop, Adam Wathen, David Vratny, Jennifer Mahnken, Ben Sunds, Shelley O'Brien, Elissa Andre, Patti Kangethe, Scott Sime, Megan Clark, Lacie Griffin, Shanta Dickerson, Michelle Beesley, Elizabeth Holzschuh, Dennis Kriesel, Terry Pulliam, Rose York, Kate McNair, Shannon Goebel, and Melanie Fuemmeler.

Board Chair Bethany Griffith called the meeting to order at 4:00 p.m.

**CITIZENS COMMENTS:**

Charlotte O'Hara, expressed concern about tax burdens on citizens and suggest reallocating the funds to reduce the mill levy in the 2025 budget, urged the Board to reconsider spending \$4 million on the Spring Hill library expansion and \$2 million on the De Soto project due to rapid growth in these communities.

**REMARKS FROM THE LIBRARY BOARD OF DIRECTORS:**

Ms. Templin remarked that Cindy Holscher introduced legislation in the Kansas senate to put requirements on requests for book banning and she requested staff to look into the bill. If staff support the bill, she requested that the library put support behind the legislation. County Librarian Suellentrop shared that the library had staff at legislative day, know of that bill, and have not had an opportunity to do a deep dive on that bill.

Board Chair Griffith conveyed that Mr. Mendoza would be joining via Zoom if able, he is delayed from a commitment at work.

Board Chair Griffith requested volunteers for the Nomination Committee to nominate the slate of officers for the JCL 2024-2025 Board. Anna Van Ophem and Kelly Kilgore volunteered. Board Chair Griffith requested that executive assistant, Patti, send communication to the entire board to describe offices and convey the time commitments, as well as determine interest.

**DEVELOPMENT DEPARTMENT REPORT**

Shelley O'Brien, Development Director, presented on behalf of the Development Department combining the Friends of the Johnson County Library, the Johnson County Foundation, and the Johnson County Library Volunteers.

Ms. O'Brien announced changes for the upcoming 1952 Society event, moving it to a Wednesday evening to avoid weather competition and the host guest speaker Matt Eicheldinger, a middle school teacher turned famous Instagram author, sharing stories of grit and resilience. She highlighted 2023 volunteer statistics and efforts to increase membership and their visit to Legislative Day, expressing appreciation to Senator Holscher for her bill opposing book bans, despite low expectations for its progress. She encouraged communication with legislators in support of the bill.

Ms. Templin urged that if the library agrees with the legislation, then the library should come out with official statement.

#### **COUNTY COMMISSIONER REPORT:**

Commissioner Hanzlick was unable to attend this meeting.

#### **BOARD COUNSEL REPORT**

Mr. Fred Logan, Board co-counsel, reviewed addition of policies to address Public Social Media Commenting and limited public forum and review Kansas Open Records Act.

Mr. Logan reviewed social media commenting policy, emphasizing the need for a limited public forum to manage inappropriate or off-topic comments on the library's social media platforms. This arises because there are instances where the library makes use of social media, the opportunity then for commenting on the limited topic at hand, and not the typical public forum that is at issue. This policy grants library staff the authority to address such comments.

Mr. Logan reviewed the Kansas Open Records Act, highlighting that governmental agency documents are subject to public records requests, with the library promptly responding to specific requests. Requests that are explicit and request specific documents are easier to respond with, with broader requests being much harder to fulfil. He also reminded board members that personal notes and records relating to the library are exempt from this act, as long as they are kept away from the library premises.

#### **COUNTY LIBRARIAN REPORT**

##### **Finance Report**

Dave Vratny, Finance Director, presented the financial report to the Board, this report is included in the February Board Report.

At the end of December, we were 100% through the 2023 year, with a little under \$45.6 million being received, a little over 95% of the anticipated revenues, closer to 97% when use of reserves is added in. Despite challenges such as eliminating library fees and ad valorem delinquencies, they are pleased with the year's outcome. On the expenditure side, about \$44.7 million was spent or encumbered, with the possibility of some adjustments when finalizing the books.

Board Chair Griffith asked about a line item at 24,753%.

Mr. Vratny clarified that total posted as a revenue and it is not projected as a revenue, hence the enormous percent gain.

Tricia Suellentrop introduced the budget calendar timeline to the Board, highlighting the upcoming Library Budget Proposal in April. Dave Vratny then presented personnel requests for the 2025

budget, including adding a library acquisitions clerk and two MakerSpace Information Specialists to meet increased service demands.

Ms. Kilgore asked if we have added staff to the MakerSpace recently.

County Librarian Suellentrop confirmed that we considered requesting these MakerSpace positions last year, the library held those requests back so that we could fund the market survey increase.

County Librarian Suellentrop also answered an earlier question of who was on the Budget Committee; Anna Van Ophem, David Sims, and Bethany Griffith.

Mr. Vratny expressed that there is a strong recommendation that the MakerSpace needs at least two staff members at any given time just to make sure our patrons are first, safe, and that our equipment isn't misused or abused.

Ms. Van Ophem asked. Based on Commissioner O'Hara's comment, what the formal process would be for the Board to talk about and possibly reconsider the expenditure this year for De Soto and Spring Hill projects.

Ms. Templin expressed that this reconsideration and approvals have already been done.

Board Chair Griffith expressed that this was done previously, the vote to approve these projects was not close. She then asked how far along these projects were in the budget cycle.

Mr. Vratny explained that we have already received the approvals to set up funds for those projects. No funds have been spent from those projects at this time. Future contracts will be put against those projects.

Board Chair Griffith reviewed procedure of presenting an agenda item and asking staff to present options.

County Librarian Suellentrop clarified that funds for those projects are coming from reserves, so those are funds that we have and are not coming from incoming taxes.

## **Statistics**

Adam Wathen, Associate Director of Branch Services, presented the Monthly Report of Statistics, this report is included in the February Board Report.

Mr. Wathen updated on how statistics may change moving forward and will present annual trends in the coming months. Regarding circulation trends, physical circulation remained steady compared to the previous year, while digital usage showed significant growth. Visitation trends mirrored those of the previous year, with a slight decrease in December due to the closure of Oak Park Library. Overall, visitation slightly increased throughout the year.

## **Collection Trends**

Lacie Griffin, Collections Development Manager, presented the Collection Development Trends report to the Board, this report is included in the February Board Report.

Ms. Griffin introduced the Collection management team and presented updated annual statistics for 2023. She explained the department's role in purchasing both digital and physical collections for the Johnson County Library system, including various materials such as books, DVDs, CDs, video games, and databases. Lacie introduced the team members and highlighted their responsibilities. She discussed the budget breakdown for the past five years, emphasizing funding sources and notable expenditures. The presentation included graphs illustrating trends in physical collection, digital content usage, eBook and eAudiobook checkouts, and combined circulation of physical and digital materials.

Mr. Sims asked for the breakdown of what is spent on digital versus physical for the collection. Ms. Griffin explained that digital is growing each year, currently it the breakdown is about half digital and half physical.

There was more discussion regarding the impact of digital formats on circulation, and the challenges of maintaining longevity in digital licenses compared to physical items. Ms. Griffin noted a shift towards digital resources and anticipated continued growth in digital usage.

Ms. Templin asked if the breakdown of fifty to fifty was based on dollars spent or on quantity of materials.

Ms. Griffin explained it is currently in both. The biggest difference currently is that a physical book takes about 6-7 years to degrade, whereas a digital license is good for 18m to 2 years.

### **COMPREHENSIVE LIBRARY MASTER PLAN**

Scott Sime, Lead Project Coordinator, presented on the Comprehensive Library Master Plan, these reports are included in the February Board Report.

#### **Merriam Plaza Project**

Scott Sime provided updates on the Merriam building closure and transition. He mentioned the closure of Antioch and discussed the ongoing transition of collection equipment and technology to the new Merriam building.

Mr. Sime announced two upcoming events: the Slater Street Storybook Relay on March 2nd and the ribbon-cutting ceremony on March 20th. He also invited board members to schedule tours of the new facility.

Mr. Sime shared progress photos showing the entrance of the library and the children's 6 by 6 space.

#### **Materials Handling Project**

Lacie Griffin, Collections Development Manager, presented the Material Handling Project report to the Board, this report is included in the February Board Report.

Ms. Griffin, project lead for the materials handling component of the Merriam Plaza Library project, introduced the materials handling team comprised of members from various library departments and the county. She outlined the team's responsibilities, including sunsetting Antioch circulation services, moving the collection to Merriam Plaza, and starting circulation services there. Lacie explained the extensive work breakdown structure involving about 150 tasks divided into six phases. She described the renaming process and the meticulous attention to detail required for transitioning items in the computer system from Antioch to Merriam. Lacie highlighted the current progress in the moving phase, noting that they are ahead of schedule. She mentioned the collaboration with Daniel's Moving and Storage and expressed gratitude for the team's efforts.

Board Chair Griffith asked if every item from Antioch needed to get a new sticker.

Ms. Griffin explained that since this is a floating collection there are not stickers for each location any longer.

County Librarian Suellentrop shared this is Lacie and her team's third time moving buildings and commended the team's attention to detail and expertise in managing the relocation.

## **Lackman Building**

Scott Sime, Lead Project Coordinator, provided updates on Lackman, including the kickoff meeting with CBRE, the first showing scheduled for next week, and the ongoing marketing campaign. They are working on recommendations for the Library Board regarding certain processes, with an Executive Session anticipated in March or April.

## **Overall Timeline**

The Capital Improvement Plan (CIP) timeline and Capital Replacement Plan (CRP) 2023 timeline are included in the February Board Report.

Mr. Sime reviewed that the Library Capital Project timeline has been slightly updated, considering discussions at the Library Board retreat in October. Spring Hill and De Soto remain as previously planned, but there's a shift in the Comprehensive Library Master Plan refresh study, now anticipated to begin in mid-2025. The green cross-hatched area indicates internal discussions before bringing a consultant onboard. In the Capital Replacement Program (CRP), Cedar Roe elevator work is mostly complete, awaiting state inspection. Corinth elevator work is next, with ongoing planning to minimize impacts on patrons. During Corinth elevator work, meeting room space will be reallocated, and temporary adjustments will be made to accommodate the relocation of the kids' collection.

Ms. Clark shared an update on the Shawnee CRP work, that work includes, we have security upgrades, restroom remodel, ADA improvements, exterior building signage, shelving and flooring replacement, other interior improvements, HVAC replacement, and possibly some roofing work as well. We are on track for our closure on March 4th to begin this work and we anticipate addressing the HVAC component separately later this year when the equipment becomes available. Once the HVAC equipment comes in, we anticipate requesting another short closure to install and commission that equipment.

## **UPDATES – Tricia Suellentrop, County Librarian**

Ms. Tricia Suellentrop, County Librarian, reported to the Board.

## **Johnson County Department of Health and Environment Partnership Opportunity**

Elizabeth Holzschuh, Director of Epidemiology Health & Environment and Dennis Kriesel, Deputy Director Health & Environment presented on the partnership opportunity, this report is included in the February Board Report.

Ms. Holzschuh discussed the opioid crisis and the increasing prevalence of fentanyl-related overdoses in their community. Opioids, whether natural or synthetic, legal or illegal, pose a significant risk of overdose when abused. Fentanyl, in particular, is causing a rise in deaths due to its potency even in small amounts. In 2022, Johnson County witnessed 55 deaths attributed to fentanyl-related overdoses, indicating a growing concern. Despite a decrease in heroin-related overdoses, the overall trend shows a rise in opioid-related fatalities, underscoring the urgent need for interventions like distributing Naloxone to prevent deaths from opioid overdoses.

Ms. Kilgore asked why someone would want to add fentanyl into other drugs.

Ms. Holzschuh expresses she does not know that answer, it is confusing.

Ms. Holzschuh emphasized the need to distribute Naloxone to prevent opioid overdoses, especially considering the rising incidence of fentanyl-related deaths in Johnson County. She explained how Naloxone works by displacing opioids from receptors and highlighted its safety and ease of use, particularly as an intranasal spray. Holzschuh proposed partnering with the community, including

libraries, to make Naloxone readily available along with educational materials. She expressed gratitude for potential collaboration and readiness to provide doses through the Johnson County Department of Health and Environment.

Dennis Kriesel, Deputy Director of the Department of Health and Environment, discussed the process of obtaining Naloxone and converting prescription-labeled doses to over-the-counter ones. He highlighted the addictive nature and potency of fentanyl, explaining why it's illicitly added to drugs. Kriesel also addressed Board Member Templin's concerns about the expiration of Naloxone doses and confirmed the department's responsibility for managing the supply chain, including removing expired products. He outlined the multi-pronged approach to partnerships with the community, including libraries, to distribute Naloxone and mentioned ongoing efforts to collaborate with EMS despite legal hurdles.

Ms. Van Ophem asked if the library would be asked to report out on distribution.

Mr. Kriesel confirmed that DHE would not want to know who takes the distributed doses.

There was discussion about these doses being similar to COVID tests and not tracking who is taking either of those supplies.

Mr. McAllister asked if there would be an effort to educate.

Ms. Holzschuh confirmed that there will be an education campaign on how to utilize the supply. There would also be a card included with the doses.

Ms. Van Ophem asked if there is a liability concern for the library.

Ms. Holzschuh shared that unless there is an overdose occurring naloxone will have no adverse reaction. Proper protocol is to contact emergency medical services (EMS) if naloxone has been given.

Mr. Sims asked what the time frame is to administer naloxone.

Ms. Holzschuh shared that it depends on the amount of drugs in the systems and it varies by individual.

## **Strategic Plan**

County Librarian Suellentrop provided an update on the Strategic Plan for the last trimester of 2023, marking the conclusion of the previous plan and the commencement of a new one in 2024. She reviewed progress in key performance areas such as education, community engagement, convenience, communication, and operations. Highlights included successful events like the writer's conference, Library Lets Loose fundraiser, and hosting notable guests. Operational improvements, such as updating procedures and enhancing cybersecurity training, were also noted. The update concluded with anticipation for reporting on the new strategic plan in June.

## **2024 Board Conferences**

County Librarian Suellentrop reviewed that Kelly Kilgore and David Sims will be attending conferences in 2024 a Board Members. Ms. Kilgore is slated to attend Public Library Association conference along with a few other members of the Administrative team. Mr. Sims will be attending Association for Library Services to Children conference where there will be a presentation being given by JCL staff. The staff is available to offer support and suggestions for those attending conferences.

## **Community Events**

County Librarian Suellentrop reviewed that in the past couple of months, the library staff attended various community events such as the Northeast Johnson County Chamber State of the Cities and the Lenexa Chamber of Commerce annual meeting.

Also, participated in the countywide employee recognition event 5 years ago we opened Monticello and hired quite a few people, 8 tables full of people. The library has one of the longest tenured staff members, a 45-year employee.

## **Prairie Village Citizens Engagement and Online Survey,**

County Librarian Suellentrop updated on the Prairie Village citizen engagement sessions, with two more meetings scheduled. Additionally, a survey is open for feedback until tomorrow. Plans for a site visit to Harmon Park and an overview of other branch locations were discussed. The library is also examining options for the current Corinth site and will consider a boarder survey when looking at specific plans for that building.

## **Buildings Update and Winter Weather**

County Librarian Suellentrop revealed that there were minimal weather-related issues due to cold and winter weather. The decision was made not to use Lackman or any branch as a warming center when closed, as it falls outside the library's mission.

In March the Board Meeting will be held at Central in Conference Room 20.

## **CONSENT AGENDA**

### **A. Action Items:**

1. Minutes of the February 11, 2024, Regular Library Board meeting
2. Consider approving an updated temporary closure of the Edgerton Library for Interior Sewer Line Replacement
3. Consideration for resolution to surplus furniture from Antioch
4. 2024 renewals of Memoranda of Understanding (MOUs)
  - a) Johnson County Community College Adult Education
  - b) Johnson County Department of Technology & Innovation - Automated Information Mapping System

### **B. Information Items**

1. Financial and Personnel
  - a) The County Librarian and the Finance Director certify those payment vouchers and personnel authorizations for December 2023 were handled in accordance with library and County policy.
  - b) The December 2023 Revenue and Expenditure reports produced from the County's financial system reflect the Library's revenues and expenditures

### **C. Gift Fund Report**

1. Treasurer's Report

**Motion: Ms. Templin** moved that the Library Board of Directors approve the consent agenda.

**Second: Ms. Kilgore** seconded this motion.

**Motion was approved unanimously.**

## **I. Old Business**

### **A. Action Item: 2025-2029 Capital Improvement Plan (CIP) Submission**

Dave Vratny, Finance Director, presented 2025-2029 Capital Improvement Plan (CIP) Submission briefing sheet, as included in the February Library Board Report.

**Motion: Ms. Kilgore** moved the Library Board of Directors approve the Library's proposed 2025-2029 Capital Improvement Program (CIP) submission.

**Second: Ms. Templin** seconded this motion.

**Motion was approved unanimously.**

### **B. Action Item: ARM 20-80-28 Commercial and Business Activities in the Library and ARM 20-80-27 Study Rooms**

Adam Wathen, Associate Director for Branch Services, presented ARM 20-80-28 Commercial and Business Activities in the Library and ARM 20-80-27 Study Rooms briefing sheet, as included in the February Library Board Report.

**Motion: Mr. McAllister** moved that the Johnson County Library Board of Directors approves ARM 20-80-28, Commercial and Business Activities.

**Second: Ms. Kilgore** seconded this motion.

**Motion was approved unanimously.**

**Motion: Mr. McAllister** moved that the Johnson County Library Board of Directors approves ARM 20-80-27, Study Rooms.

**Second: Ms. Kilgore** seconded this motion.

**Motion was approved unanimously.**

### **C. Action Item: ARM 20-10-61 Unattended Children and Parental Responsibilities**

Adam Wathen, Associate Director for Branch Services, presented ARM 20-10-61 Unattended Children and Parental Responsibilities briefing sheet, as included in the February Library Board Report.

**Motion: Ms. Kilgore** moved that the Johnson County Library Board of Directors approves ARM 20-10-61, Unattended Children and Parental Responsibilities.

**Second: Mr. McAllister** seconded this motion.

**Motion was approved unanimously.**

D. Action Item: ARM 20-10-12 Facility Closings,

Adam Wathen, Associate Director for Branch Services, ARM 20-10-12 Facility Closings briefing sheet, as included in the February Library Board Report.

Mr. Sims asked for a courtesy to let the Board know when this happens.

Ms. Templin asked if this should be added to notify the board when this happens.

**Motion: Mr. Sims** moved that the Johnson County Library Board of Directors approves ARM 20-10-12, Facility Closings. Amended to add: 'notify the Board when this occurs'.

**Second: Ms. Templin seconded** this motion.

**Motion was approved unanimously.**

E. Action Item: ARM 10-50-10 Bylaws of the Board of Directors

Adam Wathen, Associate Director for Branch Services, presented ARM 10-50-10 Bylaws of the Board of Directors briefing sheet, as included in the February Library Board Report.

**Motion: Mr. McAllister** moved that the Johnson County Library Board of Directors approves ARM 10-50-10, Bylaws of the Board of Directors.

**Second: Mr. Kilgore seconded** this motion.

**Motion was approved unanimously.**

F. Action Item: ARM 60-10-30 Surveillance Cameras and Dissemination of Images

Ben Sunds, Associate Director for Customer Experience, and Tad Twidwell, Physical Security Specialist, presented ARM 60-10-30 Surveillance Cameras and Dissemination of Images briefing sheet, as included in the February Library Board Report.

**Motion: Ms. Templin** moved that the Johnson County Library Board of Directors approves ARM 60-10-30 Surveillance Cameras and Dissemination of Surveillance.

**Second: Ms. Kilgore seconded** this motion.

**Motion was approved unanimously.**

## II. New Business

A. Information Item: ARM 20-10-40 Social Media Commenting

Ben Sunds, Associate Director for Customer Experience, and Elissa Andre, Marketing and Communication Manager, presented ARM 20-10-40 Social Media Commenting briefing sheet, as included in the February Library Board Report.

Mr. Sims asked about policy for Library Board responding to comments.

Mr. Sunds clarified that the library has a Social Media coordinator, that would respond to comments on behalf of the library.

Mr. Sims asked about how many times this has been an issue in the past.

County Librarian Suellentrop shared that there is only one in recent memory.

Ms. Templin remarked on comments being turned off due to being over 200 and asked where that policy came from.

Ms. Elissa Andre shared that the policy shares some content from the County social media policy, with some tweaks to be based on our patron code of behavior and advice from legal counsel.

Ms. Van Ophem expressed concern regarding reasonably restricting free speech and shared that she is unsure who would determine what is obscene.

Ms. Templin reviewed the content of the proposed policy, reviewing that designated content would be turned off based on the set definitions and categories such as, unruliness, and abusiveness, discrimination.

Ms. Van Ophem asked if we need to outline that we would restrict free speech.

Mr. Fred Logan shared that what we are talking about restricting speech is only tied to instances that are listed in the policy. If it would be helpful 'as shown below' could be added.

Ms. Andre reviewed that there is a procedure that follows this policy if someone is deemed to violate and received a message or communication, referring back to the policy and why we have chosen to either remove or hide their comment. They would also receive the next step and other means to make their comment that may not be in a public space.

Ms. Van Ophem asked who gets to decide what is disruptive.

County Librarian Suellentrop clarified that ultimately that is the role of our social media coordinator and their professional judgement.

Ms. Van Ophem expressed concern for censorship in any form.

Mr. McAllister asked what could be done if it is a statement that is not true.

Ms. Templin expressed that dangerous and destructive behavior is hard to describe, other descriptions are easier to describe such as abusive or obscene language, graphics, videos, or images that contain inappropriate sexual content, obscene, profane.

There was discussion and general consensus around the current language being too broad and needing more definition.

Mr. Sims asked if there would be a right to appeal.

Ms. Andre shared that would be part of the procedure.

Mr. Sunds shared that we would seek advice of legal counsel if there was a question.

County Librarian Suellentrop confirmed that staff can work on some more specific language.

B. Action Item: ARM 50-30-25 Purchasing Threshold Update

Dave Vratny, Finance Director, presented ARM 50-30-25 Purchasing Threshold Update briefing sheet, as included in the February Library Board Report.

**Motion: Ms. Kilgore** moved to approve the recommended changes to Administrative Regulations (ARM 50-30-25) pertaining to the increased purchasing thresholds outlined in the redlined version of ARM 50-30-25.

**Second: Ms. Templin seconded** this motion.

**Motion approved by Board Members Templin, McAllister, Sims, Kilgore, and Chair Griffith**

**Motion opposed by Board Member Van Ophem**

**Motion is approved 5 to 1.**

C. Information Item: Consideration of Memorandum of Understanding between Johnson County Library and Johnson County Department of Health and Environment

Adam Wathen, Associate Director for Branch Services, presented Consideration of Memorandum of Understanding between Johnson County Library and Johnson County Department of Health and Environment briefing sheet, as included in the February Library Board Report.

**Motion: Ms. Kilgore** moved that the Johnson County Library Board of Directors approves the Memorandum of Understanding with Johnson County Library and Johnson County Department of Health and Environment for the year 2024.

**Second: Ms. Templin seconded** this motion.

**Motion was approved unanimously.**

D. Information Item: Consideration for contract for west wall work at Central Resource.

Scott Sime, Lead Project Coordinator, presented Consideration for contract for west wall work at Central Resource briefing sheet, as included in the February Library Board Report.

Ms. Templin asked questions regarding the responses to the RFP not being complete, what did they not all include and how were those handled.

Mr. Sime clarified that not all companies could include all the parts the desired scope in the RFP response, for example not all included pinning or excavation costs, when comparing costs only what was provided was compared. If we had chosen to use a different vendor, we would have had to find someone else to provide the services to complete the entire scope that were not included within the winning bid.

## ADJOURNMENT

**Motion: Mr. McAllister** moved to adjourn the meeting.

**Second: Ms. Templin seconded** this motion.

**Motion approved unanimously.**

Meeting adjourned at 5:56 p.m.

SECRETARY \_\_\_\_\_  
Kelly Kilgore

CHAIR \_\_\_\_\_  
Bethany Griffith

SIGNED \_\_\_\_\_  
Tricia Suellentrop, County Librarian

**JOHNSON COUNTY LIBRARY  
GIFT FUND  
TREASURER'S REPORT**  
Period: JAN-2024

		Receipts	Payments	Balance
	<b>Opening cash balance</b>			<b>\$187,316.19</b>
	Add Receipts	\$1,153.64		
	Less Payments		\$29,715.15	
	<b>Ending Cash balance</b>			<b>\$158,754.68</b>
	Less Liabilities		\$11,510.27	
	<b>Unobligated cash balance</b>			<b>\$147,244.41</b>

**APPROVED:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

# Public Computer Reservation and Print Management, Continued

March, 2024

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# Public Computer Reservation and Print Management

- Recommendation on Printing Fees from Library Staff
- Goal – Convenience
- Evaluation of printing fee schedule represented in ARM 20-10-90
- Addition of Remote/Cloud Print Service



# Recommendation from Library Staff

- Maintain a printing fee schedule that allows recovery of some printing costs
- Retain current fee schedule through implementation of new systems and monitor
- Return with more information about patron print patterns after new system implemented and new remote/cloud print service implemented - about one year



# Goal - Convenience

## CONVENIENCE

*We make it easy for our community to incorporate Library services into their lives.*



# Evaluation of printing fee schedule represented in ARM 20-10-90

## Printed Copies

4. Printed copies from public use computers.  
\$.15 per page for black and white  
\$.50 per page for color



# Evaluation of printing fee schedule represented in ARM 20-10-90

- Analysis of costs – fixed and variable
- Review of existing patron printing patterns
- Factors that may increase printing volume
- Factors that may increase printing costs
- Review of printing fees at other public libraries
- Recommendation from Library staff on updated printing fee schedule



# Current volume of printing

Nov. 2022 to Nov. 2023

<b>Printer Family</b>	<b>Jobs</b>	<b>Pages</b>	<b>% Pages</b>
B/W 1-Sided Printing	47,742	151,804	27%
B/W 2-Sided Printing	79,661	372,202	67%
Color 1-Sided Printing	12,379	31,472	6%
<b>Total</b>	<b>139,782</b>	<b>555,478</b>	



# Variable costs of printing

- Paper
- Toner
- Printer replacements



# Variable costs of printing

Item	2023 Costs
Paper*	\$28,992.84
Toner**	\$18,359.65
Total	\$47,352.49

*\*Warehouse estimate, may include photocopy*

*\*\*Report from Perfect Output, includes photocopy*



# Variable costs of printing

*Variable in that these would NOT be needed if ALL printing was FREE*

- Systems to accept payments for printing – “Print Release Payment Kiosk”
  - Coin and bill acceptor
  - Debit/credit card reader
  - Associated software and ongoing support and licensing costs



# Fixed costs of public printing

*No change based on print volume*

- Software – print management from public computers
- Software – remote/cloud print service
- Print release hardware (tablet at print release station)



# Expectation that printing volume will increase

- Addition of cloud/remote printing service
- Patron visits to library buildings overall trending upwards post-pandemic
- Improved usability with new and improved systems
- Improved usability with added payment options (self-service with credit/debit at print release, larger bills accepted at self-service)



# Expectation that printing costs will increase

- Inflation is expected to increase cost of toner and paper
- Inflation is expected to increase cost of printers
- New system has high implementation costs and higher ongoing licensing and support costs



# Expected Budget Impact of Free Printing

## Scenario 1 - *limited* free printing

- Expectation that printing volume will increase, **possibly double number of pages printed**
- Doubling the paper and toner costs alone could be \$94,704.99 (for 12 mos, at current costs)
- Cost recovery limited, as most print jobs would fit under even a conservative free printing schedule



# Expected Budget Impact of Free Printing

## Scenario 2 - *unlimited* free printing

- Expectation that printing volume will increase, **possibly quadruple number of pages printed**
- Quadrupling the paper and toner costs alone could be \$189,409.98 (for 12 mos, at current costs)
- No cost recovery



# Expected Budget Impact of Free Printing

Scenario 3 – no change to current printing fee schedule

- Expectation that printing volume will increase, **possibly increase the number of pages printed by 50%**
- Paper and toner costs alone could be \$71,028.74 (for 12 mos, at current costs)
- Cost recovery should cover paper and toner costs \$94,336.00 (est. based on number of pages printed Nov 2022 – Nov 2023) and support the costs of the new public printing system



# Metro Library Charges for Printing

## **Kansas City Missouri Public Library**

- Black & White Pages 1-50 - FREE
- Black & White Pages 51-150 - \$.10 per page
- Color 1-150 pages - \$.50 per page

## **Mid Continent Public Library**

- Black and white - \$.10 per page
- Color - \$.50 per page

## **Kansas City Kansas Public Library**

- Black and white - \$.10 per page
- Color - \$.50 per page

## **Olathe Public Library**

- Black & White - \$.15 per page single-sided or \$.30 for double-sided
- Color prints - \$.50 per page single-sided or \$1 for double-sided



# Other Examples of Public Library Charges for Printing

## **Cincinnati Public Library – 41 Locations**

- 20 pages in color or 33 in black and white per day for free.
- Additional pages can be printed at a cost of \$0.15 per page in black and white and \$0.25 per page in color.

## **Chicago Public Library – 81 Locations**

- One-sided prints are \$.15; two-sided prints are \$.25. The first \$1.50 in printing each day is free.
- Color printing is not available.

## **Milwaukee Public Library – 14 Locations**

- One-sided prints are \$.15; two-sided prints are \$.30.
- Color printing - \$.50 for single-sided; \$1.00 per page for double-sided.

## **Hennepin County Library (Minnesota) – 30 Locations**

- Black/white prints \$.10; color prints are \$.50 (per-side not specified).
- Cardholders can print up to 50 black & white pages, or 10 color pages, or any combination up to \$5 per week.
- Payment is cash only.

All four systems offer cloud printing through ePRINTit/TBS.



# Recommendation from Library Staff

- Because several factors will increase printing costs
- Because several factors will increase the volume of printing
- Because the current printing system provides limited reporting, insight into how patrons use printing today is unclear and behavior is expected to change



# Recommendation from Library Staff

- Maintain a printing fee schedule that allows recovery of some printing costs
- Retain current fee schedule through implementation of new systems and monitor
- Library staff return with more information for the Library Board in about one year
  - Observe and analyze patron print patterns after new system implemented
  - Observe and analyze after new remote/cloud print service implemented



# Addition of Cloud/Print Service

- ePRINTit software to support remote and cloud printing from patron personal computers, phones, and tablets to printers at all 14 branches
- Remote/cloud print service offered at several area libraries:
  - Kansas City Public Library
  - Olathe Public Library
  - Mid-Continent Public Library
  - many others
- Frequently requested by Library patrons
- Service offered by TBS, Inc.



# Print Source Mentioned in ARM 20-10-90

## Printed Copies

4. Printed copies from public use computers.  
\$.15 per page for black and white  
\$.50 per page for color

Refers to “public use computers” - update needed to implement cloud/remote print service



# Review of ARM 20-10-90 - Fee Schedule

- For information today
- Briefing Sheet included in Library Board packet for information



**To:** Library Board of Directors

**From:** Tricia Suellentrop, County Librarian

**Date:** March 14, 2024

**Re:** Update to ARM 20-10-90 Fee Schedule to Reflect Addition of Remote/Cloud Printing Service

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**Issue:** Update to ARM to Reflect Addition of Remote/Cloud Printing Service for Printing Fees

**Suggested Motion:** Informational Only, expected to bring for action at a later time.

**Background:** ARM 20-10-90 currently defines the Fee schedule for “Printed Copies” as from “public use computers”. With the adoption of new public computer reservation and management systems, a new service for patrons to print from personal computers, tablets, and laptops to Library printers will be implemented. This new service will be used by patrons outside Library buildings and inside Library buildings while on wireless or cellular.

**Analysis:** This new service has been requested by Library patrons frequently. Several area public libraries offer cloud/remote printing. A growing number of patrons use their own technology and could benefit from access to a Library printer.

**Funding Overview:** Remote/cloud printing is accomplished through software as a service ePRINTit sold and supported by TBS, Inc. costs \$6,230.00 per year.

**Alternatives:** Continue to offer printing from Library computers in the buildings only.

**Recommendation:** Update the language in ARM 20-10-90 Fee Schedule to add “and through cloud/remote printing service.”

**Purchasing Review:** The new cloud/remote printing service is one of the solutions proposed to the Library as part of a RFP published in Fall 2023 with the support of Johnson County Financial Management & Administration. It will included as part of the contract proposed for approval to the Library Board at the April 2024 meeting from Today’s Business Solutions, Inc.

**Budget Review:** This update to ARM 20-10-90 Fee Schedule will allow the Library to collect fees for the new remote/cloud printing service, allowing partial cost recovery.

**Legal Review:** Legal review will be completed prior to consideration Library Board action.

**To:** Johnson County Library Board of Directors  
**From:** Tricia Suellentrop  
**Date:** March 14, 2024  
**Re:** ARM 20-10-40 Social Media Commenting Terms of Use Policy

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**Issue:** ARM 20-10-40 Social Media Commenting Terms of Use Policy

**Suggested Motion:** I move that the Johnson County Library Board of Directors approves ARM 20-10-40 Social Media Commenting Terms of Use Policy.

**Background:** This new regulation provides policy, implementation and interaction framework for Library staff and patrons as they use and interact with Johnson County Library social media on any social media platforms. The regulation is based on social media guidelines from Johnson County Government and the American Library Association and reflects the rules contained in the Library's Patron Code of Behavior (ARM 20-10-50). There were questions about the language in this ARM from board members in February, 2024 and edits were made for clarity and reviewed again by legal counsel.

**Analysis:** The Library supports intellectual freedom and the right of all users to share their opinions on various topics. It also reserves the right to exercise discretion in all interactions on Library social media, especially to the extent that the conduct in question would be disruptive or harmful to others or violates this regulation or the Library's Patron Code of Behavior (ARM 20-10-50). This applies to all interactions, posts, messages, and comments by all individuals on all Library social media platforms. This policy applies to public comments on social media platforms and staff of Johnson County Library are still subject to the Johnson County HR policy governing employee behavior on social media.

**Funding Overview:** No costs were affected.

**Alternatives:** The policy covering public commenting on social media remains under the Johnson County policy and procedures.

**Recommendation:** Approve the ARM as reviewed and written.

**Budget Review:** None needed

**Legal Review:** These polices have been reviewed and certified by legal counsel

ADMINISTRATIVE REGULATIONS

TAB: Patron/Other Services

DOCUMENT NUMBER: 20-10-40

SECTION: General Patron Services

SUBJECT: Social Media Commenting Terms of Use Policy

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SUMMARY

This regulation provides policy, implementation and interaction framework for Library staff and patrons as they use and interact with Johnson County Library social media on any social media platforms. The regulation is based on social media guidelines from Johnson County Government and the American Library Association and reflects the rules contained in the Library's Patron Code of Behavior (ARM 20-10-50).

The Library supports intellectual freedom and the right of all users to share their opinions on various topics. It also reserves the right to exercise discretion to reasonably ~~restrict the exercise of free speech rights in~~ all regulate interactions on Library social media, ~~especially~~ to the extent that the conduct in question ~~would be disruptive or harmful to others or~~ violates this regulation or the Library's Patron Code of Behavior.

This document describes situations under which a user's comment or other content may be removed from Library social media or a user may be blocked from any Library social media.

Comments expressed on any social media platform do not reflect the views or positions of the Library, the Library Board or Library employees. Social media users should exercise their own judgment about the quality and accuracy of any information presented through social media.

Effective Date:

Affirmed

~~February~~ March 14, 2024

## DEFINITIONS

a: Social media. The U.S. Government defines social media as the various activities that integrate technology, social interaction and content creation. These sites and applications may take on different forms, such as social networking, forums, micro-blogging, blogs and video/photo posting sites.

b: Limited public forum. Library social media is a limited public forum ~~distinguishable from a public forum~~ in that the Library maintains discretion to reasonably ~~restrict the exercise of regulate~~ speech in a viewpoint neutral manner in a designated space. See *Good News Club v. Milford Cent. Sch.*, 533 U.S. 98 (2001). ~~A limited public form is not required to allow unfettered free speech; rather, it is required only to allow free speech that is consistent with its own mission, vision and values.~~

c: User. For the purposes of this document, a user is a person who engages with the Library via social media by posting a comment on a post made by the Library, tagging the Library in a post the user makes or using a platform to message the Library. Users who submit posts or comments on Library social media sites agree that they have read, understand and agree to this policy/the Social Media Commenting Terms of Use policy.

d: Content. For the purposes of this document, content is any and all written or visual interaction with the Library on its social media platforms. Content may include but is not limited to comments, messages, text, images, photographs, alt tags, GIFS, memes or other visual or written forms of interaction.

## POLICY

a. In accordance with this regulation, the Patron Code of Behavior (ARM 20-10-50) applies to all interactions, posts and comments by any and all individuals on all Library social media. The same is true for private messages, regardless of social media platform.

b. Failing to comply with Library regulations and with instructions or requests made by Library staff with

respect to Library regulations is strictly prohibited on Library social media.

~~Unruliness~~  
~~Threatening or~~  
~~Abusive~~  
~~Behavior~~

~~Dangerous or disruptive behavior~~  
~~Language, behavior,~~  
~~graphics, videos or any other media that is threatening~~  
~~or dangerous~~ is prohibited on Library social media.

Behavior in the form of comments, posts or private messages that is abusive to Library patrons or staff is prohibited. This may include posts, comments, private

messages or any behavior that is ~~disruptive-violent~~ toward patrons or staff or contains information that may compromise the safety or security of patrons, the public, public systems, the Library, the county, its employees, or public officials.

~~Abusiveness~~

~~Behavior in the form of comments, posts or private messages that is abusive to Library patrons or staff is prohibited.~~

~~Language~~

~~Abusive or obscene language, graphics, videos or any other media is prohibited on posts, comments or messages on Library social media.~~

~~Images~~

-  
Images, GIFs and/or video content or language that is considered profane, posts that contain sexually explicit images, cartoons, jokes or links to sexual content; or content that contains obscene, profane, threatening, or harassing language is strictly prohibited.

~~Discrimination~~

Content that advocates unlawful discrimination on the basis of race, color, national origin, sex, gender, sexual orientation, gender identity or expression, religion, age, disability, genetic information, military service, or other circumstance prohibited by federal, state, or local law, rule, or regulation is strictly prohibited.

~~Commercial Messages~~

Content that contains commercial messages, including advertisements, endorsements, solicitations and spam is strictly prohibited.

~~Political Endorsements~~

Content that promotes or endorses political campaigns, candidates for election to a political office, or ballot measures is strictly prohibited. This includes posts made from accounts named for the campaign of an office or

Illegal Activity	elected position.
Defamatory Comments	Content that contains suggestions or encouragement of illegal activity is strictly prohibited.
Intellectual Property	Content that contains defamatory (i.e. slanderous, libelous) remarks, personal attacks or threats against any individual person or group of people is strictly prohibited as is content that makes or publishes false, vicious or malicious statements concerning any county employee.
Violence	Content that violates a legal ownership interest of any other party, such as trademark or copyright infringement is strictly prohibited.
Confidential Information	Content that promotes violence or the threat of violence to themselves or others is strictly prohibited and such content may be reported to the appropriate authorities.
Repetitive Content	Content that discloses confidential or proprietary information or personally identifiable information, such as an address, phone number, social security number or other sensitive information of any person is strictly prohibited.
Relevance <u>and Decorum</u>	Content that contains three or more successive or repetitive posts by a single user or repetitive posts copied and pasted by one or more users, or spam is strictly prohibited.
Adjacent Content	Content that is significantly off-topic or explicitly unrelated to the specific post is strictly prohibited. To best facilitate online conversation, users should please keep comments to the topic at hand. <u><a href="#">The Library may act to maintain order and decorum in Library social media channels.</a></u>
Thread Size	Profile pictures and account names that accompany posts or comments are also subject to moderation based on the terms of this regulation.
	Commenting on individual posts may be turned off

Notice

when commenting exceeds 200 comments and/or when there are excessive comments in violation of our terms of use. Alternate methods of engaging with the Library will be offered, such as email or mail.

PRIVACY

Commenting on social media is not an official notice or comment to Johnson County Library, its Board of Directors, administration or employees. Social media posts and comments are separate from patron records. Social media platforms will not be used to collect information about the Library's users. Information shared by users on the Library's social media will not be retained by the Library or used for other purposes. The Library may occasionally refer to public comments made on social media and members of the public may capture, screenshot or otherwise save and/or share content. However, the Library will not collect, sell or knowingly transfer to any third party and/or personally identifiable information related to social media engagement with the library. Messages to the Library through social media platforms are not private and may be subject to disclosure. Please be aware that every social media platform has its own privacy policies and they should be carefully reviewed before posting, commenting or otherwise engaging.

RETENTION

Records of hidden/deleted social media posts and blocked users will be retained by the Library for a period of one year.

AUTHORIZATION

The County Librarian authorizes designated Library staff to hide or delete posts and block users if posts or users violate this regulation.

~~February 8~~ March 14, 2024

**ARM 20-10-40 End**

**ADMINISTRATIVE REGULATIONS**

**TAB: Patron/Other Services**

**DOCUMENT NUMBER: 20-10-40**

**SECTION: General Patron Services**

**SUBJECT: Social Media Commenting Terms of Use Policy**

---

**SUMMARY**

This regulation provides policy, implementation and interaction framework for Library staff and patrons as they use and interact with Johnson County Library social media on any social media platforms. The regulation is based on social media guidelines from Johnson County Government and the American Library Association and reflects the rules contained in the Library’s Patron Code of Behavior (ARM 20-10-50).

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This document describes situations under which a user’s comment or other content may be removed from Library social media or a user may be blocked from any Library social media.

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**Effective Date:**

Affirmed

March 14 , 2024

**DEFINITIONS**

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applications may take on different forms, such as social networking, forums, micro-blogging, blogs and video/photo posting sites.

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Abusive  
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Language, behavior, graphics, videos or any other media that is threatening or dangerous is prohibited on Library social media. Behavior in the form of comments, posts or private messages that is abusive to Library patrons or staff is prohibited. This may include posts,

comments, private messages or any behavior that is violent toward patrons or staff or contains information that may compromise the safety or security of patrons, the public, public systems, the Library, the county, its employees, or public officials.

Images, GIFs and/or video content or language that is considered profane, posts that contain sexually explicit images, cartoons, jokes or links to sexual content; or content that contains obscene, profane, threatening, or harassing language is strictly prohibited.

Images

Content that advocates unlawful discrimination on the basis of race, color, national origin, sex, gender, sexual orientation, gender identity or expression, religion, age, disability, genetic information, military service, or other circumstance prohibited by federal, state, or local law, rule, or regulation is strictly prohibited.

Discrimination

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Commercial Messages

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Political Endorsements

Content that contains suggestions or encouragement of illegal activity is strictly prohibited.

Illegal Activity

Content that contains defamatory (i.e. slanderous, libelous) remarks, personal attacks or threats against any individual person or group of people is strictly prohibited as is content that makes or publishes false, vicious or malicious statements concerning any county employee.

Defamatory Comments

Content that violates a legal ownership interest of any other party, such as trademark or copyright infringement is strictly prohibited.

Intellectual Property

Content that promotes violence or the threat of violence to themselves or others is strictly prohibited and such content may be reported to the appropriate authorities.

Violence

Content that discloses confidential or proprietary information or personally identifiable information, such as an address, phone number, social security number or other sensitive information of any person is strictly prohibited.

Confidential Information

Content that contains three or more successive or repetitive posts by a single user or repetitive posts copied and pasted by one or more users, or spam is strictly prohibited.

Repetitive Content

Content that is significantly off-topic or explicitly unrelated to the specific post is strictly prohibited. To best facilitate online conversation, users should please keep comments to the topic at hand. The Library may act to maintain order and decorum in Library social media channels.

Relevance and Decorum

Profile pictures and account names that accompany posts or comments are also subject to moderation based on the terms of this regulation.

Adjacent Content

Commenting on individual posts may be turned off when commenting exceeds 200 comments and/or when there are excessive comments in violation of our terms of use. Alternate methods of engaging with the Library will be offered, such as email or mail.

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Commenting on social media is not an official notice or comment to Johnson County Library, its Board of Directors, administration or employees.

Notice

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Social media posts and comments are separate from patron records. Social media platforms will not be used to collect information about the Library's users.

Information shared by users on the Library’s social media will not be retained by the Library or used for other purposes. The Library may occasionally refer to public comments made on social media and members of the public may capture, screenshot or otherwise save and/or share content. However, the Library will not collect, sell or knowingly transfer to any third party and/or personally identifiable information related to social media engagement with the library. Messages to the Library through social media platforms are not private and may be subject to disclosure. Please be aware that every social media platform has its own privacy policies and they should be carefully reviewed before posting, commenting or otherwise engaging.

RETENTION

Records of hidden/deleted social media posts and blocked users will be retained by the Library for a period of one year.

AUTHORIZATION

The County Librarian authorizes designated Library staff to hide or delete posts and block users if posts or users violate this regulation.

March 14, 2024

**ARM 20-10-40 End**

**To:** Johnson County Library Board of Directors  
**From:** Tricia Suellentrop, County Librarian  
**Date:** February 8, 2024  
**Re: Central: West Wall Structural Repair Project**

---

**Issue:** Consider authorizing the reallocation and expenditure of fund balance (reserves) from the Library Operating Fund in the amount of \$375,000, establishing a capital project account for the Central Resource Library’s West Wall Structural Repair, which includes approval of an exception to competition to contract with Keller North America, Inc. for the foundation repair work for an amount not to exceed \$245,000 per County Policy 110-180-A16, and funding not to exceed \$130,000 to repair any damage occurring after the structural repairs such amount to be returned to the Library’s General Fund if unused.

**Suggested Motions:**

- I move that the Library Board authorizes the reallocation and expenditure of fund balance (reserves) from the Library Operating Fund in the amount of \$375,000, establishing a capital project account for the Central Resource Library’s West Wall Structural Repair.
- I move that the Library Board authorizes an exception to competition to contract with Keller North America, Inc. for the foundation repair work for an amount not to exceed \$245,000 per County Policy 110-180-A16.

**Background:** In late 2022 Library and Facilities staff observed signs of settling along Central’s interior and exterior walls and interior flooring along the west side of the building. At that time, we entered into a contract with Walter P. Moore and Associates, Inc. (Moore and Associates) to determine the cause. Based on the conditions Moore and Associates discovered in March 2023, they recommend structural underpinning and pressure grouting to stabilize the walls and interior floors in the affected area. In May 2023, the Library Board approved a contract with Moore and Associates to produce construction documents, coordinate of pile selection and design with a specialty geotechnical contractor (Keller North America), construction administration services, field inspections, review of completed work, and preparation of a closeout punch list.

**Analysis:** Since that time, our Facilities partners have worked with Moore and Associates and Keller North America to develop construction documents. Our Facilities partners, along with Moore and Associates performed a cost exercise to ensure we were getting fair and reasonable costs and after vigorous review, have determined that Keller North America is best equipped to provide services that the Library needs to stabilize the west wall’s foundation issues.

Keller is uniquely positioned to provide the best solution when considering the method of stabilization and relatively low impact on the continued operation of the Central Resource Library. Library Administration recommends award of the exterior portion of the contract to them. The anticipated contract amount for this exterior work is \$245,000. Because the services provided by Keller North America are specialty services that we do not retain a Term and Supply vendor for, an Exception from Competition, per County Policy 110-180-A16, is appropriate. Library, Facilities, and County Purchasing staff are coordinating on this process.

After the foundation work is completed, repairs are anticipated to return the building to good condition, including but not limited to aesthetics, patching, repairs of concrete panels, roof, joints, windows, and painting, and other unforeseen conditions. This work is anticipated to be performed by County Term and Supply vendors, and we estimate the costs to be under \$130,000. After the foundation work is completed, we will be able to bring an updated cost for

additional aesthetic and repair work to the Board. Any remaining dollars would be returned to the Library's General Fund.

Because these structural issues were not included in the 2024 Library Operating Budget, the Library staff recommend a requested Use of Reserves in an amount of \$375,000 to fund the repairs and establishing a project account for this work. This approach will also require approval by the Board of County Commissioners for the ability to use reserves and establishing of a project account for this work.

**Budget Review:** The Library staff recommend funding these repairs with Library Reserves. This work represents 3% of Library Reserves.

**Legal Review:** Library legal counsel certify the AIA-A104 Document, with the Terms and Conditions with Keller North America Inc. is approved as to form under the terms of ARM 50-30-25 and may be approved and executed in accordance with Library policy and state law.

**Purchasing Review:** County Purchasing has reviewed the briefing sheet and agrees the only method for contracting for the proprietary system is through the exception to competition process.

**Alternatives:** 1) Authorize and approve the motions. 2) Not authorize and approve the motions, which would cause further settling and eventually a safety risk for staff and patrons.

**Recommendation:** Staff recommends authorization and approval of these items.

**Suggested Motions:**

- I move that the Library Board authorizes the reallocation and expenditure of fund balance (reserves) from the Library Operating Fund in the amount of \$375,000, establishing a capital project account for the Central Resource Library's West Wall Structural Repair.
- I move that the Library Board authorizes an exception to competition to contract with Keller North America, Inc. for the foundation repair work for an amount not to exceed \$245,000 per County Policy 110-180-A16.



Johnson County Central Resource Library  
9875 W 87<sup>th</sup> Street  
Overland Park, KS 66212

February 22, 2024

Attn: Mr. Juan Lopez- Tamez

RE: **PROPOSAL – Foundation Repairs**  
Johnson County Central Library  
Overland Park, KS  
Project 15141022 JOCO Eng

Mr. Lopez - Tamez,

Keller North America, Inc. (hereinafter, KNA or Keller) appreciates the opportunity to work with you and to provide this proposal for the following scope of work, complete and in place, for your consideration. This proposal was prepared in accordance with the information provided or made available to us (cited below) and is subject to the Notes (enumerated below) as well as our General Conditions (attached). Our opinions and statements regarding this project shall remain confidential to you and shall not be made available to another party without the expressed written consent of KNA. All concepts and procedures stated in this proposal shall be deemed as intellectual property of KNA. We have performed this evaluation in a manner consistent with the standard of practice exercised by members of the geotechnical engineering community practicing in the site area.

Scope of Work:

As Keller currently understands, the existing Johnson County Resource Library is experiencing movement. Keller has been contacted to provide general contracting services and engineering solutions to arrest building movement and remediate the settled building corner. The scope of work required to remediate the building includes but is not limited to excavation to bottom of footing, micropile installation, pile bracket and pile jacking to lift building corner, polyurethane injection grouting, monitoring of building movements during lifting operations, backfill and compaction of excavated material, joint sealant removal/replacement, and epoxy injection of existing cracks. The work entailed shall be carried out in accordance with project specifications and drawings as referenced herein.

Pricing:

Keller North America’s budget to perform the work is described in the accompanying letter for the lump sum price listed below. It is understood that final payment will be based on the actual quantities and that the estimated quantities listed below are for budgeting purposes only. **Lump Sum Price: \$245,000**

**Keller North America, Inc.**  
411 Nichols Road, Suite 217  
Kansas City, MO 64112

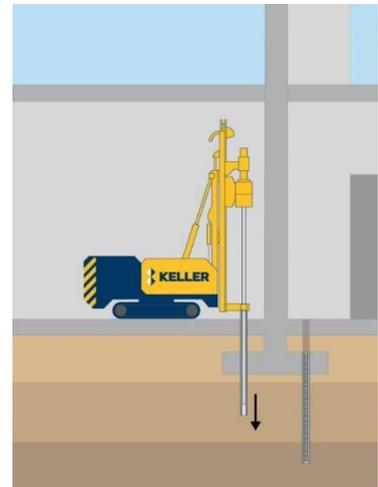
t: 972-294-5000  
f: 972-294-2664



### Micropiles:

Keller has extensive experience designing solutions custom to the needs and goals in similar situations. Micropiles, also known as minipiles, (and less commonly as pin piles, needle piles and root piles) are deep foundation elements constructed using high-strength, small-diameter steel casing and/or threaded bar. Capacities vary depending on the micro pile size and subsurface profile.

Keller anticipates installing seven (7) micropiles based on loading identified in the current foundation drawings. It is the intent to underpin the bottom of the existing footing, approximately 8-ft below grade, and perform pile-jacking to re-level the settled grade beam. The micropiles will be installed at locations specified in the design plans. The piles are anticipated to be a steel casing and with a reinforced grout column founded in the gray limestone underlying the construction area. The geotechnical report illustrates competent shale to be approximately 11 to 14 feet or less below existing grade. Upon completion of lifting procedure, piles will be locked off and excavation backfilled.

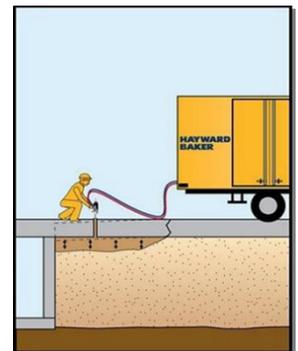


### Polyurethane Injection Grouting:

Polyurethane Grouting is used routinely to fill voids directly beneath existing structures and slabs. The HB PolyLift™ Polyurethane Injection system is also frequently used to raise and re-level slabs. The Polyurethane Grouting process is illustrated in below. Polyurethane Foam is a two-component free rise, expansive, thermoset polyurethane material. The foam is a closed cell, hydro-insensitive, high-density polyurethane that is injected under pressure.

Polyurethane grouting is performed through a 7/8" drill hole affixed with a packer through existing slab on grade upon completion of pile-jacking operations. Keller anticipates installation of polyurethane in a 6-ft wide section running along the interior perimeter of the affected building corner.

Care will be taken to not lift the slab in excess so as not to cause further stress cracks in slab or damage to the affect building corner. Rotary lasers will be utilized to monitor slab movements and a full time, qualified KNA superintendent will be assigned to monitor the Polyurethane Grouting process.



### Information Provided:

- *95% Coordination Drawings dated 9/29/23 prepared by Walter P. Moore*
- *Phase 1 Condition Assessment dated 3/13/23 prepared by Walter P. Moore*
- *Building Distress Evaluation dated 2/16/23 prepared by Geotechnology*
- *Pothole Excavation & Footing exploration conducted 7/6/23*

### Notes:

1. Design submittal for the micropiles stamped by a Kansas professional engineer will be provided by KNA for approval prior to commencing the work.
2. Concrete footing to be demolished for installation of pile brackets. **Repouring or replacement of demolished footing is specifically excluded in this proposal.**
3. Proposed drilling equipment will require 12-foot of overhead clearance and tracking platform capable of maintaining load to support 4-ton track drill.
4. Unrestricted access to the work area shall be provided by others.
  - a. Polyurethane operations performed after closing hours. 10-hour consecutive shift to be provided.
5. Equipment laydown areas will need to be staged no more than 75' from any of the work areas.
6. If contaminated soil is found, KNA will immediately notify the OWNER and all subsequent cost necessary to complete the removal of the hazardous soil shall be paid for by the OWNER. KNA and its subcontractors will be indemnified

against any and all suits or causes brought about from the disposal of the excavated soil.

7. KNA will perform One Call utility locate service prior to mobilization and update during the work. GPRS scanning will be conducted to assist with location of private utilities. Drawings and information detailing private utility locates shall be made available to KNA upon request.
8. KNA requires a designated area for plant setup and material storage within 100' of the work area.
9. KNA requires an area to stockpile spoil (within 100' of work area) and an area to discharge water.
10. KNA excludes restoration of aesthetics of finishes including but not limited to landscaping and re-painting.
11. Adequate laydown area for our equipment and materials in the immediate vicinity of the work area shall be provided to KNA.
12. Building permits, if any, shall be provided by Keller.
13. Supply of clean, potable, fresh water free from debris for drilling and grout batching and clean-up, etc. from a hydrant or other source of 75 gpm and 55 psi must be provided by KNA.
14. Local, state, or federal permits are included by Keller.
15. Liquidated damages per terms & condition and A-104 contract.
16. Due to the uncertainty in the current ready-mix, cement, fuel, and steel market, Keller North America's price is contingent on material availability at the time of construction activities.
17. This budget is based on a six (6) day work week with ten (10) hour days. KNA shall be permitted to work half days on Saturdays at its preference.
18. This quotation is based on one (1) mobilization. Additional mobilizations will result in additional charge.
19. This quotation is contingent upon acceptable contract documents. This quotation including the General Notes shall be attached as a part of the contract documents. In the event of conflict between the contract documents and the quotation, the terms and conditions of the quotation shall have precedence.

**Keller North America, Inc.**



Kent Abella  
Area Manager



Jarrod Widmer  
Project Manager

Attachments: Terms & Conditions

# DRAFT AIA® Document A104™ - 2017

## Standard Abbreviated Form of Agreement Between Owner and Contractor

**AGREEMENT** made as of the « » day of «March» in the year «2024»  
(In words, indicate day, month and year.)

**BETWEEN** the Owner:  
(Name, legal status, address and other information)

« Board of Directors of the Johnson County Library » « »  
« Johnson County Library »  
« 9875 W87th St. Overland Park »  
« Kansas 66212 »

and the Contractor:  
(Name, legal status, address and other information)

«Keller North America Inc. »« »  
« 411 Nichols Road, Suite 217»  
« Kansas City, MO 64112 »  
« 972 294 5000 »

for the following Project:  
(Name, location and detailed description)

« Foundation Repairs at West Wall»  
« Central Resource Library »  
« 9875 W87th St. Overland Park »  
« Kansas 66212 »

The Architect OR the Engineer, hereinafter the Architect:  
(Name, legal status, address and other information)

«Walter P Moore / Kyle Dominisse »« »  
«1100 Walnut, Suite 1825 »  
«Kansas City Missouri 64106 »  
«916 701 2134 »

Whenever the terms “Architect” or “Architect’s” appear in the provisions or headings of the Contract Documents, such terms shall be replaced with “Consultant” or “Consultant’s”, respectively, as the case may be. This change shall apply to all forms of the terms, unless otherwise indicated, or unless such change would render the meaning of the context of the specific provision or heading thereof nonsensical.

The Owner and Contractor agree as follows.

**ADDITIONS AND DELETIONS:**  
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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TABLE OF ARTICLES

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EXHIBIT A DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE WORK OF THIS CONTRACT

The Contractor shall execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 2.1 The date of commencement of the Work shall be:  
(Check one of the following boxes.)

[  ] The date of this Agreement.

[  ] A date set forth in a notice to proceed issued by the Owner.

[  ] Established as follows:  
(Insert a date or a means to determine the date of commencement of the Work.)

« After Approval for Library Board on March 14<sup>th</sup> 2024 »

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 2.2 The Contract Time shall be measured from the date of commencement.

### § 2.3 Substantial Completion

§ 2.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check the appropriate box and complete the necessary information.)

[  ] Not later than  (  40 ) calendar days from the date of commencement of the Work.

[  ] By the following date:

§ 2.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date

§ 2.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 2.3, liquidated damages, if any, shall be assessed as set forth in Section 3.5.

## ARTICLE 3 CONTRACT SUM

§ 3.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one of the following:

(Check the appropriate box.)

[  ] Stipulated Sum, in accordance with Section 3.2 below

[  ] Cost of the Work plus the Contractor's Fee, in accordance with Section 3.3 below

[  ] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 3.4 below

(Based on the selection above, complete Section 3.2, 3.3 or 3.4 below.)

§ 3.2 The Stipulated Sum shall be « Two Hundred and Forty-Five Thousand dollars »  
(\$  245,000.00 ), subject to additions and deductions as provided in the Contract Documents.

§ 3.2.1 The Stipulated Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

«N/A »

§ 3.2.2 Unit prices, if any:

(Identify the item and state the unit price and the quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ 3.2.3 Allowances, if any, included in the stipulated sum:  
(Identify each allowance.)

Item	Price
------	-------

§ 3.3 Cost of the Work Plus Contractor's Fee  
INTENTIONALLY OMITTED

§ 3.4 Cost of the Work Plus Contractor's Fee With a Guaranteed Maximum Price  
INTENTIONALLY OMITTED

§ 3.5 Liquidated damages, if any:  
(Insert terms and conditions for liquidated damages, if any.)  
Except as otherwise provided herein, Contractor's maximum liability for any delay related damages, including, but not limited to, any direct, indirect, consequential and/or liquidated damages (if liquidated damages are assessed to Contractor by Owner), shall not exceed (10%) of the value of this Contract..

**ARTICLE 4 PAYMENT**

**§ 4.1 Progress Payments**

§ 4.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 4.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

« »

§ 4.1.3 Provided that an Application for Payment is received by the Architect not later than the «first » day of a month. Payment of amounts due to the Contractor from the Owner, except retainage, shall be made within thirty (30) days after the Owner receives a certified, properly completed, undisputed request for payment according to the terms of the Agreement, unless extenuating circumstances exist which would preclude approval of payment within thirty (30) days. If such extenuating circumstances exist, then payment shall be made within forty-five (45) days after Owner receives payment request.

§ 4.1.4 Retainage, if any, shall be withheld as follows:

Five percent (5%) of the amount of each Application for Payment retained until final completion and acceptance of all Work covered by the Contract. If during the course of performance of the Work, the Owner determines that a higher rate of retainage is required because the Contractor has failed to meet the terms of the Agreement, is not performing according to the Construction Schedule, shows poor workmanship or other issues, the Owner reserves the right to increase the retainage amount up to, but not exceeding, ten percent (10%) of the value of the Agreement.

« »

§ 4.1.5 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

«18 » % «per annum »

**§ 4.2 Final Payment**

**§ 4.2.1** Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor’s responsibility to correct Work as provided in Section 18.2, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Contractor has submitted a final accounting for the Cost of the Work, where payment is on the basis of the Cost of the Work with or without a Guaranteed Maximum Price; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 15.7.1.
- .4 the Contractor has submitted a final Release of Claims, certifying that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied;
- .5 the Contractor has submitted a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner;
- .6 the Contractor has submitted a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents; and
- .7 consent of surety, if any, to final payment.

**§ 4.2.2** The Owner’s final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect’s final Certificate for Payment, or as follows:

« »

**ARTICLE 5 DISPUTE RESOLUTION**

**§ 5.1 Binding Dispute Resolution**

For any claim subject to, but not resolved by, mediation pursuant to Section 21.5, the method of binding dispute resolution shall be as follows:  
*(Check the appropriate box.)*

[  ] Litigation in a court of competent jurisdiction

**ARTICLE 6 ENUMERATION OF CONTRACT DOCUMENTS**

**§ 6.1** The Contract Documents are defined in Article 7 and, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

**§ 6.1.1** The Agreement is this executed AIA Document A104™–2017, Standard Abbreviated Form of Agreement Between Owner and Contractor.

**§ 6.1.2** INTENTIONALLY OMITTED

**§ 6.1.3** INTENTIONALLY OMITTED

**§ 6.1.4** The Specifications:  
*(Either list the Specifications here or refer to an exhibit attached to this Agreement.)*

«Refer to the Project Manual WPM PROJECT NO. D08.22017.00 dated 9-29-2023 65 pages»

Section	Title	Date	Pages

**§ 6.1.5** The Drawings:  
*(Either list the Drawings here or refer to an exhibit attached to this Agreement.)*

« D08-22017-00 JC Library Central Resources Foundation Repair - 9-29-2023 »

Number	Title	Date
S0.00	COVER SHEET	9/29/23
S0.01	GENERAL NOTES	9/29/23
S0.02	GENERAL NOTES	9/29/23
S0.03	GENERAL NOTES	9/29/23
S0.04	GENERAL NOTES	9/29/23
S1.00	FIRST FLOOR PLAN	9/29/23
S1.01	ENLARGED PLAN	9/29/23
S1.02	ELEVATION	9/29/23
S1.03	ELEVATION PLAN	9/29/23
S2.00	REPAIR DETAILS	9/29/23
S2.01	DETAILS	9/29/23
S2.02	DETAILS	9/29/23
S2.03	DETAILS	9/29/23

§ 6.1.6 The Addenda, if any:

Number	Date	Pages

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are enumerated in this Article 6.

§ 6.1.7 Additional documents, if any, forming part of the Contract Documents:

.1 Other Exhibits:

(Check all boxes that apply.)

Exhibit A, Determination of the Cost of the Work.

Exhibit B, Standards for Delivery of Electronic Document Information.

AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:  
(Insert the date of the E204-2017 incorporated into this Agreement.)

The Sustainability Plan:

Title	Date	Pages

Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.2 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents.)

Contractor's Executed Performance Bond  
Contractor's Executed Statutory Bond to the State of Kansas

ARTICLE 7 GENERAL PROVISIONS

§ 7.1 The Contract Documents

The Contract Documents are enumerated in Article 6 and consist of this Agreement (including, if applicable, Supplementary and other Conditions of the Contract), Drawings, Specifications, Addenda issued prior to the

execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

## **§ 7.2 The Contract**

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Contractor.

## **§ 7.3 The Work**

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

### **§ 7.3.1 The Project**

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and by the Owner's own forces, including persons or entities under separate contracts not administered by the Contractor.

### **§ 7.3.2 Knowledge**

The terms "knowledge", "recognize", and "discover", their representative derivatives and similar terms in the Contract Documents, as used in reference to the Contractor, shall be interpreted to mean that which the Contractor knows (or should know), recognizes (or should recognize) and discovers (or should discover) in exercising the care, skill, and diligence required by the Contract Documents. Analogously, the expression "reasonably inferable" and similar terms in the Contract Documents shall be interpreted to mean reasonably inferable by a Contractor familiar with the Project and exercising the care, skill and diligence required of the Contractor by the Contract Documents.

### **§ 7.3.3 Persistently**

The phrase "persistently fails" and other similar expressions, as used in reference to the Contractor, shall be interpreted to mean any combination of acts and omissions, which causes the Owner or the Architect to reasonably conclude that the Contractor will not complete the Work within the Contract Time, for the Contract Sum or in substantial compliance with the requirements of the Contract Documents.

### **§ 7.3.4 Provide**

When the word "provide" including derivatives thereof is used, it shall mean to properly fabricate, transport, deliver install, erect, construct, test and furnish all labor, materials, equipment, apparatus, appurtenances, and all items and expenses necessary to properly complete in place, ready for operation or use under the terms of the Specifications.

## **§ 7.4 Instruments of Service**

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

## **§ 7.5 Ownership and use of Drawings, Specifications and Other Instruments of Service**

**§ 7.5.1** The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and will retain all common law, statutory and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

**§ 7.5.2** The Contractor, Subcontractors, Sub-subcontractors and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to the protocols established pursuant to Sections 7.6 and 7.7, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect's consultants.

**§ 7.6 Digital Data Use and Transmission**

If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmission, unless otherwise provided in the Agreement or in the Contract Documents.

**§ 7.7 Building Information Models Use and Reliance**

INTENTIONALLY OMITTED

**§ 7.8 Severability**

The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

**§ 7.9 Notice**

**§ 7.9.1** Where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission.

**§ 7.9.2** INTENTIONALLY OMITTED

**§ 7.10 Relationship of the Parties**

Where the Contract is based on the Cost of the Work plus the Contractor's Fee, with or without a Guaranteed Maximum Price, the Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

**ARTICLE 8 OWNER**

**§ 8.1 Information and Services Required of the Owner**

**§ 8.1.1** INTENTIONALLY OMITTED

**§ 8.1.2** Unless otherwise provided for in the Contract Documents, the Owner shall, upon the written request of the Contractor, furnish or make available surveys describing physical characteristics, legal limitations, and utility locations for the site of the Project, and a legal description of the site; provided, however, the Owner makes no representation as to the accuracy of any such information provided to the Contractor under the provisions of this Section and the Contractor shall be required to verify the accuracy of any such information furnished by the Owner and report back to the Owner within five (5) calendar days of any omissions, errors, or inconsistencies in the furnished information discovered by the Contractor.

**§ 8.1.3** The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

**§ 8.1.4** Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 9.6.1, the Owner shall secure and pay for other necessary approvals,

easements, assessments, and charges required for the construction, use, or occupancy of permanent structures or for permanent changes in existing facilities.

### **§ 8.2 Owner's Right to Stop the Work**

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents, or repeatedly fails to carry out the Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order is eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

### **§ 8.3 Owner's Right to Carry Out the Work**

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents, and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to any other remedies the Owner may have, correct such default or neglect and may deduct the reasonable cost thereof, including Owner's expenses and compensation for the Architect's additional services and expenses made necessary thereby, from the payment then or thereafter due the Contractor. If payments then or thereafter due are insufficient, the Contractor shall pay the difference to the Owner.

**§ 8.4** The rights stated in this Article 8 and elsewhere in the Contract Documents are cumulative and not in limitation of any rights of the Owner (1) granted in the Contract Documents, (2) at law or (3) in equity.

## **ARTICLE 9 CONTRACTOR**

### **§ 9.1 Review of Contract Documents and Field Conditions by Contractor**

**§ 9.1.1** Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

**§ 9.1.2** Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 8.1.2, shall take field measurements of any existing conditions related to that portion of the Work and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies, or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents.

**§ 9.1.3** The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

### **§ 9.2 Supervision and Construction Procedures**

**§ 9.2.1** The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters.

**§ 9.2.2** The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors.

### **§ 9.3 Labor and Materials**

**§ 9.3.1** Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other

facilities and services necessary for proper execution and completion of the Work whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

**§ 9.3.2** The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

**§ 9.3.3** The Contractor may make a substitution only with the consent of the Owner, after evaluation by the Architect and in accordance with a Modification.

#### **§ 9.4 Warranty**

The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation or normal wear and tear under normal usage. All other warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 15.6.3.

#### **§ 9.5 Taxes**

The Contractor shall pay sales, consumer, use, and other similar taxes that are legally enacted when bids are received or negotiations concluded whether or not yet effective or merely scheduled to go into effect.

**§ 9.5.1** Following execution of the Agreement, the Owner shall provide the Contractor with a Kansas State Sales Tax exemption Certificate number issued by the Kansas Department of Revenue to be used by the Contractor as allowable for sales of tangible personal property services purchases by the Contractor for the Work or portion thereof. The Contractor shall furnish the number of such certificate to all suppliers from whom purchases are made, and such suppliers shall execute invoices covering same bearing number of such certificate. All such invoices shall be held by the Contractor for a period of five (5) years from the date of such invoices and shall be subject to an audit by the Kansas Department of Revenue.

**§ 9.5.2** Upon completion of the Project, the Contractor shall file with the Owner a notarized statement that all purchases made under the exemption certificate were entitled to be exempt from the Kansas Retailer's State Tax and Kansas Compensating Use Tax.

**§ 9.5.3** The Contractor shall assume responsibility and be liable for the proper use of the exemption certificate number and shall pay all legally assessed penalties for improper use of the certificate and any and all taxes that are not otherwise exempt under the certificate.

#### **§ 9.6 Permits, Fees, Notices, and Compliance with Laws**

**§ 9.6.1** Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

**§ 9.6.2** The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

#### **§ 9.7 Allowances**

The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. The Owner shall select materials and equipment under allowances with reasonable promptness. Allowance amounts shall include the costs to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade

discounts. Contractor's costs for unloading and handling at the site, labor, installation, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowance.

### **§ 9.8 Contractor's Construction Schedules**

**§ 9.8.1** The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

**§ 9.8.2** The Contractor shall perform the Work in general accordance with the most recent schedule submitted to the Owner and Architect.

**§ 9.8.3** Should the updates to the Construction Schedule show the Contractor to be twenty (20) or more calendar days behind the Baseline Schedule at any time during the construction, the Contractor shall work with the Owner and Architect to prepare a recovery plan for returning the Project to a completion within the current Final Completion Date. The Owner reserves the right to withhold payments to the Contractor until a reasonable recovery plan is submitted and accepted by the Owner. All costs associated with the preparation of the recovery plan shall be the Contractor's responsibility unless the delay was caused by reasons beyond the control of the Contractor.

### **§ 9.9 Submittals**

**§ 9.9.1** The Contractor shall review for compliance with the Contract Documents and submit to the Architect Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents in coordination with the Contractor's construction schedule and in such sequence as to allow the Architect reasonable time for review. By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them; (2) determined and verified materials, field measurements, and field construction criteria related thereto, or will do so; and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. The Work shall be in accordance with approved submittals.

**§ 9.9.2** Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. Their purpose is to demonstrate the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 10.6. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

**§ 9.9.3** The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents or unless the Contractor needs to provide such services in order to carry out the Contractor's own responsibilities.

**§ 9.9.4** The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect's approval thereof.

**§ 9.9.5** Electronic Documentation submittals: The Contractor shall submit electronic data in accordance with Exhibit B, Standards for Delivery of Electronic Document Information.

### **§ 9.10 Use of Site**

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

### **§ 9.11 Cutting and Patching**

The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly.

### § 9.12 Cleaning Up

The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus material from and about the Project.

### § 9.13 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

### § 9.14 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

### § 9.15 Concealed or Unknown Conditions.

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and Architect before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend to the Owner an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner or Contractor disputes the Architect's recommendation, either party may proceed as provided in Article 21.

### § 9.16 Indemnification

§ 9.16.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and their respective officers, consultants, agents and employees from and against claims, damages, losses and expenses, including but not limited to lost revenues or profits and attorneys' fees, arising out of or resulting from the Contractor's failure or refusal to perform the Work required by the Contract Documents, or arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or damage or destruction of property personal or real, including loss of use resulting therefrom, caused in whole or in part by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 9.16.1. The Contractor's obligation to indemnify and hold harmless the Architect shall apply only to the extent that the Owner's agreement with the Architect contains a reciprocal indemnification and hold harmless provision protecting the Contractor.

§ 9.16.2 In claims against any person or entity indemnified under this Section 9.15 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 9.15.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

## ARTICLE 10 ARCHITECT

§ 10.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction, until the conclusion of the one year warranty period. The Architect

will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 10.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 10.3 The Architect will visit the site at intervals appropriate to the stage of the construction to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 10.4 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work, provided, however, the Architect shall be responsible for promptly notifying the Owner of the failure of the Contractor, Subcontractors, or any other persons performing any of the Work, in failing to use proper construction means and method, techniques sequences, procedures, safety precautions and programs, but only to the extent the Architect becomes aware of, or should, exercising due professional diligence, be aware of the same, and shall also promptly notify the Owner in writing of the failure of any of the foregoing parties to carry out the Work in accordance with the Contract Documents.

§ 10.5 Based on the Architect's evaluations of the Work and of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 10.6 The Architect has authority to reject Work that does not conform to the Contract Documents and to require inspection or testing of the Work.

§ 10.7 The Architect will review and approve or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 9.2, 9.4 and 9.9. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 10.8 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect will make initial decisions on all claims, disputes, and other matters in question between the Owner and Contractor but will not be liable for results of any interpretations or decisions rendered in good faith.

§ 10.9 INTENTIONALLY OMITTED

## ARTICLE 11 SUBCONTRACTORS

§ 11.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site.

§ 11.2 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the Subcontractors or suppliers proposed for each of the principal portions of the Work. The Contractor shall not contract with any Subcontractor or supplier to whom the Owner or Architect has made reasonable written objection within ten days after receipt of the Contractor's list of Subcontractors and suppliers. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 11.3 Contracts between the Contractor and Subcontractors shall (1) require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by the Contract Documents, assumes toward the Owner and Architect, and (2) allow the Subcontractor the benefit of all rights, remedies and redress against the Contractor that the Contractor, by these Contract Documents, has against the Owner.

## **ARTICLE 12 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS**

§ 12.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 12.1.1 The Owner shall require his own forces and his separate contractors to coordinate their activities with the Work of the Contractor, who shall cooperate with them.

§ 12.1.2 The Contractor shall participate with other separate contractors and the Owner in coordinating their construction schedules with the Baseline Schedule and the Construction Schedule. The Contractor shall make any revisions to the Construction Schedule deemed necessary after a joint review and mutual agreement.

§ 12.2 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities and shall connect and coordinate the Contractor's activities with theirs as required by the Contract Documents.

§ 12.3 The Owner shall be reimbursed by the Contractor for costs incurred by the Owner which are payable to a Separate Contractor because of delays, improperly timed activities, or defective construction of the Contractor. The Owner shall be responsible to the Contractor for costs incurred by the Contractor because of delays, improperly timed activities, damage to the Work, or defective construction of a Separate Contractor.

## **ARTICLE 13 CHANGES IN THE WORK**

§ 13.1 By appropriate Modification, changes in the Work may be accomplished after execution of the Contract. The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, with the Contract Sum and Contract Time being adjusted accordingly. Such changes in the Work shall be authorized by written Change Order signed by the Owner, Contractor, and Architect, or by written Construction Change Directive signed by the Owner and Architect. Upon issuance of the Change Order or Construction Change Directive, the Contractor shall proceed promptly with such changes in the Work, unless otherwise provided in the Change Order or Construction Change Directive.

§ 13.2 Adjustments in the Contract Sum and Contract Time resulting from a change in the Work shall be determined by mutual agreement of the parties or, in the case of a Construction Change Directive signed only by the Owner and Architect, by the Contractor's cost of labor, material, equipment, and reasonable overhead and profit, unless the parties agree on another method for determining the cost or credit. Pending final determination of the total cost of a Construction Change Directive, the Contractor may request payment for Work completed pursuant to the Construction Change Directive. The Architect will make an interim determination of the amount of payment due for purposes of certifying the Contractor's monthly Application for Payment. When the Owner and Contractor agree on

adjustments to the Contract Sum and Contract Time arising from a Construction Change Directive, the Architect will prepare a Change Order.

§ 13.3 The Architect will have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be affected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

#### § 13.4 INTENTIONALLY OMITTED

### ARTICLE 14 TIME

§ 14.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing this Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 14.2 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 14.3 The term “day” as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 14.4 The date of Substantial Completion is the date certified by the Architect in accordance with Section 15.6.3.

§ 14.5 If the Contractor is materially delayed at any time in the commencement or progress of the Work by (1) changes ordered in the Work; (2) by fire, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties, or any causes beyond the Contractor’s control; or (3) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine, subject to the provisions of Article 21.

Contractor shall be entitled to an increase in Contract Sum as a result of the delay or hidden issues, upon written agreement of the Owner.

The Contract Time will not be extended due to normal inclement weather. The Contractor shall include in all schedules an allowance for calendar days, for which, according to historical data in the location of the project, work subject to normal inclement weather cannot be performed.

### ARTICLE 15 PAYMENTS AND COMPLETION

#### § 15.1 Schedule of Values

§ 15.1.1 Where the Contract is based on a Stipulated Sum or the Cost of the Work with a Guaranteed Maximum Price pursuant to Section 3.2 or 3.4, the Contractor shall submit a schedule of values to the Architect and Owner, before the first Application for Payment, and if necessitated by Change Orders, updated from time to time thereafter, allocating the entire Stipulated Sum or Guaranteed Maximum Price to the various portions of the Work. The schedule of values shall be prepared in the form and supported by the data to substantiate its accuracy required by the Architect and Owner. This cost loaded schedule of values, when and only when approved in writing by the Architect and the Owner, shall be used as a basis for reviewing the Contractor’s Applications for Payment. Additionally, with each Application for Payment, the Contractor shall submit the current Construction Schedule including updated cost loading reflecting all changes to date to the Cost of the Work.

§ 15.1.2 The allocation of the Stipulated Sum or Guaranteed Maximum Price under this Section 15.1 shall not constitute a separate stipulated sum or guaranteed maximum price for each individual line item in the schedule of values.

#### § 15.2 Control Estimate

§ 15.2.1 Where the Contract Sum is the Cost of the Work, plus the Contractor’s Fee without a Guaranteed Maximum Price pursuant to Section 3.3, the Contractor shall prepare and submit to the Owner a Control Estimate within 14 days of executing this Agreement. The Control Estimate shall include the estimated Cost of the Work plus the Contractor's Fee.

§ 15.2.2 The Control Estimate shall include:

- .1 the documents enumerated in Article 6, including all Modifications thereto;

- .2 a list of the assumptions made by the Contractor in the preparation of the Control Estimate to supplement the information provided by the Owner and contained in the Contract Documents;
- .3 a statement of the estimated Cost of the Work organized by trade categories or systems and the Contractor's Fee;
- .4 a project schedule upon which the Control Estimate is based, indicating proposed Subcontractors, activity sequences and durations, milestone dates for receipt and approval of pertinent information, schedule of shop drawings and samples, procurement, and delivery of materials or equipment the Owner's occupancy requirements, and the date of Substantial Completion; and
- .5 a list of any contingency amounts included in the Control Estimate for further development of design and construction.

§ 15.2.3 When the Control Estimate is acceptable to the Owner and Architect, the Owner shall acknowledge it in writing. The Owner's acceptance of the Control Estimate does not imply that the Control Estimate constitutes a Guaranteed Maximum Price.

§ 15.2.4 The Contractor shall develop and implement a detailed system of cost control that will provide the Owner and Architect with timely information as to the anticipated total Cost of the Work. The cost control system shall compare the Control Estimate with the actual cost for activities in progress and estimates for uncompleted tasks and proposed changes. This information shall be reported to the Owner, in writing, no later than the Contractor's first Application for Payment and shall be revised and submitted with each Application for Payment.

§ 15.2.5 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in the Control Estimate. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the Control Estimate and the revised Contract Documents.

### § 15.3 Applications for Payment

§ 15.3.1 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 15.3.2 With each Application for Payment where the Contract Sum is based upon the Cost of the Work, or the Cost of the Work with a Guaranteed Maximum Price, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Contractor's Fee.

§ 15.3.3 Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing.

§ 15.3.4 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or other encumbrances adverse to the Owner's interests.

§ 15.3.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor and approved in writing by the Architect in accordance with the Contract Documents.

### § 15.4 Certificates for Payment

#### § 15.4.1 Procedure:

- .1 At least seven days (7) before the date established for each progress payment submittal, the Contractor shall submit to the Architect and Owner, a draft of the Application for Payment for operations completed in accordance with the most recently approved schedule of values as required under Section 15.1, for completed portions of the Work. The application shall be notarized, shall reflect retainage provided for in the Contract Documents and be supported by such data substantiating the Contractor's

right to payment as the Owner or Architect require, including but not limited to, requisitions from Subcontractors and material suppliers and properly executed Release of Claims forms.

- .2 Such application shall be accompanied by monthly releases of claims by the Contractor, Subcontractors and selected material suppliers whose work coincides with the application for payment and cost loaded schedule of values. Failure on the part of the Owner or Architect to enforce this requirement either at any single time or repeatedly during the course of the Project shall not constitute or be deemed a waiver on the part of the Owner or Architect thereafter to enforce this requirement upon the Contractor.
- .3 At least four (4) days before the date established for each progress payment submittal, the Owner, Architect, and Contractor shall meet to review the submitted draft. The parties shall resolve any questions or concerns raised. The contractor, based on the outcome of the meeting, shall adjust his draft Application for Payment accordingly and submit a notarized, signed Application for Payment to the Architect.
- .4 The Architect shall date stamp the signed application upon receipt. If it is in accordance with outcomes decided in Section 15.3.4 and all other provisions of this Contract, the Architect will, within two (2) business days, issue to the Owner a Certificate for Payment, with a copy to the Contractor. If it is not in accordance, the Architect shall notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Section 15.4.3.

**§ 15.4.2** The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluations of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

**§ 15.4.3** The Architect will withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 15.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 15.4.1. If the Contractor and the Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 9.2.2, because of

- .1 defective Work not remedied;
- .2 third-party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

#### § 15.4.4 INTENTIONALLY OMITTED

#### § 15.5 Progress Payments

§ 15.5.1 The Contractor shall pay each Subcontractor, no later than seven (7) business days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to sub-subcontractors in a similar manner. Notwithstanding anything in the Section 15.5.1 to the contrary, the Owner may elect, in the Owner's sole discretion, to make any payment requested by the Contractor on behalf of a subcontractor of any tier jointly payable to the Contractor and such subcontractor. The Contractor and such subcontractor shall be responsible for the allocation and disbursement of funds included as part of any such joint payment. In no event shall any joint payment be construed to create any (i) contract between the Owner and a subcontractor of any tier, (ii) obligations from the Owner to such subcontractor, or (iii) rights in such subcontractor against the Owner. Further, to the extent permitted by law, any disputes between the Contractor and subcontractor shall not affect the contract time or cost between the Owner and Contractor.

§ 15.5.2 Neither the Owner nor Architect shall have an obligation to pay or see to the payment of money to a Subcontractor or supplier except as may otherwise be required by law.

§ 15.5.3 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

#### § 15.5.4 INTENTIONALLY OMITTED

#### § 15.6 Substantial Completion

§ 15.6.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use. Receipt of Electronic Documentation submittals in accordance with Exhibit B, Standards for Delivery of Electronic Document Information shall be a condition of utilizing the Work for its intended use.

§ 15.6.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 15.6.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. When the Architect determines that the Work or designated portion thereof is substantially complete, the Architect will issue a Certificate of Substantial Completion which shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 15.6.4 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

#### § 15.7 Final Completion and Final Payment

§ 15.7.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation

that conditions stated in Section 15.7.2 as precedent to the Contractor's being entitled to final payment have been fulfilled. Receipt of Electronic Documentation submittals in accordance with Exhibit B, Standards for Delivery of Electronic Document Information shall be a condition of determining that the Work has been completed in accordance with terms and conditions of the Contract Documents.

§ 15.7.2 Final payment shall not become due until the Contractor has delivered to the Owner a complete release of all liens arising out of this Contract or receipts in full covering all labor, materials and equipment for which a lien could be filed, or a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including costs and reasonable attorneys' fees.

§ 15.7.3 The making of final payment shall constitute a waiver of claims by the Owner except those arising from

- .1 liens, claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 15.7.4 Acceptance of final payment by the Contractor, a Subcontractor or supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of the final Application for Payment.

## ARTICLE 16 PROTECTION OF PERSONS AND PROPERTY

### § 16.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation, or replacement in the course of construction: and
- .4 construction or operations by the Owner or other Contractors.

The Contractor shall comply with, and give notices required by, applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury, or loss. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, a Subcontractor, a sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 16.1.2 and 16.1.3. The Contractor may make a claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 9.15.

§ 16.1.5 The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent sites and utilities.

§ 16.1.6 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 16.1.7 If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 10 calendar days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

## § 16.2 Hazardous Materials and Substances

§ 16.2.1 The Contractor is responsible for compliance with the requirements of the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents, and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop any ongoing Work in the affected area and notify the Owner and Architect within twenty-four (24) hours maximum by phone or email in writing of the condition. When the material or substance has been rendered harmless by an authority of the Owner's choosing, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended if and as appropriate and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up, if any.

§ 16.2.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area, if in fact, the material or substance presents the risk of bodily injury or death as described in Section 16.2.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 16.2.3 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.

§ 16.2.4 The Contractor shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 16.2, except to the extent that the cost and expense are due to the Owner's fault or negligence

## § 16.3 Hot Work Permits

Contractor shall utilize and provide certification that all "Hot Work" associated with demolition and renovation, and new construction is being monitored by use of Factory Mutual Hot Work Permits.

## § 16.4 Red Tag System

Contractor shall utilize the Factory Mutual Red Tag System at all times when the fire protection equipment is taken out of service. The Owner shall be advised at least twenty-four (24) hours prior to all times when the fire protection equipment is impaired or out of service.

## § 16.5 Material, Equipment And Quality Assurance

§ 16.5.1 Systems and components used in the construction of the Work shall be Factory Mutual Engineering and Research (FMER) listed and labeled.

§ 16.5.2 Contractor shall perform all Work in accordance with the most current edition of the NFPA 70e Standard for Electrical Safety in the Workplace. Perform arc flash hazard analysis, prepare and submit written report to Owner and install labeling in compliance with Article 130 of NFPA 70e.

## ARTICLE 17 INSURANCE AND BONDS

### § 17.1 Contractor's Insurance

§ 17.1.1 The Contractor shall carry and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in this Section 17.1 or elsewhere in the Contract Documents. The Contractor shall carry and maintain in force for the duration of the Contract the insurance required by this Agreement, underwritten by insurer(s) lawfully authorized to write insurance in the state of Kansas, insurance for protection from claims under workers' compensation acts and other employee benefit acts which are applicable, claims for damages because of bodily injury, including death, and claims for damages, other than to the Work itself, to property which may arise out of or result from the Contractor's operations and completed operations under the Contract, whether such operations be by the Contractor or by a Subcontractor or anyone directly or

indirectly employed by any of them. This insurance shall be written for not less than limits of liability specified in Article 17.1.2 of the Contract Documents or required by law, whichever coverage is greater, and shall include contractual liability insurance applicable to the Contractor's obligations under Section 9.16. Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. The Contractor shall cause the commercial liability coverage required by the Contract Documents to include: (1) Owner, specifically the "Board of County Commissioners of Johnson County, Kansas, the Board of Directors of the Johnson County Library and their respective officers, Commissions, Agencies and employees," and the Architect and the Architect's Consultants as Additional Insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations and during the Contractor's completed operations. The Additional Insured requirement does not create a partnership or joint venture between the Owner and Contractor under this Contract. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 18.4, unless a different duration is stated below:

« »

§ 17.1.2 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than « one million dollars» (\$ « 1,000,000 » ) each occurrence, « two million dollars» (\$ « 2,000,000 » ) general aggregate, and « two million dollars» (\$ « 2,000,000 » ) aggregate for products-completed operations hazard, providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal and advertising injury;
- .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 the Contractor's indemnity obligations under Section 9.15.

ISO Form CG0001 or its equivalent with no amendments to the definition of an insured contract including Premises and Operations; Products and Completed Operations Liability; and Contractual Liability. The Liability insurance shall include Blasting, Explosion, Collapse, and Underground coverage.

§ 17.1.3 Automobile Liability covering vehicles owned by the Contractor and non-owned vehicles used by the Contractor, with policy limits of not less than « one million dollars» (\$ « 1,000,000 » ) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

§ 17.1.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Section 17.1.2 and 17.1.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 17.1.5 Workers' Compensation and Employer's Liability:

- .1 Statutory Workers' Compensation including an all-states endorsement
- .2 Employer's Liability (E.L. and Disease):
  - .1 Bodily Injury by Accident \$1,000,000 Each Accident
  - .2 Bodily Injury by Disease \$1,000,000 Policy Limit
- .3 Bodily Injury by Disease \$1,000,000 Each Employee

§ 17.1.6 **Umbrella (Excess Liability)** to be provided over the primary general liability; automobile liability and Employers' Liability with policy limits not less than « five million dollars» (\$ « 5,000,000 » ) per occurrence, « five million dollars» (\$ « 5,000,000 » ) aggregate.

§ 17.1.7 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than « one million dollars» (\$ « 1,000,000 » ) per claim and « two million dollars» (\$ « 2,000,000 » ) in the aggregate.

§ 17.1.8 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than « one million dollars » (\$ « 1,000,000 » ) per claim and « two million dollars » (\$ « 2,000,000 » ) in the aggregate.

§ 17.1.9 Coverage under Sections 17.1.7 and 17.1.8 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than « two million dollars » (\$ « 2,000,000 » ) per claim and « four million dollars » (\$ « 4,000,000 » ) in the aggregate.

§ 17.1.10 The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Section 17.1 at the following times: (1) prior to commencement of the Work; (2) within five (5) business days of renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the period required by Section 17.1.1.

Any insurance coverages purchased by Subcontractor in excess of the minimum limits required in this Subcontract are for Subcontractor's benefit only and shall not be deemed insurance provided under this Subcontract for use by Contractor or any additional insureds.

All insurance must include The Board of Directors of the Johnson County Library as a Owner

Contractor agrees to waive subrogation that any insurer may acquire from Contractor by virtue of the payment of any loss relating to this Agreement. Contractor agrees to obtain any endorsement that may be necessary to implement this subrogation waiver. The workers' compensation policy must be endorsed to contain a subrogation waiver in favor of the County for the work performed by Contractor.

Board of Directors of the Johnson County Library, Johnson County, KS, its officers, Commissions, Agencies and employees shall be named as Additional Insured, on a primary and non-contributory basis, under the Commercial General Liability policy and Commercial Auto policies. The Additional Insured requirement does not create a partnership or joint venture between the Owner and Contractor under this Contract, nor does it apply to professional liability.

Prior to contract execution, the successful bidder shall furnish Certificate(s) of Insurance verifying the required insurance is in full force and effect in accordance with this Contract. Within five (5) business days of expiration of any insurance coverage, Contractor shall provide renewal Certificate(s) of Insurance as required by this Contract. The Certificate Holder shall be as follows:

Board of County Commissioners (OR) Board of Directors of the Johnson County Library  
9875 W87th St. Overland Park  
Kansas 66212

Johnson County, Kansas  
C/o Risk Manager  
111 South Cherry Street, Suite 2400  
Olathe, Kansas 66061

A brief description of the work to be performed, bid/project number, and the required Additional Insured language shall be referenced on the Certificate(s) of Insurance in the Description of Operations section. Prior to any reduction in coverage, cancellation, or non-renewal the Contractor or its Agent shall provide certificate Holder not less than thirty (30) days advance written notice of such change in Contractor's insurance coverage. It is Contractor's sole responsibility to provide this notice to Certificate Holder. Failure to provide notice shall not relieve Contractor of its obligations under this Contract.

In the event Contractor procures insurance coverage that is not written on an "occurrence basis" Contractor shall at all times, including without limitation, after the expiration or termination of this Contract for any reason, maintain insurance coverage for any liability directly or indirectly resulting from acts or omissions of Contractor occurring in whole or in part during the term of this Contract (hereinafter "Continuing Coverage"). Contractor may maintain such Continuing Coverage through the procurement of subsequent policies that provide for a retroactive date of coverage equal to the retroactive date of the insurance policy in effect as of the effective date of this Contract, the

procurement of an extended reporting endorsement (commonly known as “tail coverage”) applicable to the insurance coverage maintained by Contractor during the term of this Contract, or such other method acceptable to County. The contractor shall maintain the full limit of coverage as stated above for the Statute of Repose.

§ 17.1.11 The Contractor understands and agrees that any insurance or self-insurance maintained by the Board of County Commissioners of Johnson County, Kansas and their respective officers, Commissions, Agencies and employees, shall apply in excess of and not be contributory with any insurance or self-insurance maintained by Contractor.

§ 17.1.12 The Contractor shall not commence work under this Contract until the Contractor has obtained all insurance required under this Article, Certificates of Insurance have been submitted to Owner and such insurance has been approved by the Owner. Evidence of continuing coverage for the Contractor or for a Subcontractor or anyone directly or indirectly employed by any of them shall be mailed to Certificate Holder, within five (5) days of renewal or replacement. Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that County is an additional insured on insurance required from subcontractors.

§ 17.1.13 All such insurance shall remain in effect until final payment and at all times thereafter when the Contractor may be correcting, removing, or replacing defective work as provided by these Contract Documents. In addition, the Contractor shall maintain such commercial general liability and completed operations insurance for the statute of repose and furnish the Owner with evidence of continuation of such coverage. Certified copies of all insurance policies shall be provided to Owner, upon Owner’s request.

§ 17.1.14 The Contractor shall disclose to the Owner any deductible or self- insured retentions applicable to any insurance required to be provided by the Contractor.

§ 17.1.15 To the fullest extent permitted by law, the Contractor shall cause the commercial liability coverage required by this Section 17.1 to include (1) the Owner, the Architect, and the Architect’s Consultants as additional insureds for claims caused in whole or in part by the Contractor’s negligent acts or omissions during the Contractor’s operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor’s negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner’s general liability insurance policies, including Owner’s self-insured retentions, and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect’s Consultants, CG 20 32 07 04.

§ 17.1.16 Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by this Section 17.1, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

**§ 17.1.17 Other Insurance Provided by the Contractor**

*(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)*

**Coverage**

**Limits**

**§ 17.2 Owner’s Insurance**

**§ 17.2.1 Owner’s Liability Insurance**

The Owner shall be responsible for purchasing and maintaining the Owner’s usual liability insurance.

### § 17.3 Property Insurance

Contractor shall procure and maintain "All-Risk" Builder's insurance, written on a commercially recognized policy form, providing coverage for the Work performed under the contract, and the materials, equipment or other items incorporated therein, while the same are located at the construction site, stored off-site, in transit, or at the place of manufacture. The policy limit shall be in a minimum amount equal to the "full insurable value" of such equipment and 100% of the value of the Contract, including any additional costs which are normally insured under such policy. The insurance coverage shall include boiler and machinery insurance on a comprehensive basis and include coverage against damage or loss caused by earth movement (including but not limited to earthquake, landslide, subsidence and volcanic eruption), fire, flood, hurricanes, explosion, hail, lighting, weather, vandalism, malicious mischief, wind, collapse, riot, aircraft, smoke, or other cataclysmic events, and coverage against damage or loss caused by machinery accidents and operational and performance testing, commissioning and start-up, with extended coverage, and providing coverage for transit, with sub-limits sufficient to insure the full replacement value of the property or equipment removed from its site and while located away from its site until the date of final acceptance of the Work.

The making of progress payments to the Contractor shall not be construed as relieving the Contractor or its subcontractors or insurance carriers providing the coverage described herein for responsibility for loss or direct physical loss, damage or destruction occurring prior to final acceptance of the Work.

### § 17.4 Performance Bond and Statutory Bond

The Contractor shall furnish a Performance Bond and Statutory Bond on forms supplied by the Owner and contained in the Bidding Documents in amounts each equal to one hundred percent (100%) of the initial Contract Sum as well as subsequent modifications thereto. Such bonds shall be executed by a surety company authorized to do business in the State of Kansas and require the appointment of a Kansas Resident Agent. The Statutory Bond shall be filed with the Clerk of the District Court of Johnson County, Kansas and receipt of filing furnished to the Owner. In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

## ARTICLE 18 CORRECTION OF WORK

§ 18.1 The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed, or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense, unless provided in the Contract Documents.

§ 18.2 In addition to the Contractor's obligations under Section 9.4, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 15.6.3, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor at Contractor's expense shall correct it promptly after receipt of notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty.

§ 18.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 8.3.

§ 18.4 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 18.5 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Article 18.

### § 18.6 Uncovering Work

§ 18.6.1 If a portion of the Work is covered contrary to the Owner's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by either, be uncovered for their observation and be replaced at the Contractor's expense without change in the Contract Time.

§ 18.6.2 If a portion of the Work has been covered which the Architect has not specifically requested to observe prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor's expense unless the condition was caused by the Owner or one of the other Contractors in which event the Owner Shall be responsible for payment of such costs.

## ARTICLE 19 MISCELLANEOUS PROVISIONS

### § 19.1 Assignment of Contract

The Contractor shall not assign the Contract without written consent of the Owner.

### § 19.2 Governing Law

The Contract shall be governed by the laws of the state of Kansas.

### § 19.3 Tests and Inspections

Tests, inspections, and approvals of portions of the Work required by the Contract Documents or by applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

### § 19.4 The Owner's representative:

*(Name, address, email address and other information)*

« Juan Lopez-Tamez »  
« Johnson County Facilities Management »  
« 111 South Cherry Street, Suite 2100 »  
« Olathe, Kansas 66061 »  
« 913.715.1132 »  
« Juan.Lopez-Tamez@jocogov.org »

### § 19.5 The Contractor's representative:

*(Name, address, email address and other information)*

« Kent Abella »  
« kabella@keller-na.com »  
«Area Manager »  
«Keller – North America »  
« 411 Nichols Road, Suite 217 Kansas City, MO 64112 »  
« 469-853-6136»

§ 19.6 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 19.7 The following provisions shall apply to this and all resulting contracts and subcontracts with and between all contractors, subcontractors, vendors, and /or suppliers connected with this Project, except (i) those whose contracts with the Owner cumulatively total five thousand dollars (\$5,000) or less during the Owner's fiscal year or (ii) those contracts with and between all contractors, subcontractors, vendors and/or suppliers who employ fewer than four (4) employees during the term of this contract.

- .1 The Contractor shall observe the provision of the Kansas Act Against Discrimination, K.S.A. 44-1001 et seq., and amendments thereto, the Kansas Age Discrimination in Employment Act, K.S.A. 44-1111 et seq., and amendments thereto, and the applicable provisions of the Americans with Disabilities Act (ADA), 42 U.S.C. 12101 et seq., and amendments thereto and shall not discriminate against any person in the performance of work under present contract because of race, religion, color, sex, physical handicap unrelated to such person's ability to engage in the particular work, national origin or ancestry.
- .2 In all solicitations or advertisements for employees, the Contractor shall include the phrase "equal opportunity employer" or a similar phrase to be approved by the Kansas Commission on Civil Rights ("Commission");
- .3 If the Contractor fails to comply with the manner in which the Contractor reports to the Commission in accordance with the provisions of K.S.A. 44-1031, and amendments thereto, the Contractor shall be deemed to have breached the present Contract, and it may be canceled, terminated or suspended, in whole or in part, by the Owner; and
- .4 If the Contractor is found guilty of a violation of the Kansas Act Against Discrimination, the Kansas Age Discrimination in Employment Act or the ADA under a decision or order of the Commission which has become final, the Contractor shall be deemed to have breached the present Contract, and it may be cancelled, terminated or suspended, in whole or in part, by the Owner.

**§ 19.8** Notwithstanding anything to the contrary contained in this Contract or represented by either party to the other or by the Architect to either the Owner or Contractor, the Contractor warrants that each and every chemical substance or product offered, sold, handled, or used for the Work under this Contract, or otherwise, transferred by the Contractor to officers, employees, agents or authorized representatives of the Owner as the date of such offer, sale, transfer or use shall comply with the Occupational Safety and Health Administration (OSHA) Hazard Communication Standard 29 CFR 1910.1200.

**§ 19.9 Right to Examine and Audit Records, Contract Change Order Procedures; Overcharges.**

**§ 19.9.1** The Contractor agrees that the Owner, or any of its authorized representatives, shall have access to, and the right to examine and audit, any and all books, documents, papers and records (collectively the "Records") of the Contractor involving transactions related to the contract (the "Contract") between the Owner and Contractor hereunder, or any change order or Contract modification thereto, or with compliance with any clauses thereunder. Such Records shall include hard copy as well as computer readable data. The Contractor shall require all of its payees including, but not limited to, subcontractors, insurance agents or material suppliers (collectively the "payee(s)") to comply with the provisions of this clause by including the requirements hereof in a written agreement between the Contractor and payee(s). Further, the Contractor agrees to cooperate fully and will require all of its payees to cooperate fully in furnishing or making available to the Owner any and all such Records. The Owner's right to examine and audit any and all Records hereunder shall survive termination of the Contract.

**§ 19.9.2** The Contractor agrees to follow the quality control change order processing system (the "System") utilized by Architect and Owner to ensure that any and all Contract change orders or Contract modifications (collectively the "Change Order(s)") that may be necessitated and result during the course of the performance of work or services rendered (the "Work") pursuant to, and under the requirements of, the Contract are warranted and properly processed. The System shall serve as a means for Owner and Contractor representatives to ensure the propriety, justification and timeliness of the Change Order(s), and dill documentation to enable the parties to examine how the price was determined, reviewed, evaluated, negotiated, and accepted or rejected.

**§ 19.9.3** The Contractor agrees that if at any time following thirty-six (36) months of termination of the Contract (the "audited period"), an audit performed by or for the Owner hereunder of the Records and/or Change Order(s) pertaining to, or in connection with, the Work and/or the Contract reveals that any overcharges were paid by the Owner and were attributable to any error, omission, negligence, misrepresentation, or willful act on the part of the Contractor, or an of its officers, employees, subcontractors, agents or payees, then the Contractor, or any of its assigns or successors shall, within thirty (30) days of receipt of written notice from the Owner, refund upon demand, and be and remain liable to the Owner for payment of, any such overcharges revealed, including interest thereupon, for the audited period, as well as any and all out-of-pocket costs incurred by the Owner with the respect to conducting the audit and collecting the overcharges. Neither shall the making and acceptance of final payment under the Contract

nor the termination of the Contract constitute a waiver of any claim on the part of the Owner to make demand upon the Contractor for any such overcharges and related costs thereto; provided, further, that any such demand of the Owner made upon the Contractor shall not be subject to claims and disputes procedural requirements or provisions, if any, of the Contract, but shall remain a continuing obligation of the Contractor until satisfied.

#### § 19.10 Definitions:

**Baseline Schedule** – a cost loaded schedule defining all submittals and all significant construction activities and milestones necessary for the commencement and Final Completion of the Work by the Contractor or Construction Manager (if retained) and the work of the Owner’s own forces and separate contractors. The Baseline Schedule shall be prepared by the Scheduling Consultant, Contractor, or Construction Manager (if retained) and shall be mutually accepted by the Owner, Architect and Contractor or Construction Manager (if retained) prior to issuance of a Notice To Proceed.

**Construction Schedule** – Originating from the Baseline Schedule, including cost loading and updates to reflect change in the Cost of Work, and modified by the Contractor or Construction Manager (if retained) as they deem necessary to perform the Work thereafter, however, increases in time to achieve: 1) milestones, 2) completion of phases, 3) Substantial Completion or 4) Final Completion, shall require approval through the Claims and Disputes process identified in Article 21. If a Scheduling Consultant is responsible for maintaining and modifying the Construction Schedule, the Contractor or Construction Manager (if retained) shall provide all necessary information to the Scheduling Consultant so that he can perform his duties.

### ARTICLE 20 TERMINATION OF THE CONTRACT

#### § 20.1 Termination by the Contractor

If the Architect fails to certify payment as provided in Section 15.4.1 for a period of 30 days through no fault of the Contractor, or if the Owner fails to make payment as provided in Section 4.1.3 for a period of 30 days, the Contractor may, upon seven additional days’ notice to the Owner and the Architect, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

#### § 20.2 Termination by the Owner for Cause

§ 20.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 20.2.2 When any of the reasons described in Section 20.2.1 exists, the Owner, upon certification by the Architect that sufficient cause exists to justify such action, may, without prejudice to any other remedy the Owner may have and after giving the Contractor seven days’ notice, terminate the Contract and take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever reasonable method the Owner may deem expedient. Upon request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

#### § 20.2.3 INTENTIONALLY OMITTED

§ 20.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect’s services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Architect, upon application, and this obligation for payment shall survive termination of the Contract.

### § 20.3 Termination by the Owner for Convenience

The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Owner shall pay the Contractor for Work executed; and costs incurred by reason of such termination, including costs attributable to termination of Subcontracts; and a termination fee, if any, as follows:

*(Insert the amount of or method for determining the fee payable to the Contractor by the Owner following a termination for the Owner's convenience, if any.)*

« In accordance with the Contract Documents »

§ 20.3.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall:

- .1 cease operations as direction by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work, and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders

§ 20.3.2 Upon termination by a court of competent jurisdiction that termination of the Contractor pursuant to Section 20.2 as wrongful or otherwise improper, such termination shall be deemed a termination for convenience pursuant to the Section 20.3 and the provisions of this Section 20.3 shall apply. The prevailing party shall be entitled to reasonable attorney's fees and costs associated with defense of a the improper termination action."

§ 20.3.3 In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed in accordance with the Contract Documents and costs reasonable incurred by reason of such termination, along with reasonable overhead and profit thereon.

### § 20.4 SUSPENSION BY THE OWNER FOR CONVENIENCE

§ 20.4.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 20.4.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

## ARTICLE 21 CLAIMS AND DISPUTES

§ 21.1 Claims, disputes, and other matters in question arising out of or relating to this Contract, including those alleging an error or omission by the Architect but excluding those arising under Section 16.2, shall be referred initially to the Architect for decision. Such matters, except those waived as provided for in Section 21.11 and Sections 15.7.3 and 15.7.4, shall, after initial decision by the Architect or 30 days after submission of the matter to the Architect, be subject to mediation as a condition precedent to binding dispute resolution.

### § 21.2 Notice of Claims

§ 21.2.1 INTENTIONALLY OMITTED

§ 21.2.2 INTENTIONALLY OMITTED

### § 21.3 Time Limits on Claims

INTENTIONALLY OMITTED

§ 21.4 The Architect will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, or (4) suggest a compromise.

§ 21.5 In evaluating Claims, the Architect may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Architect in rendering a decision. The Architect may request the Owner to authorize retention of such persons at the Owner's expense.

§ 21.6 If the Architect requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Architect when the response or supporting data will be furnished or (3) advise the Architect that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Architect will render an initial decision.

§ 21.7 The Architect will render an initial decision that either rejects or approves the Claim in whole or in part. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to binding dispute resolution.

§ 21.8 Either party may, within 30 days from the date of an initial decision, file for binding dispute resolution within 60 days of the initial decision. Failure to demand binding dispute resolution within said 30 days' period shall result in the Architect's decision becoming final and binding upon the Owner and Contractor, and shall result in a waiver by both parties of their rights to pursue binding dispute resolution proceedings with respect to the initial decision.

§ 21.9 INTENTIONALLY OMITTED

**§ 21.10 Continuing Contract Performance**

Pending final resolution of a Claim, except as otherwise agreed in writing, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

**§ 21.11 Waiver of Claims for Consequential Damages**

INTENTIONALLY OMITTED

This Agreement entered into as of the day and year first written above.

\_\_\_\_\_  
**OWNER** *(Signature)*

«Bethany Griffith Board Chair Board of Directors of  
the Johnson County Library »« »

*(Printed name and title)*

\_\_\_\_\_  
**CONTRACTOR** *(Signature)*

« »« »

*(Printed name and title)*

APPROVED AS TO FORM:

\_\_\_\_\_  
Fred J. Logan



## **PURCHASE ORDER**

### **TERMS AND**

### **CONDITIONS**

1. The agreement between the Johnson County Library (hereinafter the Purchaser) and Vendor consists of the terms and conditions contained on the face hereof, these printed terms and conditions, and any documents referenced herein which may or may not be attached hereto. Any such documents referenced on the face of this Purchase Order are incorporated by reference and made a part of the agreement between Purchaser and Vendor. In the event of conflict between the terms and conditions on the face of this Purchase Order, including documents referenced thereon, and these printed terms and conditions, the terms and conditions on the face hereof shall prevail. The agreement as described hereinabove constitutes the entire agreement between Purchaser and Vendor, which agreement shall not be modified orally or by failure of either party to enforce any of its rights hereunder.
2. Purchaser and Vendor agree that no acknowledgement or other document written or executed by Vendor or forwarded by Vendor to Purchaser after the date of the Purchase Order which contain terms and conditions other than those specified herein, shall be binding on Purchaser unless any such instrument shall be signed either by the Purchaser or such other person authorized to execute such instrument on behalf of Purchaser, and only then if such instrument shall have been delivered to Vendor.
3. Unless otherwise indicated on the face of this Purchase Order, all prices shall be F.O.B. destination. Where specific purchases are negotiated F.O.B. origin, the Vendor shall prepay shipping charges and indicate those charges as a separate item on the invoice. C.O.D. shipments will not be accepted.
4. Goods or equipment delivered and/or services rendered hereunder must be made according to the terms of this agreement both as to time and quantities, with Purchaser reserving the right to cancel, reject, or refuse any delivery made and/or service rendered prior to or subsequent to the times specified. In the event no quality is specified on the face hereof, the goods or equipment delivered and/or services rendered hereunder must be of the best quality. If delivery of goods or equipment and/or rendering of services cannot be maintained, Vendor must notify Purchaser immediately. Upon Vendor's failure to maintain delivery or otherwise perform hereunder, Purchaser reserves the right to procure such goods or equipment and/or services elsewhere, in whole or in part, and assess Vendor with any additional costs incurred, unless Vendor's default arises from causes beyond its

control and without fault or negligence. Time is of the essence in this agreement.

5. All goods or equipment delivered and/or services rendered hereunder shall be properly packaged and identified by Purchase Order number and shall be received subject to Purchaser's inspection, count and testing. Inspection and acceptance will be made at the F.O.B. delivery point unless otherwise negotiated. Purchaser and Vendor agree payment of any sums set forth in the Purchase Order are net-30, meaning Purchaser will remit payment not more than thirty days from receipt of Vendor statement. Payment alone shall not constitute acceptance.
6. Purchaser may reject, in whole or in part, goods or equipment delivered or to be delivered and/or services rendered or to be rendered hereunder by reason of Vendor's failure to comply with any of the terms, conditions and/or specifications contained herein. Nothing herein shall make Purchaser obligated to pay Vendor for any goods or equipment delivered and for services rendered which are so rejected.
7. Vendor shall maintain in full force and effect such insurance coverage as may be required hereunder by Purchaser and for such period specified by Purchaser.
8. ~~Vendor agrees to protect, defend, indemnify and save harmless the Purchaser, its officers, employees and agents from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities attributable to defect(s) in the item(s) purchased hereunder, or resulting from the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used under this Purchase Order.~~
9. Vendor agrees to comply with the provisions of Executive Order 11246 and all similar federal, state and local laws, rules, regulations and orders, and amendments thereto, prohibiting discrimination in employment and further agrees that it will not discriminate on the basis of race, creed, color, sex, age, handicap, national origin, ancestry or political affiliation.
10. Vendor agrees not to assign, transfer, convey, sublet, or otherwise dispose of this agreement or the right, title or interest of the power to execute this agreement to any other third party without the expressed written consent of the Purchaser or such other person authorized to execute such instrument on behalf of Purchaser, such authorization not to be unreasonably withheld, but in no event shall such consent relieve the Vendor from any of its obligations hereunder, or in any way alter or modify the terms and conditions of this agreement.
11. ~~Vendor shall not be charged with any liability for failure or delay in the performance required hereunder when~~

~~such failure or delay is due to any cause beyond its control and without its fault or negligence; provided that Vendor shall give to Purchaser prompt written notice when it appears that such cause will delay its performance hereunder. Correspondingly, Purchaser shall be excused for failure or delay in its performance due to any cause beyond its control and without its fault or negligence.~~

12. Vendor warrants that any and all goods, equipment and services required to be furnished and rendered hereunder to Purchaser are in accordance with applicable specifications, drawings, samples or other descriptions given and free from any defects of workmanship and materials; that goods furnished to Purchaser shall be merchantable and, if selected or specified by Vendor for Purchaser's purposes, fit for such purposes; and that no governmental law, regulation, order or rule has been violated in the manufacture or sale of such goods.
13. Vendor agrees to deliver the goods or equipment and/or services hereunder free and clear of all liens, encumbrances and claims of laborers or materialmen and Purchaser may withhold payment pending receipt of evidence in form and substance satisfactory to it in the absence of such liens, claims and encumbrances.
14. Vendor agrees to observe and comply with all applicable federal, state and local laws, rules, regulations and orders in its performance required hereunder.
15. Invoices shall be prepared and submitted in duplicate as per the instruction on the face of this Purchase Order. Separate invoices shall be furnished for each order. Invoices shall contain the following information: Purchase Order number, contract number, item number, descriptions of supplies or services, sizes, units of measure, quantities, unit prices and extended totals. Invoices will be processed in routine after receipt of the invoice or the Purchaser's acceptance, whichever is later. All cash discounts will be taken on the same basis.
16. Purchaser is exempt from applicable federal, state and local sales, excise and use taxes and agrees to provide Vendor with evidence of such exemption, upon request.
- ~~17. Termination for Cause. In the event of any breach of any of the terms or conditions of this agreement by Vendor, or in the event of any proceedings by or against Vendor in bankruptcy or insolvency or for appointment of receiver or trustee or any general assignment for the benefit of creditors, Purchaser may, in addition to any other remedy provided it by law or inequity or other right reserved to it elsewhere in this agreement, without any liability to Vendor on account thereof, by written notice, terminate all or any part of this agreement, procure the goods, equipment and/or services provided for herein elsewhere, on such terms and under such conditions as are reasonable in the sole discretion of Purchaser, and Vendor shall be liable to pay to Purchaser any excess cost or~~

~~other damages caused Purchaser as a result thereof.~~

~~18. Termination for Convenience. Purchaser shall have the right to terminate this agreement for convenience in whole, or from time to time, in part. In such event, Purchaser's maximum liability shall be limited to payment for goods or equipment delivered and accepted and/or services rendered.~~

19. It is mandatory for a manufacturer, supplier, or distributor to supply a Material Safety Data Sheet (MSDS) as required by 29 CFR 1910.1200 with the first shipment of hazardous material. Also, at any time the content of MSDS is revised, the Vendor is required to provide new information relevant to the specific material.

20. This agreement shall be governed by, construed and enforced in accordance with laws of the State of Kansas.

21. Right to Examine and Audit Records. The Vendor agrees that the Purchaser, or any of its authorized representatives, shall have access to and the right to examine and audit any and all books, documents, papers and records of the Vendor involving transactions related to the contract between the Purchaser and Vendor hereunder, or any change order or contract modification thereto, or with compliance with any clauses thereunder. Such records shall include hard copy as well as computer readable data. The Vendor shall require all of its payees including, but not limited to, subcontractors, insurance agents or material suppliers to comply with the provisions of this clause by including the requirements hereof in a written agreement between the Vendor and payee. Further, the Vendor agrees to cooperate fully and will cause all related parties and will require all of its payees to cooperate fully in furnishing or making available to the Purchaser any and all such books, documents, papers, and records. The parties acknowledge that this Purchase Order is for lump sum work. Accordingly, the right to examine and audit shall apply only to change order work performed on a cost plus or time and material basis.

22. HIPAA Compliance. Both parties hereby agree that they will comply with the Administrative Simplification provisions and protected health information provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law, 104-191 ("HIPAA") and the Health and Human Services regulations implementing the Administrative Simplification or protected health information provisions of HIPAA by the applicable compliance dates and enter into addenda or memorandum of understanding as may be necessary to address the details of such implementation.

23. In accordance with K.S.A. 44-1030, the Vendor agrees that:

- a. The Vendor shall observe the provisions of the Kansas Act Against Discrimination and shall not discriminate against any person in the performance of work under the present agreement because of race, religion, color, sex,

disability, national origin or ancestry;

b. In all solicitations or advertisements for employees, the Vendor shall include the phrase "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission ("Commission");

c. If the Vendor fails to comply with the manner in which it reports to the Commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, the Vendor shall be deemed to have breached the present agreement and it may be cancelled, terminated or suspended, in whole or in part, by the Purchaser;

a. If the Vendor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, the Vendor shall be deemed to have breached the present agreement and it may be cancelled, terminated or suspended, in whole or in part, by the Purchaser; and

e. The Vendor shall include the foregoing provisions (a. through d. immediately above) in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor. The foregoing provisions (a. through d. immediately above) shall not apply to the Vendor if the Vendor employs fewer than four employees during the term of the present agreement or the present agreement cumulatively totals \$5,000 or less during the fiscal year of the Purchaser.

24. The contract is subject to the provisions of the Kansas Cash Basis Law, *K.S.A. 10-1101 et seq.*, and amendments thereto, (the "Act"). By virtue of this Act, the Purchaser is obligated only to pay periodic payments as contemplated by the contract as may lawfully be made from funds budgeted and appropriated for that purpose during the Purchaser's current budget year (i.e., January 1 to December 31) or from funds made available from any lawfully operated revenue producing source. Should the Purchaser fail to budget, appropriate or otherwise make available funds for payments due under the contract in any budget year, the contract shall be deemed terminated on the last day of the then current budget year for which appropriations were received, without penalty or expense to the Purchaser of any kind whatsoever.

REV by JCL and Keller on 03/01/2024 for Foundation repairs at West Wall contract A104

**Last updated 10/17/23**

**To:** Library Board of Directors

**From:** Tricia Suellentrop, County Librarian

**Date:** March 14, 2024

**Re:** County Librarian's Recommended FY 2025 Revenue and Expenditure Budget

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**Issue:** This is being presented for informational purposes in March. Revenue estimates being made in March will change the current amount being used and the revised and updated FY 2025 Revenue and Expenditure recommendation will be presented for action to the Library Board in April.

**Suggested Motion:** No motion necessary as this is for informational purposes only as action will be requested for the updated FY 2025 Revenue and Expenditure recommendation in April.

**Background:** The Library Budget Committee held three meetings in the 4<sup>th</sup> Quarter of 2023 and a fourth meeting in January 2024 to evaluate budget related proposals that were made from staff for additional operating funds as well as reviewing current capital plans for the upcoming 5-year Capital Improvement Plan (CIP). There was also review of the multi-year budget forecast and what the impact of these budget decisions and the timing of the Library's capital plans.

The Library should be receiving March revenue updates that will lead to changes in the projected revenue totals. These changes will be shared with the Library Budget Committee and a final 2025 budget proposal presented later in March with the Library Budget Committee. The updated County Librarian's Recommended FY 2025 Revenue and Expenditure Budget to be presented to the Library Board for action at the April Library Board meeting.

**Analysis:** The current County Librarian's Recommended FY 2025 Revenue and Expenditure Budget of \$54,734,559 is based on the January 2024 estimate. There are higher revenues expected in the upcoming March revenue projections so this final number will likely be higher than what the January 2024 estimate.

**Funding Overview:** The County Librarian's Recommended FY 2025 Revenue and Expenditure Budget that is being presented is in balance, with revenue projections matching what has been provided by Johnson County's Budget and Financial Planning Department and the operating and capital expenditures being proposed are in line with what has been previously reviewed and supported by the Library Budget Committee.

**Alternatives:** The Library Board could recommend the County Librarian make modifications to this recommended FY 2025 Revenue and Expenditure Budget and submit an alternate plan.

**Recommendation:** This is being presented to the Library Board in March for informational purposes. Voting is anticipated to occur at the April 2024 meeting with new revenue and expenditure estimates.

**Purchasing Review:** N/A

**Budget Review:** The revenues are in alignment with projections that Johnson County's Budget and Financial Planning Department had provided, and the expenditures are in line with what the Library Budget Committee has previously reviewed and supported.

**Legal Review:** N/A