

SPECIAL BOARD MEETING
JEFFERSON COUNTY PUBLIC LIBRARY
BOARD OF TRUSTEES
March 11, 2021



Baby-Toddler - Story Time



Jefferson County
PUBLIC LIBRARY

SPECIAL BOARD MEETING AGENDA

Jefferson County Public Library Board of Trustees

ITEM# / ACTION	Thursday, March 11, 2021 – 5:30 pm - <u>ONLINE MEETING VIA WEBEX</u>
1.	Call to order & attendance (4.5.8) Verbal roll call – Each Trustee announces their presence by stating their name.
2.	Pledge of Allegiance
3. Agenda Action	Approve Agenda Chair: Call for motion and second
4. Public Comment	Public Comment Public comments are currently being submitted to the Board via a link on the Board of Trustees webpage. Comments will be acknowledged in the minutes of the meeting.
5. Operational Updates Action as Needed	Executive Director <ol style="list-style-type: none"> 1. Philanthropy Development Project Progress <ol style="list-style-type: none"> a. Consultant Report b. Informational: 2017 Signed Memorandum of Understanding – Jefferson County Library Foundation & Jefferson County Public Library c. Questions and discussion <p>Guests: Mel and Pearl Shaw of Saad & Shaw (Consultants); Kurt Behn, County Attorney’s Office</p> Facilities & Construction Projects <ol style="list-style-type: none"> 1. Landscape Management Services Contract Information
6. Emerging Issues Action as Needed	
7. Suggest Agenda Items	BOARD SCHEDULE – NEXT MEETINGS – In response to COVID-19, protecting the health and safety of our staff, patrons and community is our number one priority. Board of Trustees meetings will be conducted online, until further notice. <u>2021 Board Meeting Schedule</u> <ul style="list-style-type: none"> • March 18, 2021 – Board Meeting – 5:30 pm – WebEx • March 25, 2021 – Joint Meeting – Board of County Commissioners – 12:30-1:30pm - WebEx • April 8, 2021 – Study Session – 5:30 pm – WebEx • April 15, 2021 – Board Meeting – 5:30 pm – WebEx
8. Information	Announcements/General Information Sharing <ul style="list-style-type: none"> • Report of the Chair – Correspondence, Other • Other Announcements

SPECIAL BOARD MEETING AGENDA

Jefferson County Public Library Board of Trustees

9. EXECUTIVE SESSION Action	EXECUTIVE SESSION (1): Guest: Kurt Behn, County Attorney's Office Call for Motion and Second: To adjourn the special meeting of the Library Board of Trustees and reconvene in Executive Session: <ul style="list-style-type: none">• Pursuant to 24-6-402(4)(b) Conferences with an attorney for the local public body for the purposes of receiving legal advice on specific legal questions regarding the existing Memorandum of Understanding (MOU) between the Jefferson County Public Library and Jefferson County Library Foundation, and options for establishing a new MOU.• Pursuant to 24-6-402(4)(e)(I) for discussion of strategy and instructions to negotiators with respect to re-negotiating the Jefferson County Public Library's agreement with the Jefferson County Library Foundation.
10. Reconvene Special Meeting Action as Needed	Executive Session Summary
11. Adjournment	

MEMORANDUM

TO: Library Board of Trustees

FROM: Donna Walker, executive director

RE: Philanthropy Development – Project Progress

DATE: March 11, 2021

The March 11, 2021 Special Meeting is intended to educate and inform the Library Board of Trustees of the progress made on this project to date.

Mel and Pearl Shaw, of Saad&Shaw Consulting, will be available at the meeting to answer any questions regarding their report.

The 2017 Memorandum of Understanding between JCPL and Jefferson County Library Foundation (JCLF) is provided as an informational item.

Enclosures:

Saad&Shaw Consultant Report

2017 Signed MOU JCLF/JCPL

Securing Private Funds to Supplement Public Investments: Findings Report

Prepared for:
Jefferson County Library
Donna Walker, Executive Director
February 23, 2021

Prepared by:



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Introduction

In December of 2020 and January of 2021, Mel Shaw and Pearl Shaw of Saad&Shaw – Comprehensive Fund Development Services talked with five individuals who serve either as executive directors of libraries, or executives of library affiliated foundations. Those individuals are:

1. Patrick Losinski, Chief Executive Officer, Columbus Metropolitan Library
2. Jeff Riley, Executive Director, Denver Public Library Friends Foundation
3. Jonna Ward, CEO, Seattle Public Library Foundation
4. Jo Schantz, Executive Director, Jefferson County Library Foundation
5. Donna Walker, Executive Director, Jefferson County Library

Each shared their experience and offered their perspective on best practices. We also reviewed documents provided by the Jefferson County Library (Library) that represent research the Library has conducted related to libraries and library-related foundations. We also reviewed MOUs provided by those interviewed (Schantz and Losinski), research related to public universities and their related foundations, and articles related to libraries and their related foundations.

In conducting these conversations and reviewing the above documents, we applied the knowledge we have gained as it relates to the relationships between publicly-funded institutions such as libraries and universities and their related foundations. For the past 17 years we have worked with public institutions and nonprofits with a focus on fundraising and fund development. We specialize in assisting organizations and institutions who are preparing for fundraising campaigns that represent a meaningful leap in their organizational development. We conduct feasibility studies – interviewing stakeholders, donors, and influencers – and we create campaign plans providing guidance in the strategies and activities that can help organizations meet their fundraising goals.

The following summarizes what we learned as it relates to relationships between a Library and a Library-related foundation

1. The relationship between a foundation and a library must be rooted in trust; a shared vision; ongoing, consistent, open communication; and clear roles and responsibilities.
2. Sustaining the relationship between the two entities takes dedicated time and attention; meetings between library and foundation executives can occur as frequently as once a week.
3. The relationship between the parties can be easily disrupted by changes in leadership, or pressure from political or governmental leadership.
4. No two relationships are the same; the specifics of the Library and the Foundation and the culture and community they work within often inform the memorandum of understanding between the parties.

Background and Concerns

The Library would like to attract private funds to complement public funds raised through the Mill Levy to support the building of new libraries. The Library currently partners with the Jefferson County Library Foundation (Foundation), which raises funds to support Library efforts. The Foundation is an independent 501(c)3. Their mission is to “support and enrich the capabilities, resources, and services of the Jefferson County Public Library through fundraising and advocacy efforts that benefit our diverse community.”

Should the Library choose to begin discussions related to raising funds for capital projects, there are many things to consider. A capital campaign is a major undertaking for an organization who has a strong fund development and fundraising program; a history of successful annual fundraising; and a pool of prospective donors. When these are not in place, campaign planning can require additional time, resources, and personnel.

Attached to this document is an assessment that we use with clients who are considering a campaign. This *Prerequisites for Fundraising Success Assessment* can be used by staff and board to assess the Library’s readiness to engage in a capital campaign. Should the Library choose to partner with the Foundation and ask the Foundation to work with the Library – or ask the Foundation to take responsibility for the campaign – the Foundation’s leadership might also want to assess their readiness to participate in or lead a capital fundraising campaign.

The following are additional items for the Library to consider as it contemplates whether or not to pursue a capital campaign.

1. Does the campaign tie to the Library’s priorities as outlined in the Library’s strategic plan?
2. If the Library were to partner with the Foundation for such a campaign, does the Foundation have a strong annual campaign from which to build on for the proposed campaign?
3. Capital campaigns are typically preceded by campaign feasibility study and the creation of a resulting feasibility report. This report would provide the Library with market-based information as an input into its decision-making re: how and if to proceed with a campaign. The purpose of such a feasibility study is to:
 - a. Assess potential fundraising opportunities and challenges for a proposed campaign.
 - b. Identify and assess prospective donors, funders, campaign leaders and volunteers.
 - c. Assess levels of available financial support.
 - d. Cultivate goodwill from current and prospective donors, funders, and potential campaign leaders and volunteers.
 - e. Assess how those interviewed understand the organization’s (Library’s) unique mission, vision and its current and anticipated impact.

- f. Determine the extent to which the “case for support” for the proposed campaign is received, understood, and prioritized.
4. Should the Library choose to pursue a capital campaign, we recommend that the Library consider a series of decisions related to campaign goals and management such as:
 - a. What is the fundraising goal?
 - b. What will be the use of funds raised?
 - c. Will these supplement public funds so that additional features can be added to new libraries or will these funds replace public funds?
 - d. What will the impact of those funds be for residents? Will it reduce the Mill Levy?
 - e. How will funds raised from private sources be allocated towards capital projects vs. funds from the Mill Levy?
 - f. Which entity will raise the funds? The Library, the Foundation, a new entity created for the purpose of capital fundraising for the Library, or another entity?
 - i. Who will manage that entity?
 - ii. Who will fund the investment in staffing, capacity, and infrastructure required to run and manage the campaign?
 - iii. What is the desired relationship between the Library and the entity responsible for raising funds?
 - iv. If the Library chooses to raise the funds, who would staff report to and how might that change the responsibilities of current staff, especially the Library executive director?
 - g. Are we as a board committed to the work of overseeing a capital campaign and being informed about its progress on an ongoing basis?
 - h. Are we – individually and collectively – as a board willing to make a meaningful gift towards the proposed campaign? Are we willing to cultivate and solicit major gifts? During a campaign, board members are often expected to play a major role in fundraising, giving or soliciting 20% of the goal.
 - i. If not, what message does this send to the public about the need for others to give and solicit?
5. The body responsible for fundraising may find that its perceived power increases in relation to others who are involved in fundraising for the Library. For example, if the Library builds a fundraising infrastructure and pursues major gifts for a capital campaign, it may find that it can raise funds on an ongoing basis for programming and other Library needs that are currently met through grants by the Foundation. Conversely, if the Foundation takes responsibility for raising capital funds, it may find that its power and perceived value within the community increases. Either of these situations could impact the relationship between the parties.
6. Is it in the best interest of the Library to staff up for a capital campaign, or should the Library help the Foundation staff up for a capital campaign? Should another entity be created for this purpose? Who will cover the costs associated with raising capital dollars?

7. The question of “rate of return” (on investment by the Library in the Foundation) could be replaced by another measure of effectiveness. For example, the larger, over-arching question that could be discussed is: does the Foundation provide the Library with the private funds the Library needs to provide optimum services to the community? If not, what would it take to increase private funds to the Library?

Building a Partnership

Should the Library decide to embark on a capital campaign, the following suggestions can guide the work of the Library and the entity who the board chooses to work with in raising funds. These are offered as a starting point for reaching an agreement re: how to proceed with fundraising:

1. Both parties work together in a cooperative manner to build complete buy-in from all parties as it relates to fundraising priorities and financial expectations.
2. All parties work closely with the Library to define fundraising goals and priorities that tie to the Library’s vision, mission, goals, and strategic plan.
3. Leadership of the Library and the entity responsible for capital fundraising meet regularly to share goals, opportunities, challenges, and to collaboratively identify fundraising opportunities.
4. Both bodies are led by executives who are politically and culturally astute and knowledgeable of the local business environment.
5. Communications, transparency, and accountability are key.
6. The CEOs and boards consider a planning retreat for the purpose of sharing goals, opportunities, and challenges and to reach agreement on fundraising priorities.
7. The Library could seek out the fundraising support of the Foundation as it looks to raise private funds for capital purposes. If the Foundation is not able or willing to provide the level of fundraising support the Library will need, the Library could consider other opportunities, such as hiring fundraising personnel and working with a community foundation for receipt and management of funds.
8. The Library board of trustees could consider creating a development committee and this committee could meet regularly with other entities charged with fundraising to discuss fundraising strategies, progress, opportunities, and challenges.

A Partnership for a Capital Campaign

The following is an example of one way in which the Library could pursue proposed capital fundraising in partnership with the Foundation.

1. The Library and the Foundation continue to operate as independent organizations.

2. The Foundation continues its current fundraising and revenue generating activities in support of the Library.
3. The Library continues to provide agreed-upon provide in-kind resources to the Foundation.
4. The Library allocates a percentage of the executive director's time to cultivate and solicit major donors for gifts to the Library. Gifts would be directed to the Foundation but would be exempt from the percentage fee the Foundation charges for gifts and grants received.
5. The Library and the Foundation reach an agreement re: gift processing fees to be paid by the Library to the Foundation.
6. The Foundation and Library form a joint capital fundraising taskforce with representatives from both parties. The taskforce can become responsible for reviewing potential donors, identifying which are current Foundation donors or prospects, and which are new prospects.
 - a. The Library executive could be charged with cultivating and soliciting gifts valued at \$50,000¹ or more from new prospects.
 - b. The Library executive could partner with the Foundation executive to solicit comprehensive gifts from current Foundation donors or prospects who the taskforce believes have the ability to give \$50,000 or more. In these cases, the solicitation could be for an annual gift/grant to the Foundation and for an additional major gift for the Library's capital needs.

An Approach to Grant Writing Services

Grant writing is a fundraising service that can be cost effectively outsourced. A professional services agreement with a grant writer can help reduce costs associated with grant writing whether borne by the Foundation (for private funds) or the Library (for government grants). Such a service can be managed by the executive of the contracting body, either the Library or the Foundation, as appropriate.

Naming Opportunities

Prior to launching a capital campaign, the Library should conduct a fundraising feasibility study. This study should include interviews with stakeholders and community members. For the purpose of fundraising, it should include those individuals who can make or influence gifts at the highest levels. This study will help identify potential gifts, volunteer leadership, and objections. A case for support for the proposed campaign should be tested with feasibility interviewees. That document should include potential naming opportunities and anticipated

¹ Note: this is an arbitrary number. It could \$100,000 or higher.

gift amounts associated with the naming opportunities. The gift amounts associated with a naming opportunity are often relative to the overall campaign goal, with naming rights with the highest perceived value associated with the largest gifts.

Other Findings Gained Through Conversations and Research

The following summarizes additional information gained through conversations and research.

1. Structure, relationships, and tenure are equally important factors that influence the working relationships between a library and a library-related foundation.
2. Complete buy-in from all parties concerned is a prerequisite for a healthy and effective working relationship. This includes:
 - a. Governing body of the library
 - b. Administration of the library
 - c. Foundation staff
 - d. Foundation board
3. A long term positive, personal relationship between the library executive director and foundation executive director positively impacts the working relationship of the two bodies and their boards.
4. It is unusual for a foundation to have unilateral power to reject library needs/requests.
5. The CEOs of foundations and libraries have strong relationships combined with reporting from each governing body to the other on a regular basis.
6. MOUs are executed annually highlighting items such as:
 - a. Management
 - b. Programs
 - c. Fundraising priorities
 - d. Finance
7. Foundations operate with a focus on major gifts and capital campaigns.
8. Book sales, special events, and educational series are handled by Friends of the Library groups.
9. Board members of foundations are recruited by the foundation CEO with a focus on people of power, wealth, and influence.
10. CEOs (foundation and library) have strong ties with political and governmental leaders.
11. Foundations and libraries have different models for how foundations are financially supported.
 - a. One model is for the library to cover the costs of foundation staff and provide the facilities from which the foundation operates.

- b. Another is for the foundation to cover its operating costs from revenue it generates. The library may – or may not – provide facilities.
- 12. Long term relationships, library expansion, and capital campaigns characterized the library/foundation leaders we talked to.
 - a. Major fundraising is the outgrowth of overall growth goals within the municipality with a major percentage of capital funding coming from the government and additional funds raised by the foundation from the private sector. (Private funds supplement public funds, but do not replace government responsibility.)
- 13. Capital campaigns require experience, strong relationships, and the ability to solicit and secure major gifts. The following documents the level of fundraising that those we talked with engage in.

Library / Foundation	Fundraising Notes
Columbus Metropolitan Library, Patrick Losinski, Chief Executive Officer	Since 2008 the Foundation has raised \$35 - \$36 million and has an endowment of \$9 million. Library employees work for the foundation on fundraising. Their salaries are paid by the library. The foundation has overhead of \$90,000. To raise \$3 million it would cost \$550,000.
Denver Public Library Friends Foundation, Jeff Riley, Executive Director	The Foundation provides \$200,000 in annual funds to the Library. It has a \$9 million endowment. Capital fundraising includes \$38 million raised towards \$65 million renovation project. More recently raised, \$5.6 million for capital projects. Fundraising costs average 40% of funds raised.
Seattle Public Library Foundation, Jonna Ward, CEO	Foundation provides \$4,000,000 per year to the Library. Fifty percent of annual funds from Foundation to the Library come from Foundation endowments.
Jefferson County Library Foundation, Jo Schantz, Executive Director	In 2019 the Foundation provided the Library with grant funding of \$196,745.

Conclusion

The Jefferson County Library has the opportunity to review if and how it might pursue raising private funds for the Library's capital needs. This document provides information and raises questions for the Library to consider as it contemplates a potential capital campaign. Based on our experience, we recommend that the Library take time to carefully consider whether or not the Library – or another entity – has the infrastructure and capacity to prepare for, launch, and successfully complete a capital campaign. Our experience has shown that successful fundraising requires experienced fundraising professionals and a team of volunteer campaign leaders who can give major gift and solicit their peers. This takes time, resources, and money and can be very rewarding for the community.

AGREEMENT

THIS AGREEMENT (this "Agreement"), dated for reference purposes only this 28th day of October, 2016, is made and entered into by and between the JEFFERSON COUNTY PUBLIC LIBRARY (the "Library"), an entity formed pursuant to Colorado Revised Statutes Section 24-90-101, et seq., and THE JEFFERSON COUNTY LIBRARY FOUNDATION, INC, a Colorado nonprofit corporation (the "Foundation"), collectively, the "Parties."

RECITALS:

A. The Foundation was organized and incorporated exclusively for charitable and educational purposes as set forth in § 501(c)(3) of the Internal Revenue Code to aid, assist, and support financially and otherwise the Library, and to carry on any lawful activities calculated, directly or indirectly, to promote the interests of the Foundation and of the Library.

B. The Foundation and the Library previously entered into an agreement titled "Operational Agreement between the Jefferson County Public Library Foundation and Jefferson County Public Library Adopted September, 2015" (the "Operational Agreement").

C. The Foundation and the Library wish to terminate the Operational Agreement dated September, 2015 and all previous agreements, and enter into this Agreement regarding the services to be provided by the Foundation to the Library.

NOW, THEREFORE, for and in consideration of the covenants and conditions set forth herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Library and the Foundation agree as follows:

1. **TERMINATION OF OPERATIONAL AGREEMENT.** The Operational Agreement is terminated and replaced by this Agreement upon execution of this Agreement by the Parties.

2. **AGREEMENT DOCUMENTS.** The "Agreement Documents" shall consist of this Agreement and Foundation Insurance Information, all of which are incorporated herein by this reference whether or not attached hereto. If there is any conflict between this Agreement and the other Agreement Documents, this Agreement shall control.

3. **RELATIONSHIP.**

(a) The Jefferson County Library Foundation is under the direction of the Jefferson County Library Foundation Board of Directors and is independent of the Jefferson County Public Library. The organization's mission is to support and enrich the capabilities, resources and services of the Jefferson County Public Library through fundraising and advocacy efforts.

(b) The Foundation Board is responsible for operation of the Foundation. Employees of the Foundation are not employees of the Library. The Foundation is an independent organization and is not an agent, servant or employee of the Library. The Foundation and its employees are not entitled to workers' compensation benefits through the

Library. The Foundation is solely responsible for necessary and adequate workers' compensation insurance and shall be responsible for withholding and paying all federal and state taxes. The Foundation and its employees are not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by an entity other than the Library. The Foundation hereby acknowledges full and complete liability for and timely payment of all local, state and federal taxes imposed including, without limitation, tax on self-employment income, unemployment taxes and income taxes.

(c) A member of the Board of Trustees of the Library shall be a member of the Board of Directors of the Foundation. The Library Executive Director shall also be a member.

(d) The Executive Director of the Library and the Executive Director of the Foundation and their staff shall meet regularly to review issues of fundraising, sponsorship, gift acceptance, public relations and other matters of mutual interest.

(e) Foundation staff and Foundation Board Members may attend Library staff training.

4. **BUDGET AND ACCOUNTING.**

(a) The Foundation and the Library shall meet annually to review the funds available from the Foundation to support Library programs. The Library will provide the Foundation with its request for funding for Library programs including descriptions of the programs for which support is requested.

(b) Amounts approved by the Foundation shall be provided to the Library Fund on a monthly basis for use for the purposes approved by the Foundation. The Foundation may use its funds for any purpose allowed by law consistent with its 501(c) (3) designation. No substantial part of the Foundations' activities shall be the carrying on of propaganda, or otherwise attempting to influence legislation, except as allowed in Section 501 (h) of the Internal Revenue Code. The Foundation shall not participate in, or intervene (including the publishing or distribution of statements) in any political campaign on behalf of or in opposition to any candidate for public office. No funds derived from sales of discarded library books will be used for any political propaganda, political campaigns or any efforts to influence legislation. Any funds assigned for these purposes will be derived solely from unrestricted earned income and/or donations, and will be used and disseminated only as allowable by the Foundation's 501 (h) designation.

(c) The Foundation shall assure that all gifts of funds received by the Foundation designated for specific Library purposes are designated appropriately.

5. **FUNDRAISING.**

(a) The Foundation's purpose is to assist the Library by raising funds from multiple sources for the benefit of the Library, including solicitation and receipt of private gifts, annual giving contributions, deferred gifts, devises and bequests, corporate gifts and foundation grants, and proceeds of the sales of books and materials.

- (b) The Library shall provide to the Foundation all books and materials that the Library determines pursuant to its policy are no longer of use to the Library. The Foundation shall dispose of all books and materials provided to the Foundation by means calculated to best assist the mission of the Library as determined at the discretion of the Foundation. The Foundation may receive materials and sort them within Library facilities, and with the approval of the Library, may use Library staff to sell them in the Library facilities. The Foundation shall pay the Library not less than 10% of the proceeds of their book sales, annually.
- (c) All donations of cash or cash-equivalents to the Library shall be the property of the Library.
- (d) Donations of cash or cash equivalents to the Foundation shall be the property of the Foundation available for authorized uses, and the Foundation shall provide acknowledgment of all cash gifts received, but shall not establish a value of non-cash items.
6. **ASSET MANAGEMENT.** The Jefferson County Library Foundation may assess a percentage fee on the market value of all donated funds and investments managed by the Foundation only if such management requires significant staff administration and oversight (more than five hours per month). The assessed fee will not exceed 2% per year of the market value of the managed assets.
7. **ADVERTISING/SEAL/LOGOTYPE.** To facilitate the mission of the Foundation to assist the Library, the Foundation may use the name of the Library and any logotypes of the Library in its advertising, fundraising and promotional efforts with Library approval.
8. **AMENDMENT.** This Agreement contains the entire agreement of the parties relating to the subject matter hereof and, except as provided, in this Agreement may not be modified or amended except by written agreement of the parties.
9. **AUTHORIZED REPRESENTATIVES.** The Library Board of Trustees designates the Library Executive Director as the "Library Representative" under this Agreement. The Foundation Board designates the Foundation Executive Director as the "Foundation Representative" under this Agreement. The Library and the Foundation may change their respective representatives at any time by giving written notice to the other.
10. **TERM, PERIOD OF PERFORMANCE.** This Agreement shall be reviewed annually each April and renewed every three years until terminated as provided in this Agreement.
11. **TERMINATION.** Either party has the right to terminate this Agreement, in whole or in part, with or without cause by 60 days written notice to the other. In the event of termination, by the Foundation, the Foundation shall distribute to the Library all funds remaining and available for distribution after settlement of expenses of the Foundation, and shall pay the Library for all services performed prior to notice of termination.
12. **NON-ASSIGNMENT, SUBCONTRACTORS, PERSONAL SERVICES.** The Foundation shall not assign this Agreement or employ any sub-contractor without the prior

written approval of the Library Representative. The Foundation shall be responsible for the acts and omissions of its agents, employees and sub-contractors.

13. **INSURANCE.** The Foundation and its subcontractors shall purchase and maintain such insurance in a company or companies licensed to do business in the State of Colorado as will protect them from claims which may arise out of or result from operations under the Agreement, whether such operations be by themselves or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The insurance required in this paragraph shall be written for not less than the amounts set forth in Exhibit A attached hereto. The Foundation shall provide certificates evidencing such coverage to the Library Representative prior to commencing the Work and during the term of this Agreement shall provide the Library written evidence of continuing insurance coverage within three (3) business days of a request from the Library. The Foundation shall provide the Library no less than thirty (30) days' prior written notice of any proposed change to, or cancellation of the insurance coverage. Any proposed change to the insurance coverage shall comply with the terms of this Agreement. The Foundation shall request from its insurance company an endorsement to the insurance policy for this Agreement which will require the insurance company to provide the Library with notice of cancellation of the policy. The form of the endorsement is set forth in Exhibit A attached hereto. Any deviations from the form attached as Exhibit A shall require approval of the Library. The Foundation shall promptly comply with all terms of the endorsement and shall pay the cost of the endorsement.

14. **CERTIFICATE OF INSURANCE.** All certificates of insurance and guarantees required by this Agreement shall be submitted by the Foundation prior to commencement of the Work to:

Executive Director of the Jefferson County Public Library
10200 W. 20th Ave.
Lakewood, CO 80215
Tele: 303-235-5275
Email: contracts.jcpl@jeffcolibrary.org

Within a reasonable time after submittal, the Library shall either approve the certificates of insurance or notify the Foundation of any unacceptable conditions stating the specific reasons therefor. The Foundation shall promptly re-submit an acceptable certificate of insurance, which the Library shall review within a reasonable time. Certificates of insurance shall name the Library as an additional insured as its interest may appear.

15. **EQUAL EMPLOYMENT OPPORTUNITY.** The Foundation shall not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified solely because of race, creed, sex, color, national origin or ancestry, religion, disability, age, sexual orientation, or any other basis prohibited by federal, state or local law.

16. **PROVISIONS REGARDING ILLEGAL ALIENS.** If the Foundation has any employees or subcontractors, the Foundation shall comply with C.R.S. §8-17.5-101, *et seq.*, regarding Illegal Aliens - Public Contracts for Services, set forth in Exhibit B.

17. NOTICES.

(a) All notices between the parties may be done via electronic transmission. Notice shall be given to the parties at the following addresses:

The Foundation:
Executive Director
Jefferson County
Library Foundation
10790 W. 50th
Avenue, #200
Wheat Ridge, CO 80033
Tele: 303-403-5075
Email: Foundation@Jeffcolibrary.org

The Library:
Executive Director
Jefferson County
Public Library
10200 W. 20th Ave.
Lakewood, CO 80215
Tele: 303-275-2201
Email: ExecutiveDirector@jeffcolibrary.org

All Notices to the Library shall include a reference to the Agreement including the Foundation's name and the date of the Agreement.

(b) Electronic Transmissions. The parties agree that: (i) any notice or communication transmitted by electronic transmission, as defined below, shall be treated in all manner and respects as an original written document; (ii) any such notice or communication shall be considered to have the same binding and legal effect as an original document; and (iii) at the request of either party, any such notice or communication shall be re-delivered or re-executed, as appropriate, by the party in its original form. The parties further agree that they shall not raise the transmission of a notice or communication by electronic transmission as a defense in any proceeding or action in which the validity of such notice or communication is at issue and hereby forever waive such defense. For purposes of this Agreement, the term "electronic transmission" means any form of communication not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process, but specifically excluding facsimile transmissions and texts.

15. MISCELLANEOUS PROVISIONS.

(a) Compliance with Laws. The Foundation shall observe and comply with all Federal, State and local laws, regulations and ordinances including the Colorado Library Law (Colorado Revised Statutes Section 24-90-101, et seq.) that affect the Library or Foundation or those employed or engaged by it, the materials or equipment used and the performance of the services. The Foundation shall procure all necessary approvals, licenses and permits at its own

expense.

(b) Officials Not to Benefit. No elected or employed member of the Library shall be paid or receive, directly or indirectly, any share or part of this Agreement or any benefit that may arise therefrom.

(c) Conflict of Interest. The Foundation shall not knowingly perform any act that would conflict in any manner with the performance of the services. The Foundation certifies that it is not engaged in any current project or business transaction, directly or indirectly, nor has it any interest, direct or indirect, with any person or business that might result in a conflict of interest in the performance of services.

(d) Library's Ownership of Documents/Deliverables. Any data, documents or other information provided by the Library to the Foundation or to which the Foundation has access during the performance of the services (the "Library Documents") shall be and remain the sole property of the Library at all times; and the Foundation shall not use any of the Library Documents for any other purpose. The Foundation shall return all Library Documents upon termination of this Agreement. The Foundation shall not disclose to any third party any Library Document without the prior written approval of the Library unless required under the Colorado Public Records Act or other law.

(e) Confidentiality. During the course of Foundation's performance of the services, Foundation may have access to certain confidential and proprietary information owned by the Library that may be disclosed to Foundation and Foundation's employees, agents, representatives, assigns or subcontractors orally, in writing or by observation. All such information disclosed to Foundation or Foundation's employees shall be maintained in strict confidence, shall not be used except as necessary for the performance of the Agreement and shall not be disclosed to any third party without prior written approval of the Library unless required under the Colorado Public Records Act or other law. All tangible items or material developed by or made available to Foundation or Foundation's employees, agents, representatives, assigns, or subcontractors hereunder shall be delivered to the Library promptly upon the cancellation, termination of this Agreement. The Library and the Foundation will comply with Colorado Revised Statutes 24-90-119 Privacy of user records.

(f) Confidentiality of Systems. In addition to containing public record information, a substantial amount of the information stored in the Library's networks and systems (collectively, the "System") is confidential and is prohibited from unauthorized disclosure. Many programs, processes and other software products in the Library's possession are confidential and may be protected by copyright, trade secret or other proprietary rights, and are not subject to unauthorized disclosure. All proprietary rights shall at all times remain with the Library, and no such rights are transferred to the Foundation. The Library is and shall remain the sole owner of any programs, data or other information contained on the System, and at no time shall the Foundation have the right to license, sublicense, assign, sell, copy, modify or otherwise make available to any third party, any portion of the System or any information contained on the System. The Foundation shall indemnify and hold harmless the Library and its elected officials, agents and employees from and against any and all liability, claims, damages and expenses (including reasonable attorneys' fees) arising out of the Foundation's unauthorized access to, modification or disclosure of, such System information.

(g) Governing Law, Forum, Venue. This Agreement and the rights and duties of the parties hereunder shall be interpreted in accordance with the laws of the State of Colorado applicable to contracts made and to be performed entirely within such State without regard to its conflict of law provisions; and the Courts of such State shall have sole and exclusive jurisdiction over any disputes or litigation arising hereunder. Venue for any and all legal actions arising hereunder shall lie in the District Court in and for the County of Jefferson, State of Colorado.

(h) Survival. Notwithstanding anything to the contrary, the parties understand and agree that all terms and conditions of this Agreement that require continued performance or compliance beyond the termination or expiration of this Agreement, including without limitation the indemnification and warranty provisions, shall survive such termination or expiration and shall be enforceable against a party if such party fails to perform or comply with such term or condition.

(i) Sales Tax Exemption. The Foundation will not be required to pay Colorado State sales and use taxes for purchases made for performance of the services. The Foundation may obtain a sales tax exemption permit from the State of Colorado, Department of Revenue, if necessary, to obtain materials for the services without the payment of Colorado State sales and use tax.

(j) Waiver. This Agreement or any of its provisions may not be waived except in writing by a party's authorized representative. The failure of a party to enforce any right arising under this Agreement on one or more occasions will not operate as a waiver of that or any other right on that or any other occasion.

(k) No Third Party Beneficiaries. The enforcement of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the Library and the Foundation. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any other third person, nor shall anything contained in this Agreement be construed as a waiver of any provision of the Colorado Governmental Immunity Act, C.R.S. §24-10-101, et. seq., as amended. It is the express intention of the Library and the Foundation that any such person or entity, other than the Library or the Foundation, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.

(l) Records Retention. The Foundation shall maintain all records, including working papers, notes and financial records, which records shall be available to the Library for inspection and audit for a period of three (3) years from the date of termination of the Agreement unless the Foundation is notified in writing by the Library of the need to extend the retention period. Copies of such records shall be furnished to the Library upon request without charge by the Foundation.

(m) Execution by Counterparts; Electronic Signatures. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. The Parties approve the use of electronic signatures for execution of this Agreement. Only the following two forms of electronic signatures shall be permitted to bind the Parties to this Agreement: (1) Electronic or facsimile delivery of a fully executed copy of a signature page; (2) The image of the signature of an authorized signer inserted onto PDF format documents. All documents must be property

TM 16-1880

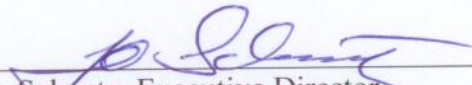
properly notarized, if applicable. All use of electronic signatures shall be governed by the Uniform Electronic Transactions Act, C.R.S. §§24-71.3-101 to -121.

(n) Proper Execution. Each party represents that all procedures necessary to authorize such party's execution of this Agreement have been performed and that the person signing for such party has been authorized to do so.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed.

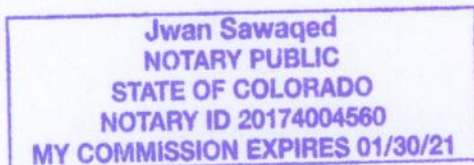
FOUNDATION:

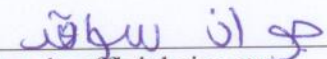
THE JEFFERSON COUNTY PUBLIC LIBRARY
FOUNDATION

By: 
Jo Schantz, Executive Director

STATE OF COLORADO
COUNTY OF JEFFERSON

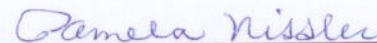
The foregoing Agreement was acknowledged before me this 22 day of Feb, 2017
by Jo Schantz as executive director of the Jefferson County Public Library Foundation.




Notary's official signature
01/30/21
Commission Expiration Date

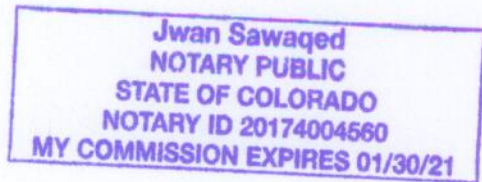
LIBRARY:

JEFFERSON COUNTY PUBLIC LIBRARY

By: 
Pam Nissler, Executive Director

STATE OF COLORADO
COUNTY OF JEFFERSON

The foregoing Agreement was acknowledged before me this 22 day of Feb,
2017 by Pam Nissley as Executive Director of Jefferson County Public Library.



Jwan Sawaged
Notary's official signature
01/30/21
Commission Expiration Date

EXHIBIT A

	INSURANCE REQUIREMENTS –	GENERAL
I	Prior to the commencement of any work the vendor shall forward certificates of insurance to the department specified in the award document.	
II	Certificate Holder must be Jefferson County, Colorado.	Required
II	Jefferson County must be added as an additional insured to general liability, auto liability, and any excess liability policies.	Required
III	Insurance - Minimum requirement	
	Workers compensation - statutory limits provided by an insurance carrier that is licensed to do business in Colorado. The policy shall contain a Waiver of Subrogation on behalf of Jefferson County.	Required
	Employer's liability - \$100,000 each accident \$500,000 disease policy limit \$100,000 disease each employee	
	Commercial General Liability - on an Occurrence Form The policy must not exclude or reduce coverage for mobile equipment, personal injury; blanket contractual; and death. Personal injury coverage must have the employee exclusion deleted. The policy shall contain a Waiver of Subrogation on behalf of Jefferson County.	Required \$1M ea occurrence \$2M general aggregate
	Commercial automobile liability insurance - including hired and non-owned vehicles, if autos are used in the performance of work under this agreement. Combined single limit for bodily injury and property damage.	Required \$1M CSL per accident
	All deductibles or self-insured retentions (SIRs) in excess of \$5,000 must be listed on the certificate of insurance	Required
	The insurance requirements specified by the county shall remain in effect for the full term of the contract and/or agreement and any extension thereof. Updated Certificates of Insurance shall be sent to the county during the full term of the contract and/or agreement and any extension thereof.	Required
	The county reserves the right to reject any insurer it deems not financially acceptable on insurance industry resources. Property and liability insurance companies shall be licensed or approved to do business in Colorado and shall have an A.M. Best rating of not less than A-/VII. Additionally the county reserves the right to reject any insurance with relatively large deductibles or self-insured retentions (SIRs), deemed by the county to pose too high a risk based on the size of the contractor, financial status or rating of the contractor, or based on the size or type of the project and the exposure.	Required
	Any deviations below the standards given above must be approved by Jefferson County Risk Management	Required
IV	Any subcontractors must meet the same insurance requirements for the contract or purchase order unless Risk Management has approved a deviation	Required
V		

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ADMINISTRATION
10200 W. 20th Ave.
Lakewood, CO 80215
303.235.5275



jeffcolibrary.org

TO: Donna Walker, Executive Director

FROM: Steve Chestnut, Director of Facilities and Construction

DATE: March 1, 2021

RE: Landscape Management Services, Emerald Island Landscaping

History of Contract:

JCPL is currently under contract with Environmental Designs Inc. to provide landscape management services for all JCPL owned properties through April 19, 2021. We completed an RFP this year to ensure that we were receiving the best quality service and pricing, and we received five responses from qualified vendors. The base pricing for the bids ranged from \$54,896 - \$95,123. Our evaluation team is recommending that JCPL contract with Emerald Isle Landscaping for our system-wide landscape management services. The base price for the landscape management services at all JCPL owned properties is \$88,963.

2021 Budget:

The base amount for the landscape management services through Emerald Isle Landscaping is \$88,963, and the Library has the ability to request additional services if needed. The total annual cost to the Library will be within the 2021 budget for landscaping services of \$120,000.

Next Actions:

I would like to ask the Board of Trustees to authorize the Library Executive Director to enter into a contract with Emerald Isle Landscaping for a period of one year, with the option to extend the contract for an additional 4 years with Board approval, for the base amount of \$88,963. **This item will be placed on the consent agenda for the March 18, 2021 Library Board meeting unless otherwise instructed by the Board.**