



Johnson County Community College

Procurement Services
12345 College Blvd., CSB 170
Overland Park, KS 66210-1299
Phone (913) 469-3812
procurement@jccc.edu

**REQUEST FOR PROPOSAL/BID
26-027
Warehouse Renovation**

Pre-Bid Conference Date & Location	November 21, 2025: 2:00pm CST - General Education Building (GEB) - Craig Auditorium Room #GEB233 on the JCCC main campus
Bid Clarifications Due	December 2, 2025: 5pm CST
Bid Opening (Due Date)	December 9, 2025: 2pm CST
Bid Opening Location	Johnson County Community College Procurement Services 12345 College Blvd, CSB 170 Overland Park, KS 66210-1299
Buyer:	Larry Allen Lallen35@jccc.edu

Requests for Proposals/Requests for Bids (“Request for Proposal/Bid” or “RFP/RFB”) are made up of the following documentation which is attached herein or incorporated by reference and also available in the RFP/RFB’s Documents tab in <https://jccc.procureware.com>:

- [BIDDER/PROPOSER ACKNOWLEDGEMENT](#)
- [DEFINITIONS](#)
- [SECTION 1 - SCOPE OF WORK](#)
- [SECTION 2 - GENERAL INSTRUCTIONS/JCCC PROCUREMENT PROCESS](#)
- [SECTION 3 - BID/PROPOSAL RESPONSE FORMAT](#)
- [SECTION 4 - JCCC ADDITIONAL TERMS & CONDITIONS](#)
- [ATTACHMENT A - DA-146a CONTRACTUAL PROVISIONS](#)

BIDDER/PROPOSER ACKNOWLEDGEMENT

By signing below, the bidder/proposer (the "Contractor") hereby declares understanding, agreement and certification of compliance to provide the items and/or services, at the prices quoted, in accordance with all requirements, specifications, terms and provisions of this RFP/RFB and the State of Kansas Department of Administration Contractual Provisions Attachment (Form DA-146a, Rev. 07-19) (the "Contractual Provisions Attachment"). The Contractor further agrees that the language of this RFP/RFB shall govern in the event of a conflict with the Contractor's submitted response to this RFP/RFB, including all documents appended to the response and expressly agreed to by the parties in a final, award contract (the "Response"), as provided for in Section 4 - JCCC Additional Terms & Conditions. The Contractor further agrees that upon receipt of an authorized purchase order from Johnson County Community College's Procurement Services ("Procurement Services") or when a final, award contract is signed by an authorized official of Johnson County Community College ("JCCC" or the "College") and the Contractor ("Award Contract"), a binding contract shall exist between the Contractor and the College.

SIGNATURE REQUIRED

CONTRACTOR INFORMATION		
LEGAL BUSINESS NAME	DBA (if applicable)	
STATE OF INCORPORATION	TAX ID INFORMATION (specify all that apply)	
	TIN/FEIN	
	CAGE/NCAGE	
	UEI (Unique Entity ID) <i>Sam.gov</i>	
SOCIOECONOMIC DESIGNATIONS (check all that apply)		
<input type="checkbox"/> 8a	<input type="checkbox"/> HUBZone	<input type="checkbox"/> SBE
<input type="checkbox"/> VOSB	<input type="checkbox"/> SDVOSB	<input type="checkbox"/> WOSB
<input type="checkbox"/> DBE	<input type="checkbox"/> EDWOSB	<input type="checkbox"/> MBE
<input type="checkbox"/> LGBTQ	<input type="checkbox"/> N/A	
COMPANY ADDRESS (city, state, zip)		
	PHONE	
	FAX	
	EMAIL	
	WEBSITE	
***** AUTHORIZED INDIVIDUAL OF THE FIRM *****		
NAME	TITLE	
	PHONE	
	EMAIL	
SIGNATURE (typed name is acceptable)	DATE	

**** For your convenience, this form is a fillable PDF located with the solicitation documents. ****

DEFINITIONS

- “Agreement” means all of the following (1) this RFP/RFB, (2) Contractual Provisions Attachment, (3) Response, including all documents appended to the response and expressly agreed to by the parties as set out in the Award Contract, (4) any purchase order, and (5) Award Contract, as applicable.
- “Award Contract” means a final, award contract signed by an authorized official of Johnson County Community College and the Contractor.
- “Business Days” means Monday through Friday, 8:00am to 5:00 pm Central Standard Time (CST), when the administrative offices of the College are open for business and excludes Federal and State of Kansas holidays.
- “Conflict of Interest” means either (1) an actual Conflict of Interest, which occurs when financial or personal considerations compromise an individual’s objectivity, professional judgment, professional integrity and/or ability to perform his/her responsibilities for the College., or (2) a potential Conflict of Interest, which occurs when, although there is no actual Conflict of Interest, the circumstances are such that a reasonable person might question whether a decision maker is biased in carrying out his/her professional responsibilities for the College ([Conflict of Interest Policy 431.00](#)).
- “Contractor” means the bidder/proposer.
- “Contractor Party” means the contractor, including its respective officers, directors, partners, employees, insurers, agents, subcontractors, invitees or others acting under its direction or control.
- “Contractual Provisions Attachment” means the State of Kansas Department of Administration Contractual Provisions Attachment (Form DA-146a, Rev. 07-19). For the purposes of this attachment, the College shall be included in the terms “State of Kansas and its agencies” and “State.”
- “Conviction for a Criminal or Civic Offense” is defined in Section 2.7 and Section 4, 12(c).
- “Force Majeure Event” means acts or events beyond reasonable control, including acts of God, acts of civil or military authority, including governmental restrictions and regulations, fires or other casualty, floods, earthquakes or other natural disasters, epidemics, pandemics or disease outbreaks, war, riots, or strikes.
- “JCCC” or the “College” means Johnson County Community College.
- “Keys” means access cards or keys to College buildings and areas.
- “Procurement Services” means Johnson County Community College’s Procurement Services.
- “Potentially Responsive” means a Response that appears, on its face, to comply with the directions in Section 3 - Bid/Proposal Response Format, is complete and prepared in a simple and straightforward manner, compliant with terms and conditions of this RFP/RFB and the Contractual Provisions Attachment, and that does not prevent the College from complying with Kansas law or the law.
- “Nonresponsive” means a bid Response which may not comply with the directions in Section 3 - Bid/Proposal Response Format, or is unspecific, incomplete, or is prepared in an unorganized or complicated manner, or is noncompliant with terms and conditions of this RFP/RFB and the Contractual Provisions Attachment, or that may prevent the College from complying with Kansas law or the law.
- “Response” means the contractor’s submitted response to this RFP/RFB, including all documents appended to the response and expressly agreed to by the parties in a final, award Contract.
- “Restricted Data” means highly sensitive organizational, employee and student data protected by statutes, regulations, contractual agreements or policies. ([Data Classification and Security Operating Procedure 530.01](#)).
- “Sensitive Data” means data relevant to internal operations and not readily available to the public. ([Data Classification and Security Operating Procedure 530.01](#)).

SECTION 1 - SCOPE OF WORK

Section 1 - Scope of Work provides Contractors a description of the goods/services being purchased under this RFP/RFB. This RFP/RFB, Contractual Provisions Attachment, Response, including all documents appended to the response and expressly agreed to by the parties as set out in the Award Contract, any purchase order, and Award Contract, as applicable, will hereafter be collectively referred to as the "Agreement".

1.1 PRE-BID CONFERENCE

A conference with interested Contractors will be held at **2:00 pm, 11/21/2025, in the General Education Building (GEB) Craig Auditorium Room #GEB233** on the College main campus at 12345 College Blvd., Overland Park, Kansas 66210. This conference will enable Contractors to request clarification on any questions they have on the project. Attendance at the conference is highly recommended.

1.2 COLLEGE OVERVIEW

Johnson County Community College (JCCC) is a comprehensive, public, two-year institution of higher education. The main campus is located on 234 acres in Overland Park, Kansas. JCCC is the state's third largest institution of higher education and the largest of the nineteen community colleges in the state of Kansas, educating approximately 35,000 students. Established in 1969, JCCC is dedicated to transforming lives and strengthening communities through learning and has enjoyed a national reputation for educational excellence and student success for more than 50 years. JCCC is dedicated to smaller class sizes, more resources, a thriving campus culture, competitive tuition rates, and extracurricular experiences that transcend the norm.

1.3 SCOPE OF WORK

The College intends to contract for the JCCC warehouse renovation that includes reconfigured restrooms, new finishes, casework, doors, windows in several areas, and air conditioning for the large warehouse space. Full project documents can be downloaded on the "Bid Documents" tab (without logging in) via ProcureWare <https://jccc.procureware.com>.

1.4 TERM OF AGREEMENT

The Agreement will continue until all deliverables have been satisfactorily met as specified in this Section 1 and the Agreement but shall not extend beyond **August 14, 2026**, unless agreed upon by both parties by written amendment. In the event funding approval is not obtained by the College, this Agreement shall become null and void effective the start date of the most recent extension. During any agreed upon extension periods, all terms and provisions of this Agreement shall remain in effect.

1.5 INTENTIONALLY OMITTED

1.6 SPECIFIC PROJECT AND PRICING INFORMATION REQUESTED

- Requested pricing information shall be input on the pricing tab at <https://jccc.procureware.com>
- JCCC is tax-exempt and a Project Exemption Certificate (PEC) will be issued to the awarded firm.
- This is not a prevailing wage project.
- Mark-up percentage for all changes in the work shall not exceed 10%.
- Contractors requesting any interpretations or clarifications shall submit questions via the "Clarifications" tab on the JCCC Procurement Portal <https://jccc.procureware.com> by the date/time specified within ProcureWare.
- Procurement Services is the first and only point of contact on all matters associated with the RFB.
- Notice of award based on the current bid due date and JCCC Board of Trustees meeting schedule will be on or after January 15, 2026.
- Ten percent (10%) of the Work Completed to Date will be retained on each payment request until final completion and acceptance of all Work covered by the Contract and upon 50% completion, the Owner and Project Architect/Engineer may reduce retainage to a minimum of 5% of the total project cost.

1.7 BONDS

- A. **Bid Guaranty (Bid Bond):** A bid guaranty equal to five percent (5%) of the bid total and made payable to “Johnson County Community College” must accompany this bid to ensure faithful performance with the conditions of this Request for Proposal/Bid and/or resulting agreement. A bid guaranty must be a properly executed bid bond payable to the College. Proof of bid guaranty must be uploaded in the appropriate ProcureWare Documents upload section.
- B. **Performance Guarantee (Performance Bond):** Prior to initiation of any work, the successful Contractor will be required to submit a Performance Bond to Procurement Services for the total amount (100%) of the Agreement as security for the faithful performance of this Agreement. The Performance Bond shall provide for recovery by the College of any and all damages, including attorneys’ fees, suffered by it by reason of the Contractor’s failure to perform any of its obligations, recovery being permissible from the Contractor and the surety or either of them.
- C. **Public Works Bond (Statutory Bond):** Prior to initiation of any work, the successful Contractor shall also file with the Clerk of the District Court in Johnson County, Kansas, with an original stamped bond document to Procurement Services, a Public Works Bond as required by K.S.A. 60-1111, and amendments thereto, in an amount equal to one hundred percent (100%) of the total price. The Public Works Bond is not required for projects with a contract price below \$100,000; however, in such instances,
 - 1. A list of all subcontractors must be provided to the College at the initiation of the project, to be supplemented on a monthly basis as new subcontractors are identified, and
 - 2. Contractor must provide fully executed unconditional lien waiver and release forms by all subcontractors prior to receipt of progress and final payments related to work tied to each subcontractor.
- D. **Authenticity of Bonds:** Necessary bond forms shall be issued by a Surety Company licensed to do business in the State of Kansas.

1.8 INTENTIONALLY OMITTED

SECTION 2 - GENERAL INSTRUCTIONS/JCCC PROCUREMENT PROCESS

2.1 GENERAL INFORMATION

A. REQUEST FOR PROPOSAL/BID OVERVIEW

The College is issuing this RFP/RFB for the purpose of soliciting bids/proposals in the form of the Contractor's Response for goods/services. The specific scope of work is described in Section 1 - Scope of Work (the "Scope of Work"). Contractors will execute and submit all Responses in accordance with these general instructions and the applicable provisions of the specifications of the Scope of Work.

B. ADDITIONAL CONSIDERATIONS

The words "**must**," "**will**," or "**shall**" as used in this RFP/RFB indicate that a certain feature, component, or action is a mandatory condition. Failure to fulfill mandatory requirements shall make the Proposer's Proposal/Bid Response to be considered unacceptable and not given consideration for contract award, unless waiver of minor technicality or determination in the College's best interests to waive the requirement.

The word "**Should**" as used in this RFP/RFB indicates that a certain feature, component and/or action is desirable, but not mandatory. Meeting desirables is given positive consideration in the subjective evaluation.

2.2 RESPONSE INSTRUCTIONS

It is required that Responses comply with the directions in Section 3 - Bid/Proposal Response Format. Failure to comply with this bid/proposal response format may be considered Nonresponsive and may result in rejection of the Response. Additionally, JCCC may determine an otherwise Potentially Responsive Response as Nonresponsive if Contractor has failed to satisfactorily perform in previous JCCC contracts. The Response should be specific and complete in every detail and prepared in a simple and straight-forward manner.

Contractors are expected to examine the entire RFP/RFB, including all specifications, standard provisions and instructions. Failure to do so will be at the Contractor's risk. Each Contractor shall furnish the information required by the RFP/RFB. Periods of time, stated in number of days, in the Solicitation or in the Contractor's Response, shall be in calendar days. Propose your best price on each item.

2.3 SUBMISSION OF RESPONSES

A. All bids and proposals are listed on JCCC's eProcurement site: ProcureWare, <https://jccc.procureware.com>.

This site is used to post information on solicitations and provide access to respond electronically to all bids, quotes, and proposal opportunities. Contractors accessing this solicitation via the College's eProcurement site are responsible for accessing and acknowledging any questions, answers, and addenda posted in the bid's Documents tab or the bid's Clarifications tab.

B. To register:

1. Fill out the required information on the next screen (Company Name, Email Address, Address, etc).
2. A message will be sent to the provided email address with instructions on how to continue.
3. Once back in ProcureWare, complete the sections related to the registration process in the navigation bar. Fill out the required information for each section.
 - a. *Tip:* if you are not a diverse business, then select "Not Applicable."
4. A red "X" icon indicates a section with incomplete information.
5. A green "✓" icon indicates all required information has been provided.
6. Upon completion of the required registration information, click "Submit Registration" in the top-right.
7. A summary of your information will become visible upon submission.
8. Your registration status display as "Review Complete" and you can navigate ProcureWare.
 - a. *Tip:* Once approved by JCCC, you will then be able to submit proposal responses to bids.
 - b. *Tip:* You must be approved first before you are allowed to submit proposal responses.
 - c. *Tip:* Add "@procureware.com" to your safe senders so emails don't end up in your Junk folder.
9. When you receive bid invitations from JCCC, click on the email link and login to access the documents.
10. Additional Registration Help (vendor profile creation/maintenance): click the Help link in the top-right. You may also contact procurement@jccc.edu.

- C. Electronic Responses may be withdrawn or modified any time prior to the scheduled closing time for receipt of Responses. It is the Contractor's responsibility to ensure that adequate time is allowed for any modifications to be completed, certified, and submitted prior to the RFP/RFB closing date and time.
- D. All Responses shall be valid and constitute an irrevocable offer to contract on the terms and provisions contained herein for 120 days after opening, but the College reserves the right to accept or reject Responses on each item or service separately or as a whole, to reject any or all Responses, to waive informalities or irregularities, and to contract in the best interest of the College.
- E. The submission of a Response constitutes the agreement of Contractor that any Award Contract to be drawn as the result of an award herein shall be prepared by the College and shall include at a minimum, all terms and provisions set forth in this RFP/RFB. The submission of a Response shall further constitute the agreement of each Contractor that it will not insist on the use of standard contract agreements, documents, or forms, that it waives any demand for the use of its standard agreements, and that it will not insist on or require any modifications to the DA-146a Contractual Provisions Attachment.
- F. Anytime the College is closed on days other than scheduled holidays, any opening scheduled for that day will be held on the next normal Business Day at the scheduled time. Any time opening hours of College are delayed, solicitation openings will be delayed by the same amount of time; e.g., if the College opens two hours late, solicitation responses will be opened two hours late. It shall be the Contractors' responsibility for making themselves aware of these situations.
- G. Unless otherwise specified, only one price, brand and/or model may be proposed for each item or service in the RFP/RFB. Contractors must determine their single best offering based on the quality specified. Responses not conforming to this requirement will be rejected.

2.4 ALTERNATE BRANDS/SPECIFICATIONS

- A. Brand names and specifications referenced in the RFP/RFB are meant to establish a minimum standard of quality, performance or use desired. Unless otherwise noted, Responses on "equals" may be considered provided Contractor clearly identifies the alternate product or service to those specified in the RFP/RFB and furnishes descriptive literature and other proof required by the College to determine that the "equal" being proposed meets the minimum essential specifications.
- B. When brand names or specifications are not changed, it is assumed that Contractor's Response is as specified.
- C. Samples, when required by the College, must be furnished free of charge, including freight to and from JCCC.
- D. In the event the College elects to contract for a brand purported to be an equal by the Contractor, the acceptance of the item will be conditioned on the College's inspection and testing after receipt. If, in the sole judgment of the College, the item is determined not to be equal, the material will be returned at the Contractor's expense and the Agreement terminated.

2.5 PRICING

- A. Except as otherwise provided, prices must be firm and based on the units specified. The proposed price(s) shall include everything necessary for the execution and completion of the Agreement including, but not limited to, furnishing all materials, equipment, management, superintendence, labor and service, except as may be otherwise provided in the Agreement. Prices quoted by the Contractor shall include all freight and/or delivery charges, unless specified otherwise. In the event of a discrepancy between the unit price and the total price, the unit price will govern, and the total price will be adjusted accordingly. Contractor's submission of a Response guarantees that prices have not been arrived at through collusion with other eligible contractors and without effort to preclude the College from obtaining the lowest possible competitive prices. The proposed price(s) shall not include any allowance for Kansas State sales or use tax.

- B. The College will evaluate the total price for the basic requirements with any option(s) exercised at the time of award. Evaluation of option(s) will not obligate the College to exercise the options(s).
- C. The College may reject a Response if it is materially unbalanced. A Response is materially unbalanced when it is based on prices significantly less than the cost for some goods/services or is based on prices that are significantly overstated for goods/services.

2.6 INTERPRETATION, CORRECTIONS OR CHANGES

- A. Contractors requesting any interpretations or clarifications shall submit questions via the JCCC Procurement Portal by the date/time specified within ProcureWare and also within this solicitation's cover page.
- B. Procurement Services is the first and only point of contact on all matters related to the procedures associated with the RFP/RFB. If additional information is needed from any source, the College's Procurement Services will work with the Contractor and with the various offices of the College to gather that information.
- C. Any interpretation, correction or change in the RFP/RFB will be posted on the JCCC Procurement Portal. Interpretations, corrections or changes to the RFP/RFB allegedly made in any other manner will not be binding on the College, and Contractors may not rely upon any such interpretation, correction or change.

2.7 QUALIFICATIONS OF CONTRACTORS

Upon request by the College and as required by Section 4 - JCCC Additional Terms & Conditions, the successful Contractor shall furnish documentation satisfactory to the College which confirms qualification requirements. Any conviction for a criminal or civic offense that indicates a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a state contractor, must be disclosed. This includes: (a) conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract; (b) conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, or receiving stolen property; (c) conviction under state or federal antitrust statutes; and (d) any other offense to be serious and compelling as to affect responsibility as a state contractor (see K.S.A. 75-37,103).

2.8 CONFLICTS OF INTEREST

It is the duty of the Contractor to disclose all circumstances that constitute an actual or potential conflict of interest as those terms are defined in the College's [Conflict of Interest Policy 431.00](#). This duty is continuing throughout the procurement process, and such circumstances must be disclosed to the College immediately upon Contractor's knowledge. Failure to do so could jeopardize the procurement process and result in rejection of a Contractor's submission or rescission of a Response.

Designers, suppliers, and contractors who assist in the development or drafting of specifications, requirements, statements of work, invitation for bids or RFP/RFBs shall be excluded from competing for such requirements.

2.9 BID/PROPOSAL RESPONSE CONFIDENTIALITY

In addition to the Confidentiality provision in Section 4 - JCCC Additional Terms & Conditions, each Contractor understands and agrees that each Response becomes the property of the College, and Contractor waives any right of access to such Response, except as provided for by law. The Kansas Open Records Act (K.S.A. 45-215 *et seq.*) requires public records be made available for examination by interested parties following the award of a contract. No Responses will be disclosed until after an award has been issued.

Trade secrets or proprietary information, legally recognized as such and protected by law, may be requested to be withheld from public disclosure if **clearly labeled "Proprietary" on each individual page**. Contractor must provide detailed written documentation justifying why labeled material should be considered proprietary. Neither pricing information nor the Contractor's entire Response are considered proprietary. The College reserves the right to accept, amend or deny requests to maintain certain information as proprietary in accordance with Kansas law.

Except as determined by the College, in its sole discretion, no information will be given regarding any Response or evaluation progress until after an award is made, except as provided for under this Agreement and by law.

2.10 ORDER OF AUTHORITY

To the extent that JCCC's documentation related to the RFP/RFB and Contractor's Response contain terms, conditions or provisions that may be in conflict or be inconsistent with each other, their order of authority is set out in Section 4 - JCCC Additional Terms & Conditions.

2.11 BASIS OF AWARD(S)

The College shall make the award(s) to the Contractor(s) whose Response will be most advantageous to the College, in the College's sole discretion, with respect to price, conformance to the specifications, quality and other factors as evaluated by the College, which may include, if applicable, a Contractor's past performance in previous JCCC contracts. A prospective contractor who is currently or has recently been deficient in contract performance with JCCC, may be eliminated from consideration. The College shall not in any event be required or constrained to award the Award Contract(s) to the Contractor(s) proposing the lowest price(s), nor shall the College be required to make any award whatsoever. The College may award the Award Contract(s) on the basis of initial Response received, without discussion; therefore, each initial Response should contain the Contractor's best terms from a cost and technical standpoint. The College reserves the right to make awards by item, group of items, or an all-or none basis. The grouping of items awarded shall be determined by the College based upon factors such as item similarity, location, administrative efficiency, or other considerations in the best interest of the College.

The College shall not in any event give preference to Contractors, who provide monetary donations, in-kind services or goods, directly to the College or through the Johnson County Community College Foundation. The JCCC Foundation is a separate 501(c)(3) tax-exempt organization. The College shall make the award(s) to the Contractor(s) whose Response(s) will be most advantageous to the College pursuant to JCCC's [Purchasing Policy 215.01](#) and [Competitive Solicitation Requirements Policy 215.02](#).

2.12 APPEAL OF AWARD

A Contractor aggrieved by an award may file an appeal in writing to the College's Director of Procurement Services. The appeal must be received by the Director of Procurement Services within five Business Days after the award notice is posted on the College's eProcurement site (ProcureWare). The appeal must describe the basis for the appeal and must include all arguments and evidence the Contractor would like the Director of Procurement Services to consider. Keeping track of the appeal due date is the responsibility of the appealing Contractor. ***Award notifications come only from JCCC Procurement Services and may be communicated to Contractors via phone, email, and/or ProcureWare notification.***

2.13 PROCUREMENT PROCESS

- A. Bid/Proposal Response Classification. For the purpose of conducting discussions with individual Contractors, if required, Responses will initially be classified as "Potentially Responsive" or "Nonresponsive." Discussions may be conducted with any or all of the Contractors whose Responses are found "Potentially Responsive."

Contractors are cautioned that to be considered, any Responses must be Responsive but also compliant with all terms and conditions of this RFP/RFB and the Contractual Provisions Attachment. Compliance means that the Contractor understands and agrees that this RFP/RFB, including the Contractual Provisions Attachment, shall govern in the event of a conflict with the Contractor's Proposal/Bid Response to this RFP/RFB. Therefore, if a Contractor's Proposal/Bid Response includes its organization's pre-printed standard contractual requirements, terms and conditions, or license or service agreement, the College's RFP/RFB, including the Contractual Provisions Attachment, will control over any conflicting terms. If a Contractor cannot agree to this, it should not submit a Response.

- B. Contractor Investigation. The College may make such investigations as it considers necessary to obtain full information on the Contractor(s) selected for discussions, and each Contractor shall cooperate fully in such investigations.

- C. Final Offers and Awards. Following any discussions with Contractors regarding their technical Responses, alternative approaches, or optional features, a selection of the Contractors may be requested to submit best and final offers. In such cases, the College will rank the final Contractors for the project, giving due consideration to the established evaluation criteria, including, if applicable, a Contractor's past performance in previous JCCC contracts. Ultimately, the College will recommend an award to the Contractor(s) whose Response is found to be most advantageous to the College, based on the factors set forth in the RFP/RFB.
- D. SAM.gov Exclusions List. No bidder/proposer that has been suspended or debarred from contracting with the federal government shall be eligible for award. Prior to award, JCCC will verify that the bidder/proposer does not appear on the Exclusions List on SAM.gov. It shall be the ongoing duty of the awarded Contractor to notify JCCC promptly if they become debarred or suspended during the term of the Agreement. If the bidder/proposer does not have a SAM.gov registration, then this will not exclude them award consideration, unless such registration is required as a result of federal grant or contract conditions.
- E. Sustainability. In support of the College's signing of the American College & University Presidents Climate Commitment, the JCCC Procurement Services is dedicated to applying principles in all procurements to the maximum degree as practical in order to procure products and services that promote the minimization of environmental impact and the conservation of energy during the entire life cycle of products.

The College will give favorable consideration to the procurement of products and services that support these aforementioned standards and that do not have negative residual impacts on the environment at the end of their useful lives. Favorable consideration will be given to those Contractors who support these standards.
- F. College's Right to Reject/Award: The College reserves the right to reject any or all Responses, or portions thereof. The selection of a successful Contractor, if any, will be made based upon which Response the College determines will best meet JCCC's requirements and needs.
- G. Evaluation Process: The evaluation criteria, if applicable, are listed in the Section 1 - Scope of Work.

SECTION 3 - BID/PROPOSAL RESPONSE FORMAT

3.1 BID/PROPOSAL RESPONSE OUTLINE

Structure your PDF response, **specific to the following outline**, clearly identifying each section.

- A. **Page Limit, File-Size:** NTE 30 pages, 11pt Calibri font (excludes cover, divider pages, etc.), 7mb.
Filename: "RFB 26-027 Your Company Name_bid response"
- B. **Bidder/Proposer Acknowledgement Sheet:** Include a completed [Bidder/Proposer Acknowledgement Sheet](#) located at the beginning of this solicitation (does not count against page length).
- C. **SAM.gov:** If your firm has a SAM.gov registration, please include a completed and recently updated SAM.gov registration showing no suspensions and/or debarments (does not count against page length).
- D. **Company Overview:** Describe your company, number of employees, and operating policies. State the number of years your organization has been in business and the financial stability. If claiming socioeconomic status, please provide evidence of certification.
- E. **Past Performance:** Describe your experience in performing the services requested in this RFP/RFB. Indicate if you have previously contracted with JCCC as well as if any contract with JCCC was terminated or declared in default by JCCC due to performance, breach, or other concerns. A prospective contractor who is currently or has recently been deficient in contract performance with JCCC may be eliminated from consideration.
- F. **Project Approach:** Please describe your approach to the RFP/RFB Section 1 - Scope of Work.
- G. **Products/Services Costs:** Include itemized costs for all components and features to be delivered. Costs should be identified as one-time or continuing. Purchase prices, lease prices, installation charges, and maintenance charges must be identified. All equipment prices must be stated as F.O.B. Destination, prepaid and allowed. **Describe any warranties** provided and include discussions of any additional support provided after the sale.
- H. **References:** Contractor shall provide a minimum of three (3) references including contact names, addresses, and phone numbers for whom Contractor is providing or has provided similar goods or services.
- I. **Construction Waste Management and Disposal Plan:** Provide a Construction Waste Management and Disposal Plan that includes, but not limited to, details on the following: A. Salvaging nonhazardous demolition and construction waste. B. Recycling nonhazardous demolition and construction waste. C. Disposing of nonhazardous demolition and construction waste. The JCCC Center for Sustainability is available to assist awarded Contractor(s) in providing resources that may help direct Contractor(s) with diversion efforts.
- J. **Insurance:** Contractor shall include evidence of existing insurance coverages, consistent as specified in Section 4 - JCCC Additional Terms & Conditions. The Contractor shall disclose to the Owner any deductible or Self-Insured Retentions (SIRs) applicable to any insurance required to be provided by the Contractor.
- K. **Contractor Exceptions:** Contractor shall **describe with specificity** and **clearly mark as an "Exception"** any term or provision contained in the Response or any appended documents in conflict with the RFP/RFB. **Exceptions contrary to law, including the DA-146a (mandated by Kansas law), or that prevent the College from complying with the law shall NOT be binding on the College, shall NOT be incorporated into the Agreement, and as such, shall NOT be requested by the Contractor at risk of such Response being rejected as Nonresponsive.** Likewise, any provision in the Response that is in conflict with the RFP/RFB that is not marked as an exception and that has not been expressly agreed to by the parties in the Award Contract shall NOT be binding on the College and shall NOT be incorporated into the Agreement.
- L. **Disclosure of Conflict of Interests:** Describe any circumstances or relationships held by the Contractor that constitute or could be perceived as a Conflict of Interest pursuant to JCCC's [Conflict of Interest Policy 431.00](#).

- M. Request for Proposal/Bid Sections Acknowledgment: Confirm you have read and agree to all the information contained in Sections 1, 2, 3, 4 and addenda (if applicable). Responses with non-acknowledgement of all sections, or exceptions to JCCC's Terms & Conditions, or that do not adhere to the above outline, including excessive page or file limits, may be considered nonresponsive and may be rejected at the College's discretion.

SECTION 4 - JCCC ADDITIONAL TERMS & CONDITIONS

1. AGREEMENT TO PERFORM WORK

Contractor hereby agrees to provide or furnish goods and/or services to the College as specified in the Scope of Work and in accordance with these terms and provisions of this Agreement. All of the Contractor's work shall be performed with the highest degree of skill in accordance with applicable laws and generally accepted practices and standards of similar professionals in the industry and completed in accordance with the Agreement. All times provided for in this Agreement, or in any other document executed hereunder, for the performance of any act will be strictly construed, with time being of the essence. Contractor's failure to deliver goods and/or services within the time specified in the Scope of Work will be cause for College to cancel this Agreement, in its sole discretion, and obtain the goods and/or services from another vendor and seek any and all remedies available from Contractor.

2. INCORPORATION

These Additional Terms & Conditions are supplemented by additional documents, all of which are incorporated herein by this reference. These documents are as follows and, to the extent that JCCC's documentation related to this RFP/RFB and Contractor's Response contain terms, conditions or provisions that may be in conflict or be inconsistent with each other, their order of authority shall be as follows:

- (1) The DA-146a Contractual Provisions Attachment;
- (2) The Award Contract;
- (3) A Purchase Order (PO), if any;
- (4) JCCC Additional Terms & Conditions;
- (5) JCCC RFP/RFB Instructions/Procurement Process;
- (6) JCCC's Solicitation Addenda (if any);
- (7) JCCC Scope of Work; and
- (8) Contractor's Response.

3. NOTICES AND INVOICES

- A. **NOTICES.** Any notice under this Agreement shall be in writing and be delivered in person or by public or private mail, or by courier service, by certified mail with return receipt requested, or by email as listed below. All notices shall be addressed to JCCC at the following address or other addresses as established in writing by both parties. Any notice shall be deemed to have been given on the earlier of: (a) actual delivery or refusal to accept delivery, (b) the date of mailing by certified mail, or (c) the day email delivery is verified.
- B. **INVOICES.** All invoices must contain the PO number, an itemization of charges, and a notation of the correct contract pricing and sent to the address or email as listed below. Requests for additional compensation will be rejected by the College unless otherwise provided in this Agreement. Payments shall be due and payable within (30) days after acceptance of such goods or services or after receipt of properly completed invoice, whichever is later. No advance payment shall be made for goods or services furnished pursuant to this Agreement.

NOTICES	INVOICES
Johnson County Community College Procurement Services, Box 56 12345 College Blvd. Overland Park, KS 66210 procurement@jccc.edu	Johnson County Community College Accounts Payable, Box 45 12345 College Blvd. Overland Park, KS 66210 accountspayable@jccc.edu

4. TERMINATION

The College may terminate this Agreement, in whole or in part, at any time during an effective term (as provided in the Scope of Work), with or without cause, by written notice to the Contractor. The Contractor shall be paid all amounts due and owing for work performed as of the date of termination. The Contractor shall submit a final claim for payment for actual work performed within ten (10) business days of the date of termination. If the Contractor has any property in its possession belonging to the College, the Contractor will account for the same and dispose of it in the manner the College directs. In the event termination of this Agreement stems from a breach by Contractor of any of the provisions of this Agreement, the College reserves the right to terminate this Agreement and Contractor shall be liable for damages suffered by the College resulting from Contractor's breach of Agreement.

5. CONTRACTOR COMMITMENTS, WARRANTIES AND REPRESENTATIONS

- A. Any commitment by the Contractor within the scope of this Agreement shall be binding upon the Contractor. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for actual damages incurred by the College by reason of such failure of the Contractor. The rights and remedies of the College provided in this provision shall not be exclusive and are in addition to other rights and remedies provided by law or under the terms of this Agreement. For this Agreement, a commitment by the Contractor includes:
1. Prices and options committed to remain in force over a specified period of time;
 2. Any warranty or representation made by the Contractor in a Response as to performance or any other physical, design, or functional characteristics;
 3. Any warranty or representation made by Contractor concerning the characteristics or items in (2) above, contained in literature, descriptions, drawings or specifications accompanying or referred to in a Response;
 4. Any modification of, affirmation, or representation as to the above that is made by Contractor in writing or during the course of negotiation, whether or not incorporated into a formal amendment to the Response, supporting documents or negotiations subsequent thereto as to training to be provided, services to be performed, prices, and options committed to remain in force over a fixed period of time, or any other similar matter, regardless of the fact the duration of such commitment may exceed the duration of this Agreement.
- B. Contractor represents and warrants that they are:
1. Financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to provide the goods, complete the services, and perform its obligations required hereunder;
 2. Authorized to do business in Kansas, licensed by all necessary governmental, public, and quasi-public authorities-having-jurisdiction over it and the goods or services required hereunder, and has or will obtain all licenses and permits required by law prior to the beginning date of the initial term of the Agreement; and
 3. That all documents, agreements and other information provided to the College by Contractor or that Contractor has caused to be provided to the College are true and correct in all respects and do not omit to state any material fact or condition required to be stated, necessary to make the statement or information not misleading, and there are no other agreements or conditions with respect thereto.

6. CONFIDENTIALITY

The parties hereto agree that the terms and provisions of this Agreement shall be held in confidence except as required by or for applicable disclosure laws, financing sources, enforcement of the Agreement, mergers and acquisitions, or as otherwise mutually agreed by the parties, and such agreement shall not be withheld unreasonably. Contractor recognizes that JCCC is a public governmental body subject to the provisions of the Kansas Open Records Act (K.S.A. 45-215 through 45-223). As such, JCCC is required to allow citizens to inspect and copy documents deemed to be "public records" under the law. Contractor agrees to use the procedure set out in Section 2 to properly identify proprietary information. Except as provided in this Agreement, the College shall satisfy a request to inspect and copy public documents to the extent allowed by law.

7. TRADEMARKS

Contractor shall not use the name, trade name, trademark, or any other designation of the College, or any contraction, abbreviation, adaptation, or simulation of any of the foregoing, in any advertisement or for any commercial or promotional purpose (other than in performing under this Agreement) without the College's prior written consent in each case.

8. TAXES

The College is exempt from the tax levied by the Kansas Retailers' Sales Tax Act and the Compensating Tax Act for the reason that KSA 79-3606(c) provides that all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly by a public or private elementary or secondary school or public or private nonprofit educational institution and used primarily by such school or institution for nonsectarian programs and activities provided or sponsored by such school or institution or in the erection, repair or enlargement of buildings to be used for such purposes.

9. CONTRACTOR'S INSURANCE

Contractor will secure, purchase and maintain at its own expense, insurance policies with the below minimum insurance coverages. This insurance will remain in full-force and effect during all periods of service covered by the Agreement. All insurance required hereunder shall contain a clause requiring written notice to the College 30 days in advance of the cancellation, non-renewal, or material modification of said insurance as evidenced by an official email to JCCC at jccc@ebix.com. Certificates of Insurance (COIs) shall be supplied contemporaneously with the execution and delivery of a final contract. Said COIs shall evidence compliance with all provisions of this section. The Contractor shall disclose to the Owner any deductible or Self-Insured Retentions (SIRs) applicable to any insurance required to be provided by the Contractor.

Contractor will further require any subcontractors or others acting under its direction or control, to maintain the same below insurance coverages and provide COIs evidencing the required coverage to the Contractor. It will be the Contractor's responsibility to maintain any subcontractor's COI for the duration of the contract. "Johnson County Community College, its agents, its employees, and its assigns" shall be named as additional insureds on any Commercial General Liability Insurance policy and be evidenced on such certificate.

Type of Insurance	Limit	Amount	JCCC Add'l Insured
Commercial General Liability	General Aggregate Each Occurrence	\$2M aggregate \$1M occurrence	Yes
This policy shall be written on an occurrence basis and shall be endorsed to include "Johnson County Community College, its agents, its employees, and its assigns" as additional insureds. Coverage for these additional insureds shall apply on a primary and non-contributory basis irrespective of any other insurance, collectable or not. This policy shall be maintained throughout the contract and for a minimum of <u>2 years after project completion</u> .			
Automotive Liability	Combined Single Limits Or Bodily Injury per Person Bodily Injury per Accident Property Damage	\$1M occurrence \$100K \$300K \$500K	Yes
Excess Liability/Umbrella	Per Occurrence Limit Aggregate	\$3M occurrence \$3M aggregate	Yes
This policy shall be written on an occurrence basis and shall be endorsed to include "Johnson County Community College, its agents, its employees, and its assigns" as additional insureds. Coverage for these additional insureds shall apply on a primary and non-contributory basis irrespective of any other insurance, collectable or not. This policy shall be maintained throughout the contract and for a minimum of <u>2 years after project completion</u> .			
Workers' Compensation (WC) & Employers Liability (EL)	WC - Per Kansas Statute EL Each Accident EL Disease Policy Limit EL Disease Each Employee	Statutory \$500K \$500K \$500K	N/A

JCCC Internal Use Only: R6

10. INDEMNIFICATION

To the fullest extent permitted by law, Contractor, including its respective officers, directors, partners, employees, insurers, agents, subcontractors, invitees or others acting under its direction or control (collectively, "Contractor Party"), agrees to defend, indemnify and hold harmless College, College's officers, directors, partners, employees, agents and representatives from and against any and all actual or alleged claims, costs, losses, damages and costs of defense (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all courts or arbitration or other dispute resolution costs) of any nature whatsoever, resulting from, arising out of or in consequence of, any action or cause of action in connection with the execution, performance and furnishing of Contractor Party's commitments, obligations and services under this Agreement including, but not limited to: monies owed by Contractor Party to third parties (including without limitation subcontractors) and/or damage to property or any injuries or death sustained by any person or persons, including any third parties, employees, agents, invitees and the like, caused by the negligent acts or omissions or intentional acts of Contractor Party. Contractor Party further waives any rights of subrogation against College, College's officers, directors, partners, employees, insurers, agents or representatives.

11. TERMS FOR THE PURCHASE OF GOODS

- A. THIS ORDER EXPRESSLY LIMITS ACCEPTANCE TO THE TERMS AND PROVISIONS STATED HEREIN. ALL ADDITIONAL OR DIFFERENT TERMS PROPOSED BY CONTRACTOR ARE OBJECTED TO AND ARE HEREBY REJECTED, UNLESS OTHERWISE PROVIDED FOR IN WRITING BY JCCC PROCUREMENT SERVICES.
- B. CHANGES. No alteration in any of the terms, conditions, delivery, price, quality, quantity or specifications of this order will be effective without the written consent of Procurement Services. All changes in scope to the Agreement must be in writing and submitted on a Procurement Services Change Order Form.
- C. DELIVERY. For any exceptions to the delivery date as specified on the order, Contractor shall give prior notification and obtain approval thereto from Procurement Services.
- D. ORDER NUMBERS. Award Contract numbers or purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.
- E. PACKING. No charges allowed for special handling, packing, wrapping, containers, etc., unless specified.
- F. PAYMENT, CASH DISCOUNT. Invoices will not be processed for payment nor will the period of computation for cash discount commence until receipt of a properly completed invoice or invoiced items are received and accepted, whichever is later. If an adjustment in payment is necessary due to damage or dispute, the cash discount period shall commence on the date final approval for payment is authorized. Payment shall not be considered late if a check or warrant is available or mailed within the time specified.
- G. PRICE WARRANTY FOR COMMERCIAL ITEMS. Contractor warrants that prices charged to the College are based on Contractor's current catalog or market prices of commercial items sold in substantial quantities to the general public and prices charged do not exceed those charged by Contractor to other customers purchasing the same item in like or comparable quantities.
- H. PRODUCT WARRANTIES. Contractor warrants that all products delivered under this Agreement shall be new, unless otherwise specified, free from defects in material and workmanship, shall be fit for the intended purpose, and shall not infringe upon the rights of any third party. All products found defective shall be replaced by the Contractor upon notification by the College. All costs of replacement, including shipping charges, are to be borne by the Contractor. Contractor further warrants that all products and services shall be delivered and performed in a professional manner in accordance with applicable laws and generally accepted practices and standards of similar professionals in the industry.
- I. QUALITY STANDARDS. Brand names, models, and specifications referenced herein are meant to establish a minimum standard of quality, performance, or use required by the College. No substitutions will be permitted without written authorization of the Johnson County Community College Procurement Services Office.
- J. REJECTION. All goods, materials, or services purchased herein are subject to approval by the College. Any rejection of goods, materials, or services resulting from nonconformity to the terms, conditions or specifications of this Agreement, whether goods are held by the College or returned, will be at Contractor's risk and expense.
- K. SHIPPING. Unless otherwise instructed, all goods are to be shipped prepaid and allowed, FOB Destination.

12. SAFETY AND SECURITY

- A. ACCESS CARDS AND KEYS. To the extent applicable, access cards or keys ("Keys") to College buildings and certain areas may be issued to Contractor at the discretion of the College. Contractor shall be responsible for safe-keeping of all issued Keys. Any lost Keys must be reported immediately to the College's Police Department. Contractor will be charged for the replacement of any lost Keys. If the security of an area where the Key is lost

necessitates replacement of lock cylinders, locks or any other hardware, Contractor must pay the cost of such replacement and re-keying.

Contractor agrees to return issued Keys upon the expiration or termination of this Agreement and if Contractor fails to return Keys, the cost of any replacement Keys, including hardware replacement, will be deducted from the final payment due to Contractor under this Agreement and any remaining amounts owed will be paid by Contractor within 30 days of notice by College.

- B. SUPERVISION. Contractor will ensure all personnel provided to the College will be thoroughly instructed as to the required duties and methods of performance. Contractor agrees that its personnel will receive close and continuing first-line supervision, will maintain a courteous and respectful attitude toward College students, employees and third parties and will not solicit nor request gratuities while on College premises.
- C. BACKGROUND CHECKS. To the extent that Contractor or its personnel provide direct, on-premises services under this Agreement, Contractor shall conduct appropriate reference and federal, state and county of residence criminal background checks in advance on all personnel who are expected to come onto the College premises in connection with this Agreement, including all individuals that Contractor employs, contracts or sub-contracts with to perform services under this Agreement.

Additionally, as applicable, Contractor also shall conduct appropriate reference and federal, state and county of residence criminal background checks in advance on all personnel who are expected to access Restricted Data and Sensitive Data, as defined by the College Data Classification and Security Policy Operating Procedure 530.01 ("Restricted Data" and "Sensitive Data" respectively), including all individuals that Contractor employs, contracts or sub-contracts with to perform services under this Agreement.

As a result of Contractor's background and reference checks, Contractor shall exclude from direct, on-premises participation in the performance of services under this Agreement, any personnel convicted of a criminal or civic offense that indicates a lack of business integrity or business honesty that currently, seriously, and directly affects the performance of services under this Agreement or otherwise poses a safety or security risk. This includes, but is not limited to, any personnel convicted (a) of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract; (b) under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, or receiving stolen property; (c) under state or federal antitrust statutes; or (d) of any other offense to be serious and compelling as to affect performance of services under this Agreement.

- D. COMPLIANCE WITH THE LAW. Contractor agrees to abide by all applicable federal or state laws, rules, ordinances and regulations related to performance of services under this Agreement, including, but not limited to, the Fair Credit Reporting Act (FCRA), the Fair and Accurate Credit Transaction Act (FACTA), the Family Educational Rights and Privacy Act of 1974 (FERPA), the EU General Data Protection Regulation (GDPR), and any equal opportunity laws rules, ordinances and regulations related to its duties under this paragraph. Failure to comply with this paragraph shall constitute an event of default under this Agreement, and any resulting fines or damages will be the sole responsibility of Contractor.
- E. LICENSES AND TRAINING. Contractor will ensure that all personnel who perform services under this Agreement are appropriately licensed or certified and in good-standing, as applicable, and that such personnel are duly qualified to perform the services under this Agreement. As necessary, Contractor must train its personnel to meet all legal and industry requirements, qualifications and standards.

At the discretion of the College and to the extent applicable, Contractor's personnel may be required to attend College training covering campus safety, security, environmental health or safety. If this training is required by the College, Contractor will ensure that its applicable personnel attend any such training. Regardless of any training offered by the College, Contractor is solely responsible for enforcement of, and compliance with, all JCCC policies and procedures as to its personnel.

- F. PROHIBITED ITEMS. In performing the services under this Agreement, Contractor acknowledges and agrees that it and its personnel will comply with the College's Weapons Policy 660.00, and that neither it nor its personnel will perform any services under this Agreement while under the influence of alcohol or drugs and will otherwise act in compliance with the College's Substance Abuse and Alcohol Policy 424.03.
- G. BLOOD-BORNE PATHOGENS AND HAZARDOUS MATERIALS. To the extent applicable, Contractor agrees that its personnel have received industry-appropriate blood-borne pathogen training, and that its personnel will observe best practices from such training to clean and handle any blood-borne pathogens. To the extent Contractor uses products requiring Safety Data Sheets (SDS), Contractor agrees that it will provide such SDS to the College for all SDS products prior to using any SDS products on the College premises. Contractor also agrees that it will properly dispose of any hazardous materials that are used or generated by the Contractor in the provision of services under this Agreement. Such disposals shall be as specified by the SDS and in accordance with all local, state and federal laws, codes, rules, regulations and guidelines, as well as JCCC policy.
- H. PRODUCTS, SUPPLIES AND EQUIPMENT. College must approve all products, supplies, chemicals, or equipment utilized by Contractor in the performance of services under the Agreement in advance. Contractor must provide and use its own vehicles to carry its responsibilities under the Agreement, and Contractor agrees to follow the College's guidelines and instructions regarding where vehicles may be driven on campus (e.g., vehicles are not allowed on pavers).
- I. MOVEMENT OF COLLEGE FURNITURE OR EQUIPMENT. When Contractor is performing services in areas where College furniture or equipment is located, Contractor will coordinate the relocation of furniture or equipment in accordance with JCCC Campus Services and ensure furniture, walls, windows, baseboards, doors, carpets, stairs, etc., are covered by the Contractor to protect surfaces from chemicals, scratches and other damages. Repair of any damages shall be at Contractor's expense.
- J. COMMUNICATION. To the extent applicable, Contractor shall provide adequate communication equipment (pagers, phones, computers, radios, etc.) and services to its personnel to communicate with College personnel for services. Communication equipment must operate in locations with limited cellular and web access and maintain a constant communication link between Contractor personnel on duty and key College personnel.

If providing direct on-campus services, all of Contractor's personnel who provide services under this Agreement must have proficient communication skills to adequately communicate with the appropriate College personnel and to the extent applicable, be capable of reading and understanding safety and chemical signs/labels.

- K. CRIME REPORTING. For Contractor's providing direct, on-campus security-related services, Contractor understands that certain services provided by Contractor under this Agreement may qualify Contractor as a Campus Security Authority (CSA) under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) (20 U.S.C. § 1092(f)). If Contractor is a CSA, Contractor understands and agrees that it must report crimes to College Police in accordance with this Act.

13. MISCELLANEOUS PROVISIONS

- A. ADDITIONAL ACTS (FURTHER ASSURANCES). Except as otherwise provided herein, in addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by the parties, the parties hereby agree to perform, execute and/or deliver or cause to be performed, executed and/or delivered any and all such further acts, deeds and assurances as any party hereto may reasonably require to consummate the transaction contemplated hereunder.
- B. APPROPRIATION OF FUNDS AND BOARD OF TRUSTEES APPROVAL. The College's obligations and liabilities hereunder are subject to the appropriation of funds. If funds are not appropriated for the purpose of this Agreement, the Agreement shall terminate and neither party shall have any further obligations hereunder. The Agreement may be subject to approval by the College's Board of Trustees, and if such approval is not granted the Agreement shall be void and neither party shall have any further obligations or liabilities hereunder.

- C. ASSIGNMENTS. Neither Agreement or any interest herein shall be transferred by Contractor to any other party without the approval in writing of the Director of Procurement Services. Transfer of the Agreement or any interest herein without approval may cause termination of the Agreement at the option of the College. Notwithstanding any assignment, Contractor shall remain fully liable under this Agreement and shall not be released from performing any of the terms, covenants, and provisions of this Agreement.
- D. BINDING EFFECT. This Agreement is for the benefit only of the parties hereto and shall inure to the benefit of and bind the parties and their respective heirs, legal representatives, successors and assigns.
- E. COLLEGE POLICIES. Contractor shall follow and comply with all policies and procedures of the College and the reasonable instructions of College personnel.
- F. CONFLICT OF INTEREST. It is the duty of the Contractor to disclose all circumstances that constitute an actual or potential conflict of interest as those terms defined in the College's [Conflict of Interests Policy 431.00](#). This duty is ongoing, and such circumstances must be disclosed to the College immediately upon Contractor's knowledge.
- G. CONTINUATION DURING DISPUTES. The Contractor agrees, notwithstanding the existence of any dispute between the parties, insofar as possible under the terms of the Agreement to be entered into, each party will continue to perform the obligations required of it during the continuation of any such dispute, unless enjoined or prohibited by any court.
- H. BUSINESS CONTINUITY AND FORCE MAJEURE. Contractor shall maintain a commercially reasonable business continuity plan to ensure the continuity of Contractor's business, which shall be invoked upon the occurrence of any significant event that may adversely affect Contractor's ability to perform its obligations under this Agreement. Contractor warrants that its business continuity plan enables the Contractor to recover its mission critical functions, including certain services outlined in any service level agreement, and complies in all material respects with applicable industry regulations and standards. Contractor agrees that if it must allocate limited resources among its customers, Contractor will not prioritize other customers over the College. Contractor shall test its business continuity plan at least annually and upon request, will provide a copy of the business continuity plan and the most recent test results to the College.

Neither the College nor Contractor will be liable to the other for any failure or delay of performance of any obligations hereunder when such failure or delay is wholly or principally caused by any Force Majeure Event. Each party will make all reasonable efforts to remove or eliminate such a cause of delay or default related to its own operations. As soon as reasonably practical after the occurrence of the Force Majeure Event, Contractor agrees to institute its business continuity plans and to diligently pursue performance of its obligations under this Agreement. This provision does not excuse Contractor's performance or obligations to mitigate the effects of any significant event, including a Force Majeure Event, which adversely affects the Contractor's ability to perform its obligations under this Agreement.

- I. GOVERNING LAW. This Agreement shall be construed in accordance with and governed by the laws of the State of Kansas. Any legal proceeding related to this Agreement shall be instituted in the courts of the State of Kansas with venue in Johnson County, and Contractor agrees to submit to the jurisdiction/venue of such court.
- J. LIENS, CLAIMS AND ENCUMBRANCES. Contractor warrants and represents that all the goods and materials delivered herein are free and clear of all liens, claims or encumbrances of any kind.
- K. LAWS, REGULATIONS AND PERMITS. The Contractor shall give all notices required by law and comply with all applicable federal, state, and local laws, ordinances, rules, and regulations relating to the conduct of the work and as required in the related industry, including without limitation laws specific to institutions of higher education, such as (and again without limitation): Section 504 of the Rehabilitation Act of 1973, FERPA, Clery

Act, as well as FCRA, FACTA and the GDPR. The Contractor shall be liable for all violations of the law in connection with work furnished by the Contractor, including the Contractor's subcontractors, if any.

- L. MANDATORY CONTRACTUAL PROVISIONS ATTACHMENT. The Provisions found in Contractual Provisions Attachment State of Kansas Department of Administration Form [DA-146a, \(Rev. 07-19\) Attachment A](#) are hereby incorporated in the Agreement and made a part thereof. Contractor's request to modify or delete any term of such attachment is rejected and not part of the Agreement. For the purposes of the Contractual Provisions Attachment, the College shall be included in the terms "State of Kansas and its agencies" and "State."
- M. NO JOINT VENTURE. Nothing contained in this Agreement shall be construed as creating a joint venture, partnership, or employment or agency relationship between the parties.
- N. NO WAIVER. Failure of the College to insist on the strict performance of the terms and provisions of this Agreement shall not constitute or be construed as a waiver of relinquishment of the College's right thereafter to enforce strict compliance with any such terms or provision, but the same shall continue in full force and effect.
- O. NONDISCRIMINATION. Contractor represents and agrees that it will not discriminate in the performance of this Agreement or in any matter directly or indirectly related to this Agreement on the basis sex, race, color, national origin, ancestry, disability, age, religion, marital status, parental status, military status, veteran status, sexual orientation, gender identity, genetic information, or other factors that cannot be lawfully considered.

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

- P. PROOF OF COMPLIANCE. The Contractor shall, at any time when requested by the College, submit to the College properly authenticated documents or other satisfactory proofs as to compliance with such requirements.
- Q. RECORD OF PURCHASES. At the request of the College, Contractor must provide a record of all items ordered and/or services rendered under the Agreement. The Contractor must provide Procurement Services with a "usage" report of services rendered, items ordered, quantities, and pricing, on a quarterly basis. This usage report must include invoice numbers and be sent to the appropriate JCCC Liaison upon request.
- R. RISK OF LOSS. Until all improvements, equipment, or goods to be provided under this Agreement are installed on property owned or controlled by the College and working properly, or unless the College provides otherwise, the Contractor shall bear all risks of all loss or damage to the improvements, equipment, or goods, excluding loss or damage caused by acts, omissions, or negligence of the College. Once all improvements, equipment, or goods to be provided under this Agreement are installed on property owned or controlled by College and working properly, the risk of all loss or damage shall be borne by College, excluding loss or damage caused by acts, omissions, or negligence of the Contractor.
- S. SEVERABILITY; ENTIRE AGREEMENT. If any term or provision of this Agreement or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms or provisions that can be given effect without the invalid term or provision; to this end the terms and provisions of this Agreement are declared severable. This Agreement constitutes the entire Agreement between the parties with respect to the matter addressed herein. No change thereto shall be valid unless communicated in writing in the agreed manner and signed by the College and the Contractor.

- T. SURVIVAL OF TERMS. The terms and provisions hereof, and all documents being executed hereunder, if any, including, without limitation, the representations and warranties, shall survive this Agreement and shall remain in full force and effect thereafter.

ATTACHMENT A - CONTRACTUAL PROVISIONS

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:
The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 07-19), which is attached hereto, are hereby incorporated in this contract and made a part thereof. The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the ___ day of _____, 20__.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least thirty (30) days prior to the end of its current fiscal year and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to ninety (90) days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101, et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001, et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111, et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101, et seq.) (ADA), and Kansas Executive Order No. 19-02, and to not discriminate against any person because of race, color, gender, sexual orientation, gender identity or expression, religion, national origin, ancestry, age, military or veteran status, disability status, marital or family status, genetic information, or political affiliation that is unrelated to the person's ability to reasonably perform the duties of a particular job or position; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) Contractor agrees to comply with all applicable state and federal anti-discrimination laws and regulations; (g) Contractor agrees all hiring must be on the basis of individual merit and qualifications, and discrimination or harassment of persons for the reasons stated above is prohibited; and (h) if it is determined that the contractor has violated the provisions of any portion of this paragraph, such violation shall constitute a breach of contract and the contract may be canceled, terminated, or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.
6. **Acceptance of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to, the implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority to Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility for Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101, et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101, et seq.
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."
13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.