

## Mills Building

### Department of Revenue Lease

1. Original RFP called for response by the end of May 2014 with targeted occupancy of November 2014.
  2. Letter of Intent drafted, on file, and agreed to by Dept. of Admin. June 19<sup>th</sup>, 2014 that calls for a KDOR occupancy of July 2015. – State did not execute lease until February of 2015.
  3. Lease taken to State Joint Building Committee for approval in late November 2014.
  4. December 29<sup>th</sup>, 2014 State sent lease to Landlord for review.
  5. January 8<sup>th</sup>, 2015 Landlord executes lease.
  6. February 10<sup>th</sup>, 2015 KDOR/State fully executes lease – Almost 7 MONTHS after LOI was agreed upon and occupancy date was not changed by State.
  7. April 2, 2015-State approved construction drawings-further delaying the project
  8. April 7, 2015-PKMR Engineers revises mechanical plans based on final construction drawings
  9. April 7, 2015-Construction drawings are complete by architect (Schwerdt)
  10. April 10, 2015-Construction drawing submittal and for plan check by the City of Topeka, building permit applied for by Florence Contractors
  11. April 27, 2015 – Received letter from Sec. Jordan proposing to terminate the lease in seven days if the Landlord did not provide information that proved the Landlord can meet contractual obligations satisfactory to the Tenant. The letter did not quote any provision in the lease document that allows the Tenant to make such a request or to be able to terminate the lease.
  12. April 30, 2015-Contract signed with Alltech to move video equipment from 4<sup>th</sup> floor
  13. April 30, 2015- Contract with Jayhawk Fire Sprinkler for fire sprinkler installation at owner for review and approval
  14. May 5<sup>th</sup>, 2015 – Received letter from Sec. Nick Jordan stating that KDOR is terminating the lease but not quoting any provision in the lease to allow for termination.
  15. May 7, 2015 – Attorney for Landlord (Steve Cavanaugh) sent letter to Bob Challquist responding to the May 5<sup>th</sup> letter from Sec. Jordan.
  16. May 7, 2015-Loan commitment from UMB Bank
  17. May 7, 2015-received term sheet from Commerce Bank for acquisition of state tax credits
  18. May 8, 2015-Loan commitment from UMB Bank executed by owner
  19. May 8, 2015- Owner committed to self-funding project until loan proceeds are available
  20. May 8, 2015-City of Topeka plan review notes received by architect
  21. May 11, 2015-General contract signed by both owner and general contractor
  22. May 14, 2015- Contract signed with Spencer Preservation for Historic tax Credit application
  23. May 15, 2015-Pre-Construction Meeting at Mills
  24. May 18, 2015-Asbestos abatement begun
  25. May 20, 2015- Meeting set to discuss the City of Topeka plan comments
  26. May 20, 2015-Asbestos abatement contractor will finish in the basement and move to the 1<sup>st</sup> floor on 5/21/15
  27. May 27, 2015 – Steve Cavanaugh sent letter to Bob Challquist clarifying mechanical/HVAC questions from KDOR.
  28. June 1, 2015-Projected loan closing
- Other DOR projects are moving ahead and have not been threatened with a lease termination

*Attachment 2*  
*JCSBL 6-2-15*

- Mills Building is the farthest along of all three projects. The Scott building has just recently applied for permit and the former Dillon's building does not have construction drawings.
- Delays by DOR have caused more harm to the project and continues to cause harm
- HVAC equipment that has been ordered if canceled after 5/29/15 will result in substantial penalties and these penalties will be passed to DOR.
- Should DOR insist on continuing to delay the construction and insist on terminating the lease the owner will have no choice but to pursue legal action due to the delays by DOR.
- DOR issued an RFI looking for a new location to replace the Mills Building lease. This is a demonstration of bad faith on the part of DOR.
- Should DOR continue to insist on moving ahead with termination this will cause additional delays resulting in additional damage to the Mills owner and these damages will be passed on to the state.
- Although DOR has termination provisions in their lease, the reason cited, that the space would not be delivered on July 1, 2015 is not covered under these provisions. A clear violation, a demonstration of bad faith, and another delay tactic.
- If DOR does not back off and move forward with the Mills Lease the owner will have no choice but to file a law suit against DOR and the State of Kansas for full damages. Not only monetary but irreparable harm to the Mills owners ability to finance in the future and could affect the owners ability to finance other projects based on DOR backing out of this lease and damaging the owners reputation thereby making it more difficult if not impossible for the owner to finance other projects in the future. The potential damages would exceed \$25,000,000.
- Should DOR be allowed to terminate a lease after four month's. The reputation of the State of Kansas in doing lease transactions in Topeka and across the State could be damaged. This could result in higher rates for State leases and termination clauses becoming even more difficult to obtain from landlords.
- Should DOR be allowed to terminate the Mills Lease other agencies would follow suit thinking they can do the same resulting in additional lawsuits against the State costing additional money.
- The Mills Building lease is the most cost effective lease that DOR can have. If DOR is allowed to move to another building additional delays will result and DOR will not be able to occupy a different building earlier that they will be able to occupy the Mills Building.
- **Lease Execution Dates** - Scott Building and Mills Building - KDOR Leases executed at the same time February 8<sup>th</sup>, 2015 by KDOR.
- **Scott Building Permit Application** - The Scott Building applied for a City Building Permit May 18<sup>th</sup>, 2015.
- **Scott Building Bank Financing** - The bank financing has yet to be finalized for the Scott building. The General Contractor (GC) for the Scott building has sent out bid packages to sub-contractors but does not expect responses until the middle of June, 2015. The bank will not finalize financing until all bids are in and the final cost is known.
- **Building Permits** – Typically the City will take 4 – 6 weeks to turn around first comments on a building permit for projects the size of the three KDOR leases. The architect will need time to address any changes/comments from the City and that may take a week or two weeks. The City will then require time finalize a permit if all questions are answered sufficiently. Thus, Permitting process from start to finish can be 6 to 10 weeks.
- **Scott Building** – HVAC – Windows – None have been ordered yet as the mechanical contractor has not been engaged.



- **Dillon's Building** – The Dillon's building lease was executed by KDOR March 3<sup>rd</sup>, 2015. KDOR signed off on plans for the building the week of May 25<sup>th</sup>, 2015 and construction/mechanical drawings are underway to be able to apply for a City Permit. Typically, construction drawings take 6-8 weeks to produce.
- **Dillon's Building** – NO WORK has started on the building, and KDOR has been made aware that the lease occupancy date will need to be amended because the lease occupancy date is not achievable.
- **Scott Building Occupancy Date** – The General Contractor has stated that he will need six months to complete the project from the time he receives the building permit. I think it is safe to say that the project will begin in earnest the first of July, 2015 and will be completed February 2016.
- **Dillon's Building Occupancy Date** – It is difficult to give an exact date, but the Landlord of the building has said that he will need to ask KDOR to amend the lease occupancy date to April 2016.