

EXHIBIT A

**JACKSON COUNTY LIBRARY DISTRICT
PUBLIC IMPROVEMENT CONTRACT**

PHOENIX LIBRARY POLLINATOR GARDEN IMPLEMENTATION

This contract is between JACKSON COUNTY LIBRARY DISTRICT, a library district organized under Chapters 198 and 357, hereinafter called “District”, and [REDACTED], hereinafter called “Contractor,” duly authorized to perform such services in Oregon.

1. CONTRACTOR’S INFORMATION

NAME: _____

ADDRESS: _____

CITIZENSHIP: _____

Non-resident alien: Yes No

Federal Tax ID Number: _____

Oregon Business License #: _____

Construction Contractors Board (CCB) License #: _____

State Landscape Contractors Board License #: _____

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| <p>This information herein will be reported to the Internal Revenue Services (IRS) under the name and taxpayer ID number submitted. (See IRS 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records could subject Contractor to 31% backup withholding.</p> |
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2. RECITALS

WHEREAS, District requires construction and related services for the construction of the Phoenix Library Pollinator Garden Implementation Project in accordance with the plans and specifications provided in the District Invitation to Bid for Public Improvements published November 24, 2025, and the Scope of Work provided therein, which Contractor is capable of providing, under terms and conditions hereinafter described; and

WHEREAS, time is of the essence in this contract and all work under this contract shall be completed within the time period stated in the Bid;

THEREFORE, in consideration of the promises and covenants contained herein, the parties hereby agree as follows:

3. SERVICES. Contractor's services under this Contract shall include the construction of the Phoenix Library Pollinator Garden Implementation Project (the "Project") in accordance with the plans and specifications provided in the District Invitation to Bid for Public Improvements published November 24, 2025, and the Scope of Work provided therein and incorporated herein by this reference ("Exhibit A").

4. EFFECTIVE DATE AND DURATION. This Agreement shall become effective on [REDACTED] and shall expire, unless otherwise terminated or extended, on completion of the Contractor's performance and such performance has been accepted by the District, or [REDACTED], whichever comes first. However, such expiration shall not extinguish or prejudice District's right to enforce this contract with respect to: (a) any breach of a Contractor warranty; or (b) any default or defect in Contractor's performance that has not been cured. This Contract may be extended, if agreed upon by both parties in writing. All work under this Agreement shall be completed prior to the expiration of this Agreement.

5. PREVAILING WAGE. Contractor shall comply fully with the provisions of ORS 279C.800 through 279C.870. Contractor shall pay workers not less than the specified minimum hourly rate of wage in accordance with ORS 279C.838 and ORS 279C.840. The applicable prevailing wage rates may be accessed via the internet at: http://www.oregon.gov/BOLI/WHD/PWR/pwr_book.shtml. Hard copies of the prevailing wage rates publication may be obtained by contacting the Oregon Bureau of Labor and Industries via telephone at: (971) 245-3844. If this Project is subject to the Davis-Bacon Act and the state prevailing rate of wage is higher than the federal prevailing rate of wage, the contractor and every subcontractor on the Project shall pay at least the state prevailing rate of wage as determined under ORS 279C.830. The Contractor shall pay the applicable prevailing wage rates that are in effect at the time District enters into this Construction Contract with Contractor.

Contractor and every subcontractor must have a public works bond filed with the Oregon Construction Contractors Board before starting work on the Project, unless exempt under ORS 279C.836 (4), (7), (8) or (9).

Within 30 days of contract award, for contracts \$50,000 or greater, District shall notify the Bureau of Labor and Industries of such contract award and pay the requisite fee.

6. CONTRACT DOCUMENTS. The Contractor is hereby bound to comply with all requirements of this Agreement, the detailed specifications and requirements, the drawings, and the special conditions and modifications in conditions as set forth in the Scope of Work ("Exhibit A") documents prepared by ARKITEK: DESIGN & ARCHITECTURE, the Contractor's Bidder Insurance Requirements, Bidder Certificate, First-Tier Subcontractor Disclosure Form,

Subcontractor List, Environmental and Natural Risk Disclosure Form, Bid Bond, and Bidder's Proposal, and by this reference made a part hereof to the same legal force and effect as if set forth herein in full.

7. **COMPENSATION.** Payment for all work performed under the Agreement shall be made as set forth below from available and authorized District funds, based upon the unit price bid by the Contractor and incorporated herein by this reference. District certifies that sufficient funds are available and authorized for expenditure to finance costs of this Agreement. Payment for all work performed under this contract SHALL NOT EXCEED THE MAXIMUM SUM OF \$ [REDACTED] for performance of those services provided hereunder, which payment shall be based upon the following applicable terms:

A. Interim payments shall be made to Contractor following District's review and approval of billings submitted by Contractor. Contractor shall include proof of payment to any and all subcontractors and suppliers with each statement submitted to the District. District shall retain the right to withhold payments if required proof of payment to subcontractor and suppliers is not included with a statement.

B. Contractor shall not submit billings for, and District will not pay, any amount in excess of the maximum compensation amount of this Agreement, including any reimbursable and other expenses. If the maximum compensation amount is increased by amendment of this Agreement as provided in Section 20, the amendment must be fully effective before Contractor performs work subject to the amendment. Contractor shall notify District's Director or her designee in writing 30 calendar days before this Agreement expires of the upcoming expiration of the Agreement. No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. This Agreement will not be amended after the expiration date.

C. Contractor shall submit monthly billings for work performed. Billing statements will include fees and costs from the first of the month to the end of the month. The billings shall describe all work performed with particularity, by whom and on the date it was performed, the number of hours spent performing such work, and shall itemize and explain all expenses for which reimbursement is claimed. Billings shall be sent to: **Jackson County Library District, Attention: Accounts Payable, 205 S. Central Ave., Medford, OR 97501.** Payment and any protest shall be made within 30 days of receipt of the billing statement. Payment by the District shall release the District from any further obligation for payment to Contractor for services performed or expenses incurred as of the date of the statement of services. Payment of installments shall not be considered acceptance or approval of any work or waiver of any defects therein.

D. Retainage. Retainage, if any, shall be withheld and released in accordance with ORS 279C.550 to 279C.580, and OAR 137-049-0820. District may reserve as retainage from any progress payment an amount not to exceed five (5) percent of the payment. As

the project progresses, District may reduce the amount of the retainage and may eliminate retainage on any remaining monthly payments after fifty (50%) percent of the work under this Agreement is completed. If, in the District's opinion, the work is progressing satisfactorily. Elimination or reduction of retainage shall be allowed only upon written application by the Contractor, which application shall include written approval of Contractor's surety; except that when the Project is ninety-seven and one half (97-1/2%) percent completed the District may, at its discretion and without application by the Contractor, reduce the retained amount to one hundred (100%) percent of the value of the work remaining to be done. Upon receipt of written application by the Contractor, District shall respond in writing within a reasonable time.

The retainage held by District shall be included in and paid to the Contractor as part of the final payment of the Contract Price. The District shall pay to Contractor interest at the rate of one and one-half (1 1/2%) percent per month on the final payment due to Contractor, interest to commence thirty (30) days after the work under the Contract has been completed and accepted and to run until the date when final payment is tendered to the Contractor.

E. Final Payment. The Contractor shall notify the District in writing when the Contractor considers the project complete, and the District shall, within 15 days after receiving the written notice, either accept the work or notify the Contractor of work yet to be performed on the contract. If accepted by the District, the remaining balance due to the Contractor, including any retainage held by District, shall be paid to the Contractor by the District within 30 days after the date of said acceptance.

As a further condition of final acceptance, the District may require the Contractor to submit evidence, satisfactory to the District, that all payrolls, material bills, and other indebtedness connected with the project have been paid. If any indebtedness or liens are in dispute, the Contractor may submit a surety bond satisfactory to the District guaranteeing payment of all such disputed amounts if such payment has not already been guaranteed by surety bond.

F. Timing of Payments and Liquidated Damages: Progress payments, less a five percent retainage as authorized by ORS 279C.555, shall be made to the Contractor within thirty (30) days of the District's receipt of the billing statement. The Contractor agrees that the "Time of Completion" is defined in the Bid, and agrees to complete the work by said date. The Contractor and District agree that the District will suffer damages each day the work remains uncompleted after the Time of Completion and that the amounts of those damages are difficult to calculate. Contractor and District agree that a reasonable amount of damages for late completion is \$ [REDACTED] per calendar day and Contractor agrees to pay such amounts as liquidated damages if the work is not completed by the Time of Completion. Contractor agrees that the liquidated damages

specified herein are a fair way of ascertaining damages to the District and are not a penalty for late completion.

8. STATUS OF CONTRACTOR AS INDEPENDENT CONTRACTOR. Contractor certifies that:

A. Contractor shall perform the work required by this Agreement as an independent contractor as defined by ORS 670.600. Although the District reserves the right (i) to determine (and modify) the delivery schedule for the work to be performed and (ii) to evaluate the quality of the completed performance, the District cannot and will not control the means or manner of the Contractor's performance. The Contractor is responsible for determining the appropriate means and manner of performing the work.

B. Contractor represents and warrants that Contractor (i) is not an employee of Jackson County Library District (ii) is not currently employed by the Federal Government, and (iii) meets the specific independent contractor standards of ORS 670.600, as certified below in Section 35.

C. Contractor shall be responsible for all federal or state taxes applicable to any compensation or payments paid to Contractor under this Agreement and, unless Contractor is subject to backup withholding, District will not withhold from such compensation or payments any amounts(s) to cover Contractor's federal or state tax obligations. Contractor is not eligible for any federal Social Security, unemployment insurance, or workers' compensation benefits from compensation or payments paid to Contractor under this contract, except as a self-employed individual.

9. SUBCONTRACTS - ASSIGNMENT & DELEGATION. Contractor shall submit a list of Subcontractors for approval by the District, and Contractor shall be fully responsible for the acts or omissions of any Subcontractors and of all persons employed by them, and neither the approval by the District of any Subcontractor nor anything contained herein shall be deemed to create any contractual relationship between the Subcontractor and District. This Agreement, and all of the covenants and conditions hereof, shall inure to the benefit of and be binding upon the District and the Contractor respectively and their legal representatives. Contractor shall not assign any rights nor delegate any duties incurred by this Agreement, or any part hereof without the written consent of District, and any assignment or delegation in violation hereof shall be void.

10. CONTRACTOR'S RELATIONS WITH SUBCONTRACTORS. Pursuant to ORS 279C.580, Contractor shall include in each subcontract for property or services entered into by the Contractor and a first-tier subcontractor, including a material supplier, for the purpose of performing a construction contract:

A. A payment clause that obligates the Contractor to pay the first-tier subcontractor for satisfactory performance under the subcontract within 10 days out of amounts the District pays to the Contractor under the Contract.

B. A clause that requires the Contractor to provide a first-tier subcontractor with a standard form that the first-tier subcontractor may use as an application for payment or as another method by which the subcontractor may claim a payment due from the Contractor.

C. A clause that requires the Contractor, except as otherwise provided in this paragraph, to use the same form and regular administrative procedures for processing payments during the entire term of the subcontract. A Contractor may change the form or the regular administrative procedures the contractor uses for processing payments if the Contractor: notifies the subcontractor in writing at least 45 days before the date on which the contractor makes the change; and includes with the written notice a copy of the new or changed form or a description of the new or changed procedure.

D. An interest penalty clause that obligates the Contractor, if the Contractor does not pay the first-tier subcontractor within 30 days after receiving payment from the contracting agency, to pay the first-tier subcontractor an interest penalty on amounts due in each payment the Contractor does not make in accordance with the payment clause included in the subcontract. Contractor or first-tier subcontractor is not obligated to pay an interest penalty if the only reason that the Contractor or first-tier subcontractor did not make payment when payment was due is that the Contractor or first-tier subcontractor did not receive payment from the District or Contractor when payment was due. The interest penalty applies to the period that begins on the day after the required payment date and that ends on the date on which the amount due is paid and is computed at the rate specified in ORS 279C.515(2).

E. A clause which requires each of Contractor's subcontractor's to include, in each of their contracts with lower-tier subcontractors or suppliers, provisions to the effect that the first-tier subcontractor shall pay its lower-tier subcontractors and suppliers in accordance with the provisions of subsections (A) through (D), above and requiring each of their subcontractors and suppliers to include such clauses in their subcontracts and supply contracts.

11. CONTRACTOR – PAYROLL CERTIFICATION; PROMPT PAYMENT; CONDITIONS OF LABOR

A. In accordance with ORS 279C.505 and as a condition to District's performance hereunder, Contractor shall:

1) Make payment promptly, as due, to all persons supplying to such Contractor labor or material for the performance of the work provided for in this contract;

2) Pay all contributions or amounts due the Industrial Accident Fund from the Contractor or Subcontractor incurred in the performance of this contract;

3) Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167; and

4) Not permit any lien or claim to be filed or prosecuted against the District on account of any labor or material furnished;

B. In accordance with ORS 279C.845, the Contractor or the Contractor's Surety and every Subcontractor or the Subcontractor's Surety shall file certified statements with the District in writing on a form prescribed by the Commissioner of the Bureau of Labor and Industries, certifying: (1) the hourly rate of wage paid each worker which the Contractor or the Subcontractor has employed upon such public work, and (2) that no worker employed upon such public work has been paid less than the prevailing rate of wage or less than the minimum hourly rate of wage specified in the contract. The certified statement shall be verified by the oath of the Contractor or the Contractor's Surety or Subcontractor or the Subcontractor's Surety that the Contractor or Subcontractor has read the certified statement and knows the contents thereof and that the same is true to the Contractor's or Subcontractor's knowledge.

1) The certified statements shall set out accurately and completely the payroll records, including the name and address of each worker, the worker's correct classification, rate of pay, daily and weekly number of hours worked, and the gross wages the worker earned during each week identified in the certified statement.

2) Each certified statement required herein shall be delivered or mailed by the Contractor or Subcontractor to the District. Certified statements for each week during which the contractor or subcontractor employs a worker upon the public works shall be submitted once a month, by the fifth business day of the following month. Contractor or Subcontractor shall preserve the certified statements for a period of three years from the date of completion of the contract. Certified statements received by the District are public records subject to the provisions of ORS 192.311 to 192.478.

3) Notwithstanding ORS 279C.555 or 279C.570, the District shall retain 25 percent of any amount earned by Contractor until the certified statements as required by this section have been filed. District shall pay Contractor the amount retained under this subsection within 14 days after Contractor files the certified statements as required by this section, regardless of whether a subcontractor has failed to file certified statements as required by this section. The District is not required to verify the truth of the contents of certified statements filed by Contractor.

4) Pursuant to ORS 279C.825, the District must pay a fee to the Bureau of Labor and Industries equaling 0.1 percent of the contract price or as determined by the Commissioner.

C. In accordance with ORS 279C.515, the Contractor agrees that if the Contractor fails, neglects or refuses to pay promptly a person's claim for labor or services that the person provides

to the contractor or a subcontractor in connection with this Contract as the claim becomes due, the District may pay the amount of the claim to the person that provides the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of the contract. Payment of a claim in this manner shall not relieve the Contractor or the Contractor's Surety from obligation with respect to any unpaid claims.

D. The Contractor agrees that if the Contractor or a first-tier subcontractor fails, neglects or refuses to pay a person that provides labor or materials in connection with this Contract within 30 days after receiving payment from the District or Contractor, the Contractor or first-tier subcontractor owes the person the amount due plus interest charges that begin at the end of the 10-day period within which payment is due under ORS 279C.580(4) and that end upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest on the amount due is nine percent per annum. The amount of interest may not be waived.

E. The Contractor agrees that if the Contractor or a subcontractor fails, neglects or refuses to pay a person that provides labor or materials in connection with the public improvement contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.

F. Contractor agrees that Contractor may not employ an employee for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires otherwise, and in such cases, the contractor shall pay the employee at least time and a half pay for: (i) all overtime in excess of eight hours in any one day or 40 hours in any one week if the work week is five consecutive days, Monday through Friday; or (ii) all overtime in excess of 10 hours in any one day or 40 hours in any one week if the work week is four consecutive days, Monday through Friday; and all work the employee performs on Saturday and on any legal holiday specified in ORS 279C.540.

G. Contractor shall comply with the prohibition set forth in ORS 652.220, and such compliance is a material element of the contract. Failure to comply is a breach that entitles the District to terminate the contract for cause.

H. Contractor may not prohibit any of the Contractor's employees from discussing the employee's rate of wage, salary, benefits or other compensation with another employee or another person and may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits or other compensation with another employee or another person.

12. DRUG TESTING PROGRAM. ORS 279C.505(2) requires that all public improvement contracts contain a provision requiring contractors to demonstrate that an employee drug-testing program is in place. The Contractor demonstrates that a drug-testing program is in place by signing of this Agreement. The drug testing program will apply to all employees and will be

maintained for the duration of the contract awarded. Failure to maintain a program shall constitute a material breach this Agreement.

13. CONTRACTOR'S EMPLOYEE MEDICAL PAYMENTS. In accordance with ORS 279C.530, Contractor agrees to pay promptly as due, to any person, co-partnership, association or corporation furnishing medical, surgical, and hospital care or other needed care and attention incident to sickness or injury to the Contractor's employees, of all sums which the Contractor agreed to pay for such services and all money and sums which the Contractor collected or deducted from employee wages pursuant to any law, contract or agreement for the purpose of providing or paying for such service. Contractor and all subcontractors that employ subject workers who work under this contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126.

14. SALVAGE, COMPOSTING OR MULCHING. For any demolition work required under this Contract, the Contractor shall salvage or recycle construction and demolition debris, if feasible and cost-effective. For any lawn and landscape maintenance, Contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective.

15. EARLY TERMINATION.

A. This agreement may be terminated without cause prior to the expiration of the agreed upon term by mutual written consent of the parties and for the following reasons:

1) If work under the Contract is suspended by an order of a public agency for any reason considered to be in the public interest other than by a labor dispute or by reason of any third party judicial proceeding relating to the work other than a suit or action filed in regard to a labor dispute; or

2) If the circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the Contract.

B. Payment of Contractor shall be as provided by ORS 279C.660 and shall be prorated to and include the day of termination and shall be in full satisfaction of all claims by Contractor against District under this Agreement.

C. Termination under any provision of this paragraph shall not affect any right, obligation, or liability of Contractor or District which accrued prior to such termination.

16. TERMINATION FOR CAUSE.

A. District may terminate this Agreement effective upon delivery of written notice to Contractor, or at such later date as may be established by District, under any of the following conditions:

1) If District funding from federal, state, local, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services. This Agreement may be modified to accommodate a reduction in funds,

2) If Federal or State regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement,

3) If any license or certificate required by law or regulation to be held by Contractor, its subcontractors, agents, and employees to provide the services required by this Agreement is for any reason denied, revoked, or not renewed, or

4) If Contractor becomes insolvent, if voluntary or involuntary petition in bankruptcy is filed by or against Contractor, if a receiver or trustee is appointed for Contractor, or if there is an assignment for the benefit of creditors of Contractor.

5) If Contractor fails to maintain reasonable relations with the public. Verbal abuse, threats, or other inappropriate behavior towards members of the public constitutes grounds for termination.

Any such termination of this agreement under paragraph (A) shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

B. District, by written notice of default (including breach of contract) to Contractor, may terminate the whole or any part of this Agreement:

1) If Contractor fails to provide services called for by this Agreement within the time specified herein or any extension thereof, or

2) If Contractor fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from District, fails to correct such failures within ten (10) days or such other period as District may authorize.

The rights and remedies of District provided in the above clause related to defaults (including breach of contract) by Contractor shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

If District terminates this Agreement under paragraph (B), Contractor shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred, an amount which bears the same ratio to the total fees specified in this Agreement as the services satisfactorily rendered by Contractor bear to the total services otherwise required to be performed for such total fee; provided, that there shall be deducted from such amount the amount of damages, if any, sustained by District due to breach of contract by Contractor. Damages for

breach of contract shall be those allowed by Oregon law, reasonable and necessary attorney fees, and other costs of litigation at trial and upon appeal.

17. RECORDS MAINTENANCE; ACCESS. Contractor shall maintain all fiscal records relating to this contract in accordance with generally accepted accounting principles, and federal circulars (as applicable). In addition, Contractor shall maintain any other records pertinent to this contract in such a manner as to clearly document Contractor's performance hereunder. Contractor acknowledges and agrees that District and its duly authorized representatives shall have access to such fiscal records and to all other books, documents, electronic files, papers, plans and writings of Contractor that are pertinent to this contract for the purpose of performing examinations and audits, and making excerpts and transcripts. Contractor further acknowledges records generated as a result of this Contract may be subject to disclosure pursuant to the Oregon Public Records Act.

18. OWNERSHIP OF WORK PRODUCT; LICENSE. All work performed by Contractor under this Agreement and all work products of the Contractor shall be the exclusive property of the District. In addition, if any of the work products contain intellectual property of the Contractor that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws, Contractor hereby grants District a perpetual, royalty-free, fully paid-up, nonexclusive and irrevocable license to copy, reproduce, deliver, publish, perform, dispose of, use and re-use, in whole or in part, and to authorize others to do so, all such work products, including but not limited to any information, designs, plans or works provided or delivered to the District or produced by the Contractor under this contract.

19. ADHERENCE TO LAW.

A. Contractor shall adhere to all applicable laws governing its relationship with its employees, including but not limited to laws, rules, regulations, and policies concerning workers' compensation, and minimum and prevailing wage requirements. Specifically, but not by way of limitation, this contract is subject to all applicable provisions of ORS 279C.505, 279C.510, 279C.515, 279C.520, 279C.525, 279C.530, 279C.540, 279C.570, 279C.580, and 279C.800-279C.870.

B. To the extent applicable, the Contractor represents that it will comply with the following: (i) Title VI and VII of Civil Rights Act of 1964, as amended; (ii) Section 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) The Health Insurance Portability and Accountability Act of 1996; (iv) The Americans with Disabilities Act of 1990, as amended; (v) ORS Chapter 659A; as amended (vi) All regulations and administrative rules established pursuant to the foregoing laws; and (vii) All other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

C. As provided by ORS 279C.525, all applicable provisions of federal, state or local statutes, ordinances and regulations dealing with the prevention of environmental pollution and

the preservation of natural resources that affect the work under this contract are by reference incorporated herein to the same force and effect as if set forth herein in full. If the Contractor must undertake additional work due to the enactment of new or the amendment of existing statutes, ordinances or regulations occurring after the submission of the successful bid, the District shall issue a Change Order setting forth the additional work that must be undertaken. The Change Order shall not invalidate the Contract and there shall be, in addition to a reasonable extension, if necessary, of the contract time, a reasonable adjustment in the contract price, if necessary, to compensate the Contractor for all costs and expenses incurred, including overhead and profits, as a result of the delay or additional work.

20. AMENDMENTS; CHANGES IN WORK. The terms of this Contract shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written instrument signed by the parties. The District may at any time, and without notice, issue a written Change Order requiring additional work within the general scope of this Contract, or any amendment thereto, or directing the omission of or variation in work. If such Change Order results in a material change in the amount or character of the work, an equitable adjustment in the Contract price and other provisions of this Contract as may be affected may be made. Any claim by Contractor for an adjustment under this section shall be asserted in writing within thirty (30) days from the date of receipt by Contractor of the notification of change or the claim will not be allowed. Whether made pursuant to this section or by mutual agreement, no change shall be binding upon District until a Change Order is executed by the Authorized Representative of the District, which expressly states that it constitutes a Change Order to this Contract. The issuance of information, advice, approvals, or instructions by District's Representative or other District personnel shall not constitute an authorized change pursuant to this section. Nothing contained in this section shall excuse the Contractor from proceeding with the prosecution of the work in accordance with the Contract, as changed.

21. FORCE MAJEURE. Neither District nor Contractor shall be held responsible for delay or default caused by fire, riot, acts of God, or war where such cause was beyond, respectively, District's or Contractor's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this contract.

22. WAIVER. The failure of District to enforce any provision of this contract shall not constitute a waiver by District of that or any other provision.

23. WARRANTIES. All work shall be guaranteed by the Contractor for a period of one year after the date of final acceptance of the work by the District. Contractor warrants that all practices and procedures, workmanship, and materials shall be the best available unless otherwise specified in the profession. Neither acceptance of the work nor payment therefore shall relieve Contractor from liability under warranties contained in or implied by this contract.

24. ATTORNEY'S FEES. In case suit or action is instituted to enforce the provisions of this contract, the parties agree that the losing party shall pay such sum as the Court may adjudge reasonable attorney's fees and court costs including attorney's fees and court costs on appeal.

25. GOVERNING LAW; JURISDICTION; VENUE. This contract shall be governed and construed in accordance with the laws of the State of Oregon without resort to any jurisdiction's conflict of laws, rules or doctrines. Any claim, action, suit or proceeding (collectively, "the claim") between the District (and/or any other entity or department of the State of Oregon) and the Contractor that arises from or relates to this contract shall be brought and conducted solely and exclusively within the Circuit Court of Jackson County for the State of Oregon. If, however, the claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon filed in Jackson County, Oregon. Contractor, by the signature herein of its authorized representative, hereby consents to the *in personam* jurisdiction of said courts. In no event shall this section be construed as a waiver by District of any form of defense or immunity, based on the Eleventh Amendment to the United States Constitution, or otherwise, from any claim or from the jurisdiction.

26. CONFLICT BETWEEN TERMS. It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the bid of the Contractor, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said bid conflicting herewith.

27. INDEMNIFICATION. Contractor warrants that all its work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of a Contractor's work by District shall not operate as a waiver or release. Contractor agrees to indemnify and defend the District, its officers, agents and employees and hold them harmless from any and all liability, causes of action, claims, losses, damages, judgments or other costs or expenses including attorney's fees and witness costs and (at both trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity which in any way arise from, during or in connection with the performance of the work described in this contract, except liability arising out of the sole negligence of the District and its employees. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification.

28. PERFORMANCE AND PAYMENT SECURITY. In accordance with ORS 279C.380, Contractor shall furnish and maintain in effect at all times during the Contract term, a performance bond in a sum equal to the Contract Price, and a separate payment bond also in a sum equal to the Contract Price. Bond forms notarized by the Contractor's surety company authorized to do business in Oregon are the only acceptable forms of performance and payment security, unless otherwise specified in the Contract Documents. Before starting Work the

Contractor shall file with the Construction Contractors Board, and maintain in full force and effect, the separate public works bond required by ORS 279C.836, and OAR 839-025-0015, unless otherwise exempt under those provisions. The Contractor shall also include in every subcontract a provision requiring the subcontractor to have a public works bond filed with the Construction Contractors Board before starting work, unless otherwise exempt, and shall verify that the subcontractor has filed a public works bond before permitting the subcontractor to start work.

29. INSURANCE. Contractor and its subcontractors shall maintain insurance acceptable to District in full force and effect throughout the term of this contract. Such insurance shall cover all risks arising directly or indirectly out of Contractor's activities or work hereunder, including the operations of its subcontractors of any tier. Such insurance shall include provisions that such insurance is primary insurance with respect to the interests of District and that any other insurance maintained by District is excess and not contributory insurance with the insurance required hereunder. The policy or policies of insurance maintained by the Contractor and its subcontractors shall provide at least the following limits and coverages:

A. Commercial General Liability Insurance: Contractor and its subcontractors shall obtain, at Contractor's or subcontractor's expense, and keep in effect during the term of this contract, Commercial General Liability Insurance including all Liability including all major divisions of coverage, including, but not limited to, Premises/Operations, Completed Operations, Independent Contractors' Protective, Products-Completed Operations, Contractual Liability (including coverage for the Contractor's indemnity obligations and other contractual indemnity obligations assumed by the Contractor), Personal Injury, and Broad Form Property Damage (including coverage for Explosion, Collapse, and Underground Hazards). The following insurance will be carried:

Worker's Compensation Insurance in compliance with ORS 656.017.

Commercial General Liability Insurance \$1,000,000.00 Each Occurrence Limit
\$3,000,000.00 General Aggregate \$3,000,000.00 Products/Completed Operations Aggregate
\$3,000,000.00 Personal and Advertising Injury \$1,000,000.00 Limited Job Site Pollution
Occurrence Sub-Limit

Comprehensive Automobile Liability Insurance including coverage for all owned, hired and non-owned vehicles with a combined single limit, or the equivalent, of not less than \$1,000,000 for each accident for Bodily Injury and Property Damage.

"All risk" Builder's Risk Insurance (including earthquake and flood) covering the real and personal property of others in the care, custody, and control of the contractor. Coverage shall include theft and damage to building interiors, exterior, in transit and offsite storage. The minimum amount of coverage to be carried shall be equal to the full amount of the contract. Contractor shall be financially responsible for any deductible applied to loss. This insurance shall

include Owner, the contractor and its sub-contractors as their interests may appear and may not be cancelled or terminated until such time as District's final acceptance of the project.

The policy shall be endorsed to have the General Aggregate apply to this Project Only.

B. Additional Insured Provision: The District, its officers, directors, and employees shall be added as additional insureds with respect to this contract. All Liability Insurance policies will be endorsed to show this additional coverage.

C. Insurance Carrier Rating: Coverage provided by the Contractor must be underwritten by an insurance company deemed acceptable by the District. The District reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.

D. Certificates of Insurance: As evidence of the insurance coverage required by the contract, the Contractor shall furnish a Certificate of Insurance to the District. No contract shall be effective until the required certificates have been received and approved by the District. The certificate will specify and document all provisions within this contract. Certificates of Insurance should read "Insurance certificate pertaining to contract for Name of project. The District, its officers, directors and employees shall be added as additional insureds with respects to this contract. Insured coverage is "primary" in the description portion of certificate.

E. Primary Coverage Clarification: All parties to this contract hereby agree that the Contractor's coverage will be primary in the event of a loss.

F. Cross-Liability Clause: A cross-liability clause or separation of insureds clause will be included in general liability, policy. Contractor's insurance policy shall contain provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) days prior notice to District.

30. NOTICE. Notices required by this contract must be given in writing by personal delivery or mail, at the following addresses, unless some other means or method of notice is required by law. Each party will notify the other of any change of address.

Jackson County Library District
205 S Central Ave
Medford, OR 97501



31. HAZARDOUS MATERIALS. Contractor shall supply District with a list of any and all hazardous substances used in performance of this Contract. That list shall identify the location of storage and use of all such hazardous substances and identify the amounts stored and used at each location. Contractor shall provide District with material safety data sheets for all hazardous substances brought onto District property, created on District property or delivered to District pursuant to this Agreement. For the purpose of this section, "hazardous substance" means

hazardous substance as defined by ORS 453.307(5). Contractor shall complete the State Fire Marshall's hazardous substance survey as required by ORS 453.317 and shall assist District to complete any such survey that it may be required to complete because of substances used in the performance of this Contract.

32. HAZARDOUS WASTE. If, as a result of performance of this Contract, Contractor generates any hazardous waste, Contractor shall be responsible for disposal of any such hazardous waste in compliance with all applicable federal and state requirements. Contractor shall provide District with documentation, including all required manifests, demonstrating proper transportation and disposal of any such hazardous wastes. Contractor shall defend, indemnify, and hold harmless District for any disposal or storage of hazardous wastes generated pursuant to this Contract and any releases or discharges of hazardous materials.

33. SEVERABILITY. In the event any provision or portion of this Contract is held to be unenforceable or invalid by any court of competent jurisdiction, the remainder of this Contract shall remain in full force and effect and shall in no way be affected or invalidated thereby.

34. COMPLETE AGREEMENT. THIS CONTRACT AND ATTACHED EXHIBITS CONSTITUTE THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. CONTRACTOR, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT HE/SHE HAS READ THIS CONTRACT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

35. CERTIFICATIONS/REPRESENTATIONS:

Contractor, under penalty of perjury, certifies that (a) the number shown on this form is its correct taxpayer ID and (b) Contractor is not subject to backup withholding because (i) it is exempt from backup withholding or (ii) it has not been notified by the Internal Revenue Service (IRS) that it is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified it that it is no longer subject to backup withholding. Contractor further represents and warrants to District that (a) it has the power and authority to enter into and perform the work, (b) the Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms, (c) the work under the Contract shall be performed in accordance with professional standards, and (d) Contractor is qualified, professionally competent and duly licensed to perform the work. Contractor also certifies under penalty of perjury that its business is not in violation of any Oregon tax laws, it is an independent contractor as defined in the contract documents, and has checked four or more of the following criteria:

- (1) I carry out the labor or services at a location separate from my residence or in a specific portion of my residence, set aside as the location of the business.
- (2) Commercial advertising or business cards or a trade association membership are purchased for the business.
- (3) Telephone listing is used for the business separate from the personal residence listing.
- (4) Labor or services are performed only pursuant to written contracts.
- (5) Labor or services are performed for two or more different persons within a period of one year.
- (6) I assume financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of performance bonds, warranties, errors and omission insurance or liability insurance relating to the labor or services to be provided.

Contractor

(Date)

IN WITNESS WHEREOF, THE PARTIES OR THEIR DULY AUTHORIZED REPRESENTATIVES HAVE SIGNED THIS CONTRACT:

Contractor

(Date)

By:
Its:

Jackson County Library District

(Date)

By:
Its:

Approved as to legal sufficiency