

## CONSTRUCTION SERVICES AGREEMENT

This Construction Services Agreement (this "Agreement") is made and entered into effective \_\_\_\_\_, 2024 (the "Effective Date") between Grant School District 3 ("Owner"), an Oregon special district, whose address is 401 N Canyon City Blvd, Canyon City, OR 97820, and \_\_\_\_\_ ("Contractor"), an Oregon \_\_\_\_\_ corporation, whose address is \_\_\_\_\_.

### RECITALS:

A. Contractor is a licensed Oregon construction and installation contractor engaged in the business of providing labor, materials, equipment, supplies, and related construction services on a contract basis. Contractor's Oregon CCB License No. is \_\_\_\_\_ and Contractor's telephone number is \_\_\_\_\_.

B. Owner desires to construct certain improvements on or about that certain real property associated with Humbolt Elementary School located at 329 N. Humbolt Street, Canyon City, OR 97820 (the "Property"). Owner and Contractor desire to enter into this Agreement pursuant to which Contractor will undertake and perform certain construction services to install a Unistrut Catwalk at the Property, as shown in the Plans (the "Plans") included in Exhibit A and unistrut equipment (the "Equipment") from ACME (the "Manufacturer") included in Exhibit B.

C. Owner is responsible for the equipment procurement of the Equipment, which will be delivered to the Property before work begins. Contractor is responsible for all installation of the Equipment, including coordination with the Grant County Planning Department to secure structural permits and payment of permit fees.

D. This Project will be partially funded with State funds from the Oregon Department of Administrative Services Grant Agreement No. 107-2022-5202-63 and, therefore, is subject to State laws and regulations including the provisions of ORS 279C.800 through 279C.875, relative to Prevailing Wage Rates, included with the Public Contracting Provisions in Exhibit C.

### AGREEMENT:

NOW, THEREFORE, for and in consideration of the parties' mutual obligations under this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

#### 1. CONSTRUCTION WORK; COMPENSATION

1.1 Description of Work. Contractor will perform and complete the following construction and related services for and on behalf of Owner concerning or related to the Property (collectively, the "Work"): (a) installation of the Equipment (and all related work) for the Humbolt Elementary Unistrut Catwalk as described on the attached Plans; and (b) all other work identified in the attached Plans and all necessary or appropriate services customarily provided by Contractor in connection with its performance of the services set forth in this Agreement. Contractor will complete the Work subject to the terms and conditions contained in this Agreement.

1.2 Schedule of Work. Timely and proper completion of the Work is of the essence to this Agreement. Work will be Completed (as defined below) no later than June 30, 2024 (the "Completion Date"). For the purposes of this Agreement, the term "Completion" or "Completed" means when Contractor completes the Work set forth on the Plans and Owner's Commissioning Authority has tested and accepted the Work. Completion of the Work and the date thereof shall be documented in writing and signed by both parties. Owner's Commissioning Authority will complete testing and Owner will notify Contractor of the results in writing no later than thirty calendar days after Contractor notifies Owner in writing that the Work is ready for testing.

1.3 Compensation. Subject to the terms and conditions contained in this Agreement, in consideration of Contractor's timely completion of the Work in accordance with this Agreement, Owner will pay Contractor in accordance with the Fee Schedule on the attached Exhibit D. No compensation will be paid by Owner for any portion of the Work not completed in accordance with this Agreement. Owner will not provide any benefits to Contractor, and Contractor will be solely responsible for obtaining Contractor's own benefits, including, without limitation, insurance, medical reimbursement, and retirement plans. Owner's performance of its obligations under this Agreement is conditioned on Contractor's performance of its obligations under this Agreement, including, without limitation, those Contractor obligations described under Section 1.1 and Section 2.1.

## 2. CONTRACTOR DUTIES, RESPONSIBILITIES, REPRESENTATIONS, AND WARRANTIES

In addition to any other Contractor representation, warranty, and/or covenant contained in this Agreement, Contractor represents, warrants, and covenants to Owner the following:

2.1 General Duties. Contractor will perform and complete the following at Contractor's cost and expense: (a) furnish all labor, materials, equipment, tools, supplies, and services necessary or appropriate to complete the Work; (b) perform the Work in a good and workmanlike manner; (c) obtain and pay for all licenses, inspections, and permits required by any private and/or public authority in connection with the Work; (d) perform and complete the Work in compliance with all applicable laws, ordinances, rules, regulations, and orders of any public, private, and/or governmental entity having jurisdiction over the Property and/or the Work; (e) properly manage and dispose of all waste, trash, and debris, including, without limitation, sediment, paint, cement wash, asphalt, motor oil, and grease, in accordance with all applicable laws and regulations; (f) be responsible to Owner for the acts and omissions of Contractor and/or Contractor's Representative(s) (as defined below); (g) not cause and/or permit any hazardous substances to be spilled, leaked, disposed of, and/or otherwise released in, on, under, and/or about the Property and/or any surrounding areas; and (h) obtain and maintain all licenses, permits, registrations, and other governmental authorizations required to conduct Contractor's business and perform the Work. Contractor will maintain proper licensure with the Oregon Construction Contractors Board and maintain proper insurance and bonding as required under this Agreement. For purposes of this Agreement, the term "Contractor's Representative(s)" means each present and future Contractor employee, representative, subcontractor, and/or agent. Contractor will pay when due all charges for labor and materials incurred by Contractor used in completion of the Work, and will be responsible for keeping the Property free of all liens or other claims related to the Work.

2.2 Independent Contractor; Independent Investigation; Force Majeure. Contractor is an independent contractor and not an employee of Owner. Contractor will be free from direction and control over the means and manner of performing the Work, subject only to the right of Owner to specify the desired results. Owner will not withhold any taxes from any payments made to Contractor, and Contractor will be solely responsible for paying all taxes arising out of or resulting from performance of the Work, including, without limitation, income, social security, workers' compensation, and employment insurance taxes. Contractor has visited, reviewed, and evaluated the Property (and all surrounding areas) and is satisfied with the nature and condition of the Property (and all surrounding areas) and the general and local conditions, including, without limitation, those bearing upon building materials, disposal, availability of labor, uncertainties of weather, and any other conditions concerning the Property (and all surrounding areas) and/or the Work, and warrants that the consideration for the Work is reasonable in light of such conditions. However, if and to the extent that a party's performance of any of its obligations pursuant to this Agreement is prevented, hindered or delayed directly or indirectly by fire, flood, earthquake, epidemic, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions or revolutions, or any other similar cause beyond the reasonable control of such party (each a "Force Majeure Event"), and such non-performance, hindrance or delay could not have been prevented by reasonable precautions, then the non-performing, hindered or delayed party shall be excused for such non-performance, hindrance or delay, as applicable, of those obligations affected by the Force Majeure Event for as long as the Force Majeure Event continues and, except as otherwise provided in this Section, such party continues to use its commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay, including through the use of alternate sources, workaround plans or other means. The party whose

performance is prevented, hindered or delayed by a Force Majeure Event shall promptly notify the other party in writing of the occurrence of the Force Majeure Event and describe in reasonable detail the nature of the Force Majeure Event.

2.3 Limited Warranty. Contractor guarantees and warrants the Work against all deficiencies and/or defects in the installation of the equipment for a period of one year, commencing from the date Work Completion is documented in writing per Section 1.2. All Equipment warranties are determined by the Manufacturer. Unless a defect is caused by Contractor negligence, Contractor shall not be liable for the repair of any defects of equipment or design, nor for the repair of any damage that results from any defect in the Equipment or its interface with existing systems not installed by Contractor under this Agreement.

### 3. INSURANCE AND INDEMNIFICATION

3.1 Insurance. Contractor will maintain public liability and property damage insurance against death or injury to persons and physical loss or damage to property, which insurance will include perils of fire, theft, vandalism, Acts of God, and malicious mischief; the insurance will include coverage for contractual liability and “products-completed operations” that will apply for a period of two years from the date the Work is determined Completed. The insurance required under the immediately preceding sentence will be in the form of general liability and property damage insurance (occurrence version) against personal injury claims arising out of Contractor’s activities on, or any condition of, the Property with limits of no less than \$1,000,000.00 per occurrence, \$2,000,000.00 in the aggregate. Contractor will obtain and maintain the following insurance: (a) commercial automobile insurance with limits of no less than \$500,000 combined single limit or split limits of \$250,000 per person, \$500,000 per occurrence and \$250,000 property damage, for any and all automobiles used in the prosecution of the Work; and (b) workers’ compensation insurance in form and amount sufficient to satisfy the requirements of applicable Oregon law. Each liability insurance policy will be in form and content satisfactory to Owner and will contain a severability of interest clause. By separate endorsement, each liability insurance policy will name Owner and Owner’s Representative(s) as additional insureds. Contractor’s insurance will be primary, and any insurance carried by Owner will be excess and noncontributing. Contractor will provide evidence of the insurance coverage (including applicable endorsements) required to be maintained by Contractor under this Section 3.1 prior to commencement of the Work and upon Owner’s written demand. All policies of insurance Contractor is required to carry under this Agreement will provide that the insurer waives the right of subrogation against Owner. For purposes of this Agreement, the term “Owner’s Representative(s)” means each present and future Owner officer, employee, representative, contractor, and/or agent.

3.2 Indemnification. Contractor releases and will defend, indemnify, and hold Owner and Owner’s Representatives for, from, and against any and all claims, actions, proceedings, damages, liabilities, judgments, penalties, fines, costs, and expenses of every kind, whether known or unknown, including, without limitation, attorney fees and costs, resulting from or arising out of, whether directly or indirectly, completion of the Work and/or Contractor’s breach and/or failure to perform any representation, warranty, covenant, and/or obligation contained in this Agreement. Contractor’s indemnification obligations provided in this Section 3.2 will survive the termination of this Agreement.

### 4. TERMINATION AND DAMAGES

4.1 Termination. Owner may terminate this Agreement (and Contractor’s completion of the Work) immediately upon written notice to Contractor if Owner determines that Owner’s legal authority to access the Property and perform the Work is restricted, limited, and/or prohibited by law or otherwise. If Contractor (a) fails to timely prosecute the Work continuously with sufficient laborers and equipment to ensure its completion by the Completion Date, (b) fails to complete the Work in accordance with this Agreement, (c) fails to pay its obligations under this Agreement as and when they become due, (d) breaches and/or otherwise fails to perform any Contractor representation, warranty, covenant, and/or obligation contained in this Agreement, and/or (e) gives Owner cause to doubt Contractor’s ability to timely, fully, and properly complete the Work, such act(s) or omission(s) will constitute a default by Contractor under this Agreement. If Owner believes Contractor is in default

under this Section 4.1, it must notify Contractor in writing specifying the basis of the alleged default. If Contractor does not then cure the default to Owner's satisfaction within 96 hours, Owner may elect to terminate this Agreement by providing written notice to Contractor.

4.2 Damages. If Owner terminates this Agreement under Section 4.1, Owner may take over the prosecution of all or any portion of the Work and may complete it with its own forces or otherwise, or use such other measures as in Owner's sole discretion are necessary or appropriate to prevent delay or damages. Completion of the Work, or any portion thereof, will not constitute a forfeiture of Owner's right to recover damages from Contractor for Contractor's delay or failure to complete the Work. Upon Owner's termination of this Agreement, Owner will reimburse Contractor for any unpaid labor and materials and for Contractor's reasonable overhead and profit earned through the date of termination for Work Contractor has completed (to Owner's satisfaction) through the date of termination, subject to reasonable retainage to allow Owner to correct any deficiencies in Contractor's performance of the Work. Owner's decision to terminate this Agreement will not constitute Owner's sole remedy; rather, Owner will have all remedies available to Owner under this Agreement and at law or in equity.

## 5. CONTRACTOR'S SCHEDULE; SITE ACCESS AND OWNER'S EXPENSES

5.1 Timeline. Within 14 calendar days of signing this Agreement, Owner and Contractor will determine a schedule of events for timely completion of the Work in accordance with the terms of this Agreement.

5.2 Owner Representative. Owner will provide a single person point of contact that will be available at all times and who is authorized by Owner to make on-site decisions during the Work.

5.3 Site Access. Due to the necessity of after-hours, weekend and/or holiday schedules, Owner will provide necessary access to Contractor to perform the Work, including, but not limited to, keys and alarm codes. These items will be promptly returned on the Completion Date. Owner shall also provide Contractor with a dedicated laydown area of a size and location suitable to Contractor for the duration of the performance of the Work under this Agreement.

5.4 Owner's Expenses. Per Appendix A to Exhibit D, all costs associated with any Engineering will be at Owner's expense.

## 6. MISCELLANEOUS

6.1 Costs; Attorney Fees. Contractor will bear Contractor's own fees, costs, and expenses incurred in connection with this Agreement. If any arbitration, action, suit, and/or proceeding is instituted to interpret, enforce, and/or rescind this Agreement, including, without limitation, any proceeding brought under the United States Bankruptcy Code, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's attorney fees and other fees, costs, and expenses of every kind, including, without limitation, the costs and disbursements specified in ORCP 68 A(2), incurred in connection with the arbitration, action, suit, or proceeding, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the arbitrator or court.

6.2 Time of Essence; Notices. Time is of the essence with respect to all dates and time periods in this Agreement. All notices required under this Agreement must be in writing. Any notice will be deemed given when personally delivered or delivered by email or facsimile transmission (with electronic confirmation of delivery), or will be deemed given three days following delivery of the notice by U.S. mail, postage prepaid, certified, return receipt requested, by the applicable party to the address of the other party first shown above (or any other address that a party may designate by notice to the other party), unless that day is a Saturday, Sunday, or legal holiday, in which event it will be deemed given on the next following business day.

6.3 Amendment; Waiver; Severability; Governing Law. This Agreement may be amended only by a written document signed by both parties. No waiver will be binding on a party unless it is in writing and signed by the party making the waiver. A party's waiver of a breach of a provision of this Agreement will not be a waiver of any other provision or a waiver of a subsequent breach of the same provision. If a provision of this Agreement is determined to be unenforceable in any respect, the enforceability of the provision in any other respect and of the remaining provisions of this Agreement will not be impaired. This Agreement is governed by the laws of the State of Oregon, without giving effect to any conflict-of-law principle that would result in the laws of any other jurisdiction governing this Agreement. Any controversy or claim arising out of or relating to this Agreement, including, without limitation, the making, performance, or interpretation of this Agreement, shall be settled by arbitration in Grant County, Oregon, in accordance with ORS 36.400-36.740, and judgment on the arbitration award may be entered in any court having jurisdiction over the subject matter of the controversy.

6.4 Further Assurances; Termination; Survival. The parties will sign other documents and take other actions reasonably necessary to further effect and evidence this Agreement. The termination of this Agreement, regardless of how it occurs, will not relieve a party of obligations that have accrued before the termination. All provisions of this Agreement that would reasonably be expected to survive the termination of this Agreement will do so, including, without limitation, the indemnification obligations under Section 3.2 and the warranty obligations under Section 2.3. Any exhibits, schedules, and other attachments referenced in this Agreement are part of this Agreement.

6.5 Commencement. Commencement of this Agreement will not become effective until all electrical, structural, and mechanical plan reviews are approved by the necessary governing agencies. If the approval of all drawings and plan reviews is not complete by \_\_\_\_\_, 2024 or, if Manufacturer lead time to deliver necessary equipment exceeds \_\_\_\_\_, 2024, then the parties will revise the target completion date in Section 1.2.

6.6 Entire Agreement; Interpretation; No Third-Party Beneficiaries. This Agreement contains the entire understanding of the parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the parties with respect to the subject matter of this Agreement. All pronouns contained herein and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. The titles, captions, or headings of the sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement. For purposes of this Agreement, the term "person" means any natural person, corporation, limited liability company, partnership, joint venture, firm, association, trust, unincorporated organization, government or governmental agency or political subdivision, or any other entity. Nothing in this Agreement, express or implied, is intended or will be construed to confer on any person, other than the parties to this Agreement, any right, remedy, or claim under or with respect to this Agreement.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed and effective for all purposes as of the Effective Date.

OWNER:  
Grant School District 3  
an Oregon special district

CONTRACTOR:  
[TBD]  
an Oregon \_\_\_\_\_ corporation

\_\_\_\_\_  
By: Mark Witty, Superintendent

\_\_\_\_\_  
By:

Exhibit A  
Plans

[Enclosed]

DRAFT

Exhibit B  
Equipment Specifications

[Enclosed]

DRAFT

Exhibit C  
Public Contracting Provisions

- (1) Contractor will make payment promptly, as due, to all persons supplying to Contractor labor or materials for the performance of the Work provided for in this Agreement. [ORS 279C.505(a)]
- (2) Contractor will pay all contributions or amounts due the Industrial Accident Fund from Contractor incurred in the performance of the Agreement. [ORS 279C.505(b)]
- (3) Contractor will not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or materials. [ORS 279C.505(c)]
- (4) Contractor will pay to the Department of Revenue all sums withheld from employees under ORS 316.167. [ORS 279C.505(d)]
- (5) Contractor will demonstrate that an employee drug testing program is in place. [ORS 279C.505(2)]
- (6) For demolition work under this Agreement, Contractor will salvage or recycle construction and demolition debris, if feasible and cost-effective. [ORS 279C.510(1)]
- (7) For lawn and landscape maintenance, Contractor is required to compost or mulch yard waste material at an approved site, if feasible and cost-effective. [ORS 279C.510(2)]
- (8) If Contractor or any Contractor subcontractor fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to Contractor by any person in connection with this Agreement as the claim becomes due, the proper office or officers representing the state or county, school district, municipality, municipal corporation or subdivision thereof, as the case may be, may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to Contractor by reason of this Agreement. [ORS 279C.515(1)]
- (9) If Contractor or any Contractor subcontractor fails, neglects, or refuses to make payment to a person furnishing labor materials in connection with the public improvement agreement within 30 days after receipt of payment from School District or a contractor, Contractor will owe the person the amount due plus interest charges commencing at the end of the 10-day period that payment is due under ORS 279C.580 (4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest charged to Contractor on the amount due will equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is 30 days after the date when payment was received from School District or from Contractor, but the rate of interest may not exceed 30 percent. The amount of interest may not be waived. [ORS 279C.515(2)]
- (10) If Contractor or any Contractor subcontractor fails, neglects, and/or refuses to make payment to a person furnishing labor or materials in connection with this Agreement, 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. The payment of a claim does not relieve Contractor or Contractor's surety from obligation with respect to any unpaid claims. [ORS 279C.515(3, 4)]
- (11) A person may not be employed by Contractor or any Contractor subcontractor 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 it, and in such cases, except in cases of agreements for personal services as defined in ORS 279C.100, the employee will be paid at least time and a half pay:



(a) for all overtime in excess of eight hours in any one day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or

(b) for all overtime in excess of 10 hours in any one day or 40 hours in one week when the work week is for consecutive days, Monday through Friday; and

(c) for all work performed on Saturday and on any legal holiday specified in ORS 279C.540. [ORS 279C.520 (1)]

The provisions of ORS 279C.545 will apply to all claims for overtime under this Agreement.

(12) Contractor must give notice in writing to employees either at the time of hire or before commencement of work on this Agreement, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work. [ORS 279C.520 (2)]

(13) Contractor will give notice in writing to employees who perform work under this Agreement, either at the time of hire or before commencement of Work under this Agreement, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work. [ORS 279C.520 (5)(b)].

(14) Contractor will promptly, as due, make payment to any person, co-partnership, association, or corporation furnishing medical, surgical, and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of Contractor, of all sums that Contractor agrees to pay for the services and all moneys and sums that Contractor collected or deducted from the wages of employees under any law, contractor, or agreement for the purpose of providing or paying for the services. [ORS 279C.530 (1)]

(15) Contractor will comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor will ensure that each subcontractor complies with these requirements. [ORS 279C.530(2)]

(16) Contractor and each Contractor subcontractor will comply with the existing state prevailing rate of wage and, if applicable, the federal prevailing rate of wage required under the Davis-Bacon Act (40 U.S.C. 276a) that may be paid to workers in each trade or occupation required for the public works employed in the performance of the agreement either by Contractor or other person doing or contracting to do the whole or any part of the Work contemplated by this Agreement. [ORS 279C.830 (1)(a)]

(17) Workers will be paid not less than the specified minimum hourly rate of wage in accordance with ORS 279C.838 and ORS 279C.840. [ORS 279C.830(1)(c)]. If the Project is subject both to ORS 279C.800 to 279C.870 and to the Davis-Bacon Act, all workers must be paid not less than the higher of the applicable state or federal prevailing rate of wage. Contractor will include this provision in each subcontract awarded under this Agreement.

(18) Contractor represents and agrees that the Contract Documents contain a sufficient provision stating that Contractor and every Subcontractor must have a public works bond filed with the Construction Contractors Board before starting work on the Project, unless exempt under ORS 279C.836(4), (7), (8) or (9).

(a) Contractor must have a public works bond filed with the Construction Contractors Board before commencing the Work, unless exempt under ORS 279C.836 (4), (7), (8), or (9).

(b) Contractor must require every subcontractor to have a public works bond filed with the Construction Contractors Board before commencing any Work, unless exempt under ORS 279C.836 (7) or (8). [ORS 279C.830 (3)]

(19) The hourly rate of wage to be paid by Contractor or every subcontractor subject to prevailing wage rates to workers will be not less than the prevailing rate of wage for an hour's work in the same trade or occupation in the locality where such labor is performed.

(20) Contractor and every subcontractor subject to prevailing wage rates to workers will keep the prevailing wage rates for that project posted in a conspicuous and accessible place in or about the Project.

(21) To the extent Contractor and/or any subcontractor subject to prevailing wage rates will also provide for or contribute to a health and welfare plan or a pension plan, or both, for its employees on the project, Contractor or subcontractor, as applicable, will post notice describing such plans in a conspicuous and accessible place in or about the project. The notice preferably will be posted in the same place as the notice required under Section 20, above. In addition to the description of the plans, the notice will contain information on how and where to make claims and where to obtain further information.

(22) Contractor or Contractor's surety, and every Contractor subcontractor or Contractor subcontractor's surety, will file certified statements with School District in writing on the form prescribed by the Commissioner of the Bureau of Labor and Industries, certifying the hourly rate of wage paid each worker whom Contractor or the subcontractor has employed upon such public work, and 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 this Agreement, which certificate and statement will be verified by the oath of Contractor or Contractor's surety, or subcontractor or the subcontractor's surety that Contractor or subcontractor has read such statement and certificate and knows the contents thereof and that the same is true to Contractor's or subcontractor's knowledge. The certified statements will set out accurately and completely the payroll records for the prior week, including the name and address of each worker, the worker's correct classification, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid. Each certified statement required will be delivered or mailed by Contractor or subcontractor to School District. Certified statements will be submitted for each week during which Contractor or subcontractor employs a worker upon the public work will be submitted once a month by the fifth business day of the following month. If Contractor fails to file the required certified statements, School District will retain twenty-five percent (25%) of any amount earned by Contractor until Contractor has filed with the public agency certified statements as required by this Section 22. Information submitted on certified statements may be used only to ensure compliance with the provisions of ORS 279C.800 to 279C.870.

(23) Contractor or Contractor subcontractor will preserve the certified statements for a period of three years from the date of completion of this Agreement.

(24) Contractor represents and agrees that School District has fully and timely included a provision that Contractor and any subcontractor will comply with ORS 279C.840 in the advertisement for bids, the RFQ, the contract specifications, the accepted quote or elsewhere in the Contract Documents and that School District has no liability for unpaid minimum wages.

(25) If requested in writing by a first-tier subcontractor, Contractor will, within ten (10) calendar days after receiving the request, send to the first-tier subcontractor a copy of that portion of any invoice, request for payment submitted to School District or pay document provided by School District, to Contractor specifically related to any labor or materials supplied by the first-tier Subcontractor.

(26) Payment of interest may be postponed when payment on the principal is delayed because of disagreement between School District and Contractor.

(27) Contractor will not request payment from School District of any amount withheld or retained in accordance herewith until such time as Contractor has determined and certified to School District that the subcontractor is entitled to the payment of such amount. A dispute between Contractor and a first-tier subcontractor relating to the amount or entitlement of a first-tier subcontractor to a payment or a late payment

interest penalty under a clause included in the subcontract pursuant to the terms hereof does not constitute a dispute to which School District is a party. School District will not be included as a party in any administrative or judicial proceeding involving such a dispute. Contractor will include in each subcontract for property or services entered into by Contractor and a first-tier subcontractor, including material supplier, for the purpose of performing a construction contract:

(a) A payment clause that obligates Contractor to pay the first-tier subcontractor for satisfactory performance under its subcontract within ten (10) days out of such amounts as are paid to Contractor by School District under such contract; and,

(b) An interest penalty clause that obligates Contractor, if payment is not made within thirty (30) days after receipt of payment from School District, to pay the first-tier subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause included in the subcontract pursuant to subparagraph (a) of this Section 27 Contractor or first-tier subcontractor will not be obligated to pay an interest penalty if the only reason that Contractor or first-tier subcontractor did not make payment when payment was due is that Contractor or first-tier subcontractor did not receive payment from School District Contractor when payment was due. The interest penalty will be:

(1) For the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and,

(2) Computed at the rate specified in ORS 279C.515(2).

(28) Contractor will include in each of its subcontracts, for the purpose of performance of such contract condition, a provision requiring the first-tier subcontractor to include payment clause and an interest penalty clause conforming to the standards of Section 27, above, in each of its subcontracts and to require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

(29) Contractor certifies, under penalty of perjury, that Contractor is, to the best of the person's knowledge, not in violation of any tax laws described in ORS 305.380(4).

(30) Contractor certifies that all subcontractors performing Work described in ORS 701.005(2) (i.e., construction work) will be registered with the Construction Contractors Board or licensed by the State Landscape Contractors Board in accordance with ORS 701, as applicable, before the subcontractors commence Work under this Agreement.

(31) The provisions of ORS 279C.605 will apply to any claims against Contractor's payment bond.

(32) The provisions of ORS 279C.525 will apply to this Agreement.

(33) Contractor will comply and require all subcontractors to comply with applicable requirements of all laws, codes, ordinances, regulations, and statutes, including, without limitation, those in ORS Chapter 279C. To the extent that ORS Chapter 279C, or any other law, code, ordinance or regulations, requires any term or condition to be included in this Agreement, such term or condition are hereby incorporated by this reference. Nothing contained herein will be construed so as to require the commission of any act contrary to law, code, rule, statute, ordinance or regulation and whenever there is any conflict between any provisions contained herein and any statute, law, code, ordinance, rule, or regulation, the provision of this Agreement which is affected will be curtailed and limited only to the extent necessary to bring it within the requirements of the law, code, rule, statute, ordinance or regulation.

Suspension and Debarment. Contractor will comply with Subpart C of 2 C.F.R. 180 and Subpart C of 2 C.F.R. 1532 regarding debarment and suspension and agrees to include or cause to be included in any subcontract expected to equal or exceed \$25,000.00, at any tier, the requirement that the subcontractor comply with Subpart C of 2 C.F.R.

180 and Subpart C of 2 C.F.R. 1532. Contractor represents, warrants, and certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If Contractor becomes unable to certify to the statements contained in this Paragraph, Contractor will immediately notify School District of the inability and the reason(s) thereof. Contractor will provide immediate written notice to School District if at any time Contractor learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances. For purposes of this Paragraph, the terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “person,” “primary covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this Paragraph, have the meaning set out in the definitions and coverage sections of rules implementing Executive Order 12549. Contractor acknowledges and agrees it will not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction. Contractor further agrees by signing this Agreement, that it will include this section titled “Suspension and Debarment” without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions. Pursuant to 2 CFR 180.330, Contractor is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements. Contractor acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment. Contractor agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available upon written request. Upon written request, Contractor must run a search in [www.epls.gov](http://www.epls.gov) and print a copy of completed searches to document proof of compliance.

Exhibit D  
Fee Schedule

[To be submitted in accordance with Contractor's Quote]

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Appendix A  
Bid No. 03-322HUMB dated March 22, 2022

[Enclosed]

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