

## AGREEMENT FORM

**THIS AGREEMENT**, entered into this 29<sup>th</sup> day of April, 2024 in the County of Santa Clara County of the State of California, by and between the Gilroy Prep, a Navigator School, hereinafter called the “Navigator”, and Galeb Paving, Incorporated, hereinafter called the “Contractor”.

**WITNESSETH** that Navigator and the Contractor for the consideration stated herein agree as follows:

**SCOPE OF WORK:** The Contractor shall furnish all labor, materials, equipment, tools, and utility and transportation services, and perform and complete all work required in connection with Gilroy Prep School Portable Relocation Project (“Project”) in strict accordance with the Contract Documents enumerated in Article 7 below. The Contractor shall be liable to Navigator for any damages arising as a result of a failure to comply with that obligation, and the Contractor shall not be excused with respect to any failure to so comply by an act or omission of the Architect, Engineer, Inspector, Division of the State Architect (DSA), or representative of any of them, unless such act or omission actually prevents the Contractor from fully complying with the Contract Documents and the Contractor protests, in accordance with the Contract Documents, that the act or omission is preventing the Contractor from fully complying with the Contract Documents. Such protest shall not be effective unless reduced to writing and filed with Navigator office within seven (7) days of the date of occurrence of such act or omission preventing the Contractor from fully complying with the Contract Documents.

**TIME OF COMPLETION:** Navigator may give notice to proceed within ninety (90) days of the award of the bid by Navigator. Once the Contractor has received a notice to proceed, the Contractor shall reach Final Completion (See Article 1.1.46) of the Work within one hundred and ninety (190) calendar days from start of construction on June 10, 2024. In addition, Contractor shall complete all site work for installation of the portables by others on or before July 8, 2024 (after which liquidated damages may be assessed), and Contractor shall complete installation of the parking lot on or before August 9, 2024 (after which Liquidated damages may be assessed). Final Completion date of entire project is December 17, 2024 (after which liquidated damages may be assessed).

Contractor has thoroughly studied the Project and has satisfied itself that the time period for this Project was adequate for the timely and proper completion of the Project within each milestone and within the Contract time. Further, Contractor has included in the analysis of the time required for this Project, items set forth in General Conditions Article **8.3.2.1**, Submittal Schedules, and Rain Day Float,

In the event that Navigator desires to postpone giving the notice to proceed beyond this ninety (90) day period, it is expressly understood that with reasonable notice to the Contractor, giving the notice to proceed may be postponed by Navigator. It is further expressly understood by the Contractor, that the Contractor shall not be entitled to any claim of additional compensation as a result of Navigator’s postponement of giving the notice to proceed.

If the Contractor believes that a postponement will cause hardship to it, the Contractor may terminate the Contract with written notice to Navigator within ten (10) days after receipt by the Contractor of Navigator's notice of postponement. It is further understood by the Contractor that in the event that the Contractor terminates the Contract as a result of postponement by Navigator, Navigator shall only be obligated to pay the Contractor for the work performed by the Contractor at the time of notification of postponement. Should the Contractor terminate the Contract as a result of a notice of postponement, Navigator shall have the authority to award the Contract to the next lowest responsible bidder.

**LIQUIDATED DAMAGES:** It being impracticable and infeasible to determine the amount of actual damage, it is agreed that the Contractor will pay Navigator the sum of two thousand dollars exactly (\$2,000.00) per calendar day for each and every day of delay beyond the Contract Time set forth in Article 2 of this Agreement (inclusive of Milestones that are critical on the critical path or noted as critical to Navigator) as liquidated damages and not as a penalty or forfeiture. In the event Liquidated Damages are not paid, the Contractor further agrees that Navigator may deduct such amount thereof from any money due or that may become due the Contractor under the Contract (See Article 9.6 and 2.2 of the General Conditions).

**CONTRACT PRICE:** Navigator shall pay to the Contractor as full consideration for the faithful performance of the Contract, subject to any additions or deductions as provided in the Contract Documents, the sum of three million five hundred fifty-eight dollars exactly DOLLARS (\$3,558,000.00), said sum being the total amount stipulated in the Bid Contractor submitted. Payment shall be made as set forth in the General Conditions. ( Exhibit A Bid-attached.)

Should any Change Order result in an increase in the Contract Price, the cost of such Change Order shall be agreed to in advance by the Contractor and Navigator, subject to the monetary limitations set forth in Public Contract Code section 20659. In the event that the Contractor proceeds with a Change in work without an agreement between Navigator and Contractor regarding the cost of a Change Order, the Contractor waives any Claim of additional compensation for such additional work (See Article 7.2.).

**HOLD HARMLESS AGREEMENT:** Contractor shall defend, indemnify and hold harmless Navigator, Architect, Inspector, the State of California and their officers, employees, agents and independent contractors from all liabilities, claims, actions, liens, judgments, demands, damages, losses, costs or expenses of any kind arising from death, personal injury, property damage or other cause based or asserted upon any act, omission, or breach connected with or arising from the progress of Work or performance of service under this Agreement or the Contract Documents. As part of this indemnity, Contractor shall protect and defend, at its own expense, Navigator, Architect, Construction Manager, Inspector, the State of California and their officers, employees, agents and independent contractors from any legal action including attorney's fees or other proceeding based upon such act, omission, breach or as otherwise required by this Article.

Furthermore, Contractor agrees to and does hereby defend, indemnify and hold harmless Navigator, Architect, Construction Manager, Inspector, the State of California and their officers, employees, agents and independent contractors from every claim or demand made, and every liability, loss, damage, expense or attorney's fees of any nature whatsoever, which may be incurred by reason of:

Liability for (1) death or bodily injury to persons; (2) damage or injury to, loss (including theft), or loss of use of, any property; (3) any failure or alleged failure to comply with any provision of law or the Contract Documents; or (4) any other loss, damage or expense, sustained by any person, firm or corporation

or in connection with the Work called for in this Agreement or the Contract Documents, except for liability resulting from the sole or active negligence, or the willful misconduct of Navigator.

Any bodily injury to or death of persons or damage to property caused by any act, omission or breach of Contractor or any person, firm or corporation employed by Contractor, either directly or by independent contract, including all damages or injury to or death of persons, loss (including theft) or loss of use of any property, sustained by any person, firm or corporation, including Navigator, arising out of or in any way connected with Work covered by this Agreement or the Contract Documents, whether said injury or damage occurs either on or off Navigator property, but not for any loss, injury, death or damages caused by the sole or active negligence or willful misconduct of Navigator.

Any dispute between Contractor and Contractor's subcontractors/suppliers/ Sureties, including, but not limited to, any failure or alleged failure of the Contractor (or any person hired or employed directly or indirectly by the Contractor) to pay any Subcontractor or Materialman of any tier or any other person employed in connection with the Work and/or filing of any stop notice or mechanic's lien claims.

Any claims, allegations, penalties, assessments, or liabilities to the extent caused by the Contractor's failure or the failure of any Subcontractor of any tier, to fully comply with the DIR registration requirements under Labor Code section 1725.5 at all times during the performance of any Work on the Project and shall reimburse Navigator for any penalties assessed against Navigator arising from any failure by the Contractor or any Subcontractor of any tier from complying with Labor Code sections 1725.5 and 1771.1. Nothing in this paragraph, however, shall require the Contractor or any Subcontractor to be liable to Navigator or indemnify Navigator for any penalties caused by Navigator in accordance with Labor Code section 1773.3 (g).

Contractor, at its own expense, cost, and risk, shall defend any and all claims, actions, suits, or other proceedings that may be brought or instituted against Navigator, its officers, agents or employees, on account of or founded upon any cause, damage, or injury identified herein Article 5 and shall pay or satisfy any judgment that may be rendered against Navigator, its officers, agents or employees in any action, suit or other proceedings as a result thereof.

The Contractor's and Subcontractors' obligation to defend, indemnify and hold harmless the Owner, Architect, Inspector, the State of California and their officers, employees, agents and independent contractors hereunder shall include, without limitation, any and all claims, damages, and costs for the following: (1) any damages or injury to or death of any person, and damage or injury to, loss (including theft), or loss of use of, any property; (2) breach of any warranty, express or implied; (3) failure of the Contractor or Subcontractors to comply with any applicable governmental law, rule, regulation, or other requirement; (4) products installed in or used in connection with the Work; and (5) any claims of violation of the Americans with Disabilities Act ("ADA").

**PROVISIONS REQUIRED BY LAW:** Each and every provision of law and clause required to be inserted in this Contract shall be deemed to be inserted herein, and this Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not

inserted or is not inserted correctly, then upon application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

**COMPONENT PARTS OF THE CONTRACT:** The Contract entered into by this Agreement consists of the following Contract Documents, all of which are component parts of the Contract as if herein set out in full or attached hereto:

Notice Inviting Bids  
Instructions to Bidders  
Designation of Subcontractors  
Non-Collusion Declaration  
Bid Guarantee Form  
Bid Bond  
Bid Form  
Contractor's Certificate Regarding Worker's Compensation  
Acknowledgment of Bidding Practices Regarding Indemnity  
DVBE Participation Statement and Close-Out Forms  
Agreement Form  
Payment Bond  
Performance Bond  
Guarantee  
Escrow Agreement for Security Deposit In Lieu of Retention  
Workers' Compensation/Employers Liability Endorsement  
General Liability Endorsement  
Automobile Liability Endorsement  
Contractor's Certificate Regarding Drug-Free Workplace  
General Conditions  
Supplementary and Special Conditions  
Specifications  
All Addenda as Issued ( 1, 2, 3 and 4)  
Drawings/Plans- DSA approved set 01-12614 4/11/24  
Substitution Request Form  
Requirements, Reports and/or Documents in the Project Manual or Other Documents Issued to Bidders

All of the above-named Contract Documents are intended to be complementary. Work required by one of the above-named Contract Documents and not by others shall be done as if required by all.

**PREVAILING WAGES:** Wage rates for this Project shall be in accordance with the general prevailing rate of holiday and overtime work in the locality in which the work is to be performed for each craft, classification, or type of work needed to execute the Contract as determined by the Director of the Department of Industrial Relations. Copies of schedules of rates so determined by the Director of the Department of Industrial Relations are on file at the administrative office of Navigator and are also available from the Director of the Department of Industrial Relations. Monitoring and enforcement of the prevailing wage laws and related requirements will be performed by the Labor Commissioner/ Department of Labor Standards Enforcement (DLSE).

The following are hereby referenced and made a part of this Agreement and Contractor stipulates to the provisions contained therein.

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Chapter 1 of Part 7 of Division 2 of the Labor Code (Section 1720 et seq.)

California Code of Regulations, Title 8, Chapter 8, Subchapters 3 through 6 (Section 16000 et seq.)

**RECORD AUDIT:** In accordance with Government Code section 8546.7 (and Davis Bacon, if applicable) and Article 13.11. of the General Conditions, records of both Navigator and the Contractor shall be subject to examination and audit for a period of five (5) years after a Final Retention Payment or the Recording of a Notice of Completion, whichever occurs first.

**CONTRACTOR'S LICENSE:** The Contractor must possess throughout the Project a Class A or B Contractor's License, issued by the State of California, which must be current and in good standing.

**IN WITNESS WHEREOF,** this Agreement has been duly executed by the above-named parties, on the day and year first above written.

Gilroy Prep, a Navigator School

CONTRACTOR: Galeb Paving, Incorporated

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

\_\_\_\_\_

Typed or Printed Name

By: \_\_\_\_\_  
Chief Executive Officer and Superintendent

\_\_\_\_\_

Title

Dated: \_\_\_\_\_

\_\_\_\_\_

Signature

\_\_\_\_\_

Type or Printed Name

\_\_\_\_\_

Title (Authorized Officers or Agents)

\_\_\_\_\_

Signature

**(CORPORATE SEAL)**