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Agreement No. **A2021-126**

**GILROY UNIFIED SCHOOL DISTRICT**
**AGREEMENT FOR PUBLIC WORKS PROJECTS**
**AWARDED THROUGH "INFORMAL BIDDING" PROCEDURES UNDER THE**
**CALIFORNIA PUBLIC CONTRACT CODE, COMMENCING WITH SECTION 22000**

This Contract ("Contract") is made and entered into this 10th day of June,2021 , by and between the Gilroy Unified School District ("District") and DuBois Roofing Inc. ("Contractor") in connection with the Work, defined below. The District and the Contractor are referred to herein as the "Parties" and each as a "Party." Contractor is being awarded the Work (described below) pursuant to the procedures specified by the Uniform Public Construction Cost Accounting Act, commencing with Section 22000 of the Public Contract Code ("Act").

1. **Work.** The Contractor shall furnish the work, materials, products and/or services ("Work") on the Project described on **Exhibit A**, attached hereto, as further described on **Exhibit A** and on the District's request for bids/quotations ("Bid Request") issued by the District for the Project. The Work shall be performed/installed at the following site(s) or location(s) ("Site" or "Premises"): **Glen View Elementary School.**

2. **Compensation.** The Contractor shall furnish the Work for a total price of ninety nine thousand, five hundred twenty Dollars ($99,520). In no event shall aggregate payments under this Contract exceed the amount authorized under the Act.

3. **Payment.** Payment for the Work under this Contract shall be made in accordance with the Terms and Conditions.

4. **Commencement.** The Contractor shall commence Work under this Contract only after (i) the Contractor submits and the District approves any bonds (performance, payment (labor and material)), affidavit(s), certificate(s) and endorsement(s) of insurance required under the Terms and Conditions, **and** (ii) the District issues a Notice to Proceed or otherwise authorizes the Contractor to commence the Work (the "Commencement Date").

5. **Completion.** Work shall be completed within 90 consecutive calendar days from the Commencement Date (unless otherwise set forth in an agreed-upon completion schedule, construction schedule, or project milestones developed pursuant to provisions of the Contract and approved and initialed by District) (each, the "Contract Time").

6. **[Liquidated Damages.** Contractor agrees that if the Work is not completed within the Contract Time, the District will suffer damage not capable of being calculated or specified. Therefore, pursuant to Government Code section 53069.85, Contractor shall, upon demand from District, pay the District, as fixed and liquidated damages for these incalculable damages, 100 ($100) per day for each and every calendar day of delay beyond the Contract Time.][Reserved.]

7. **Contract Documents.** The Contract Documents consists of the Terms and Conditions and the documents specified below (check or mark):

| | |
|---|---|
| **X** Non-Collusion Affidavit | ____ Hazardous Materials Certification |
| **X** Insurance Certificates and Endorsements | ____ Lead Paint Certification |
| **X** Prevailing Wage Certification | ____ Performance Bond |
| **X** Workers' Compensation Certification | ____ Payment Bond |
| **X** Fingerprinting / Criminal Background Investigation Certification | ____ Work Specifications |
| | ____ Plans _____ |
| **X** Drug-Free Workplace Certification | ____ [Other] _____ |

8. **Inspection and Acceptance of Work.** Inspection of the Work shall be performed by Marissa Van Patten, ("District Project Manager") and the acceptance of the Work shall be documented by the District, to its sole satisfaction, in any form deemed appropriate by the District.

9. **Incorporation of Documents.** This Contract incorporates and includes as if fully set forth herein the Bid Packet, if any, the Proposal, and the Contract Documents identified above. By executing and delivering this Contract, Contractor agrees to perform the Work and Services described in the Bid Packet, if any, the Proposal and the Contract Documents to the best of its ability in accordance and in compliance with the Terms and Conditions. If any conflict arises, priority shall be given first to the provisions of this Contract, then to the Bid Packet, if any, then to the Terms and Conditions, then to any other Plans or Work Specifications and then to the Proposal.

10. **Certification of Contracting Party.** The person(s) executing and delivering this Contract (and each Contract Document), declares and certifies, under penalty of perjury, that (i) he/she/they is/are duly authorized representative(s) of

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Contractor, (ii) by delivering a signed document Contractor is bound by the terms of such document, (iii) the information, certifications and representations provided in this Contract, including Contractor's information specified below, and each of the Contract Documents is true, complete, and correct.

ACCEPTED AND AGREED by each Party on the date(s) indicated below:

**GILROY UNIFIED SCHOOL DISTRICT**

Signature: _____

Title: Assistant Superintendent, Business Services

Date: _____

**DuBois Roofing Inc**

DocuSigned by:

Signature: Mark DuBois

BD03173EFE014E0...

Title: President

Date: 6/2/2021

| FOR DISTRICT OFFICE USE | FOR CONTRACTOR TO COMPLETE: |
|---|---|
| Funding Code: _____ | License # 812304 |
| Funding Program: _____ | State of incorporation or formation: _____ |
| Form approved by District Legal Counsel 05/21/2012 | Type of Business Entity:<br>[X] Corporation<br>[___] Individual [___] Sole Proprietorship<br>[___] Partnership [___] Limited Partnership<br>[___] Limited Liability Company<br>[___] Other: _____ |
| | TIN/SSN: 043633663<br>**Employer Identification Number and/or Social Security Number**<br>**NOTE: The Code of Federal Regulations, Sections 6041 and 6209, require non-corporate recipients of $600.00 or more to furnish their taxpayer identification number ("EID" or "TIN"). The regulations also provide that a penalty may be imposed for failure to furnish the EID or TIN. To comply with these regulations, the District requires your EID, TIN or SSN, whichever is applicable.** |

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## TERMS AND CONDITIONS TO CONTRACT

1. **Notice to Proceed.** Shall mean either a written Notice to Proceed or other authorization given by District to Contractor directing Contractor to proceed with the Work.

2. **Site Examination.** By submitting its quote, Contractor warrants and represents that it has made all Site examination(s) that it deems necessary as to the condition of the Site, its accessibility for materials, workers and utilities, and Contractor's ability to protect existing surface and subsurface improvements. By signing the Contract, Contractor also certifies that it accepts all measurements, specifications and conditions affecting the Work to be performed at the Site. No claim for allowance of time or money will be allowed as to any other undiscovered condition on the Site.

3. **Equipment and Labor.** The Contractor shall furnish all tools, equipment, apparatus, facilities, transportation, labor, and material necessary to furnish the services herein described, the services to be performed at such times and places as directed by and subject to the approval of the authorized District representative indicated in the Work specifications attached hereto.

4. **Safety and Security.** Contractor is responsible for maintaining safety in the performance of this Contract. Contractor shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.

5. **Termination.** If Contractor fails to satisfactorily commence and/or complete or otherwise perform any Work or other Contractor duties or obligations to the satisfaction of the District, or fails to fulfill in a timely and professional manner Contractor's obligations under this Contract, or violates any of the terms or provisions of this Contract, the District shall have the right to terminate this Contract effective immediately or as otherwise specified in the written notice, at the District's discretion. District shall also have the right to terminate the Contract for its own convenience. Termination shall have no effect upon any of the rights and obligations of the parties arising out of any Work or Service furnished to or accepted by District prior to the effective date of termination.

6. **Change in Scope of Work.** Any change in the scope of the Work, method of performance, nature of materials or price thereof, or any other matter materially affecting the performance or nature of the Work shall not be paid for or accepted unless such change, addition, or deletion is approved in advance and in writing by a valid change order executed by the District. Contractor specifically understands, acknowledges, and agrees that the District shall have the right to request any alterations, deviations, reductions, or additions to the Project or Work, and the cost thereof shall be added to or deducted from the amount of the Contract Price by fair and reasonable valuations. Contractor also agrees to provide the District with all information requested to substantiate the cost of the change order and to inform the District whether the Work will be done by the Contractor or a subcontractor. In addition to any other information requested, Contractor shall submit, prior to approval of the change order, its request for a time extension (if any), as well as all information necessary to substantiate its belief that such change will delay the completion of the Work. If Contractor fails to submit its request for a time extension or the necessary supporting information, it shall be deemed to have waived its right to request such extension.

7. **Payment.** On a monthly basis and no later than the 15th of each month, Contractor shall submit an application for payment ("Application for Payment") for materials delivered and services performed during the prior calendar month, together with all supporting documentation required by District. For Work anticipated to be completed within less than sixty (60) days, District and Contractor will agree on the materials and services that will be included in each Application for Payment.

   Within thirty (30) days after District's approval of an Application for Payment, Contractor shall be paid a sum equal to the value of the Work satisfactorily performed up to the last day of the previous month (as verified by Architect and Inspector and certified by Contractor), **less** the aggregate of (i) previous payments, (ii) retention and (iii) any amount to be withheld. The District may deduct or withhold from any payment amounts necessary to protect the District from loss because of: (i) liquidated damages accrued as of the date of the Application for Payment; (ii) expenses incurred by the District in performing any of Contractor's obligations which Contractor has failed to perform or has performed inadequately or unsatisfactorily, including any defective Work not remedied by Contractor; (iii) stop notices as allowed or required by state law; (iv) unauthorized deviations from the Contract; (v) failure of the Contractor to maintain or submit on a timely basis proper and sufficient documentation, as required by District, during the prosecution of the Work; (vi) erroneous or false charges for Work performed; (vii) any other sums which the District is entitled to recover from Contractor under the terms of the Contract or pursuant to state law, including section 1727 of the California Labor Code. The failure by the District to deduct any of these sums from a progress payment shall not constitute a waiver of the

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District's right to such sums. The District shall retain amounts owing as retention pursuant to Public Contract Code sections 7107, 7200 and 7201.

8. **Trench Shoring.** If this Contract is in excess of $25,000 and is for the excavation of any trench deeper than five (5) feet, Contractor must submit and obtain District acceptance, in advance of excavation, of a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches. If the plan varies from the shoring system standards, the plan shall be prepared by a registered civil or structural engineer.

9. **Excavations Over Four Feet.** If this Contract includes excavations over four (4) feet, Contractor shall promptly, and before the following conditions are disturbed, notify the District, in writing, of any: (i) Material that the Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law; (ii) Subsurface or latent physical conditions at the site differing from those indicated; or (iii) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract. The District shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the Work shall issue a change order under the procedures described in the Contract.

   In the event that a dispute arises between the District and the Contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the work, the Contractor shall not be excused from any scheduled completion date provided for by the contract, but shall proceed with all Work to be performed under the contract. The Contractor shall retain any and all rights provided either by Contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

10. **Lead-Based Paint.** Pursuant to the Lead-Safe Schools Protection Act (Education Code Section 32240 et seq.) and other applicable law, no lead-based paint, lead plumbing and solders, or other potential sources of lead contamination shall be utilized on this Project, and only trained and state-certified contractors, inspectors and workers shall undertake any action to abate existing risk factors for lead. Contractor must execute the Lead-Based Paint Certification, if applicable.

11. **Work and Employee Supervision.** Contractor shall provide competent supervision of personnel employed on the job Site, use of equipment, and quality of workmanship. Contractor shall at all times enforce strict discipline and good order among its employees and the employees of its subcontractors and shall not employ or work any unfit person or anyone not skilled in work assigned to him or her. Any person in the employ of the Contractor or a subcontractor whom the District may deem incompetent or unfit shall be dismissed from the Site and shall not again be employed at Site without written consent from the District.

12. **Correction of Errors.** Contractor shall perform, at its own cost and expense and without reimbursement from the District, any work necessary to correct errors or omissions which are caused by the Contractor's failure to comply with the standard of care required herein.

13. **Substitution.** No substitutions of material from those specified in the Work Specifications shall be made without the prior written approval of the District.

14. **Clean Up.** Debris shall be removed from the Premises. The Site shall be in order at all times when work is not actually being performed and shall be maintained in a reasonably clean condition.

15. **Protection of Work and Property.** The Contractor shall erect and properly maintain at all times, as required by conditions and progress of the Work, all necessary safeguards, signs, barriers, lights, and security persons for protection of workers and the public, and shall post danger signs warning against hazards created by the Work. In an emergency affecting life and safety of life or of Work or of adjoining property, Contractor, without special instruction or authorization from District, is permitted to act at his discretion to prevent such threatened loss or injury.

16. **Occupancy; Access to Work.** District reserves the right to occupy buildings at any time before formal Contract completion and such occupancy shall not constitute final acceptance or approval of any part of the Work covered by this Contract, nor shall such occupancy extend the date specified for completion of the Work.

    District representatives shall at all time have access to the Work wherever it is in preparation or in progress. Contractor shall provide safe and proper facilities for such access.

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17. **District Ownership.** All data and information provided for and/or used by consultant shall be the property of and returned to the District at the completion of this contract. All reports or other documents generated will constitute "works made for hire" by or for the District and the District will be the "author" of all such reports under applicable copyright laws.

18. **Confidentiality.** The Contractor shall maintain the confidentiality of all information, documents, programs, procedures, and all other items that Contractor encounters while performing the Contractor's Services to the extent allowed by law. This requirement shall be ongoing and shall survive the expiration or termination of this Contract and specifically includes all student, parent, and disciplinary information.

19. **Time is of the Essence.** Time is of the essence in the performance of and compliance with each of the provisions and conditions of this Contract.

20. **Force Majeure Clause.** The Contractor shall be excused from performance hereunder during the time and to the extent that it is prevented from obtaining delivery, or performing by act of God, fire, strike, loss, or shortage of transportation facilities, lock-out, commandeering of materials, product, plant, or facilities by the government, when satisfactory evidence thereof is presented to the District, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the Contractor.

21. **Indemnification and Hold Harmless Clause.** To the fullest extent allowed by law, Contractor shall, at its expense, hold harmless, indemnify and defend District and its Board members, officers, agents, representatives and employees ("indemnified parties") from any and all claims, demands, losses, liabilities, claims, suits and actions ("claims") of any kind, nature and description, including but not limited to personal injury, death, property damage and consultants (and/or attorneys) fees and costs, directly or indirectly, arising or resulting from the performance of this Contract or any action or inaction done, permitted or suffered by Contractor in connection with this Contract, unless the claims are caused by the sole negligence or willful misconduct of District. The District has the right to accept or reject any legal representation that Contractor proposes to defend the indemnified parties. This provision shall survive the termination of this Contract.

22. **Insurance.** Contractor represents that it has in force, and during the term of this Contract shall maintain in force, with no less than the minimum indicated limits, the following insurance: **Commercial General Liability insurance**: combined single limit for Bodily Injury, Property Damage, and Personal Injury liability of $1,000,000 per occurrence and $2,000,000 aggregate, with Products and Completed Operations Coverage ("All Risk Builder's Risk" form shall be used if any structures are involved); **Automobile Liability – Any Auto**: combined single limit of $1,000,000; **Workers Compensation**: Statutory limits; and **Employers' Liability**: $1,000,000. Contractor shall provide certificate(s) of insurance and endorsements satisfactory to the District. The policy(ies) shall not be amended, modified, cancelled or terminated and the coverage amounts shall not be reduced unless thirty (30) days prior written notice to the District is given to the District (10 days notice of termination for non-payment of premium). Except for worker's compensation and employer's liability, all other policies shall name (or be endorsed to name) the District and its Board members, officers, employees and agents as additional insureds. The coverage shall be primary and any coverage maintained by District shall be non-contributory. Contractor shall not allow any subcontractor to commence any work under this Contract until the Contractor confirms and verifies that the subcontractor has met the minimum insurance requirements specified herein.

23. **Independent Contractor Status.** Contractor is and shall remain an independent contractor. Contractor states and affirms that it is acting as a free agent and independent consultant, maintains a separate business address and that this Contract is not exclusive. District is not liable or responsible to Contractor for any payments (other than the compensation), withholding income or other taxes, salaries, benefits, loss, costs, expenses, injury or damages. Contractor shall be responsible for filing all returns and paying any income, social security or other tax levied upon or determined with respect to the payments made to Contractor pursuant to this Contract. A 1099 tax form will be provided to Contractor for services rendered at the end of each calendar year.

24. **Warranty.** Unless a longer warranty is called for elsewhere in the Contract Documents, the Contractor, manufacturer, or their assigned agents shall guarantee the workmanship, product or service performed against defective workmanship, defects or failures of materials for a minimum period of one (1) year from filing the Notice of Completion with the county in which the Site is located. All workmanship and merchandise must be warranted to be in compliance with applicable California energy, conservation, environmental, and educational standards.

25. **Permits and licenses.** Contractor and all of its employees, agents, and subcontractors shall secure and maintain in force, at Contractor's sole cost and expense, all licenses and permits as are required by law, in connection with the furnishing of materials, supplies, or services herein listed.

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26. **Payment Bond and Performance Bond.** The Contractor shall not commence the Work until it has provided to the District, in a form acceptable to the District, a Payment (Labor and Material) Bond and a Performance Bond, each in an amount equivalent to 100 percent of the Contract Price issued by a corporate surety admitted to issue bonds in the State of California and otherwise acceptable to the District. Pursuant to Civil Code Section 3247, bonds are mandatory if the Contract price exceeds $25,000. If the Contract price is less, Contractor may request a waiver of this requirement, which may be granted or denied at District's discretion.

27. **Compliance with Laws.** Contractor shall give all notices and comply with all laws, ordinance, rules and regulations bearing on conduct of the Work as indicated or specified. If Contractor observes that any of the Work required by this Contract is at variance with any such laws, ordinance, rules or regulations, Contractor shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Work shall be made and this Contract shall be appropriately amended in writing, or this Contract shall be terminated effective upon Contractor's receipt of a written termination notice from the District. If Contractor performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Contractor shall bear all costs arising therefrom.

28. **Subcontractors.** If Contractor shall subcontract any part of this Contract, Contractor shall be fully responsible to the District for acts and omissions of its subcontractor and shall comply with the Subletting and Subcontracting Fair Practices Act established under the Public Contract Code, commencing with Section 4100. Contractor shall specifically provide the name and business address and other relevant information of each subcontractor that will perform Work, labor or services in connection with the Project in an amount in excess of one-half of one percent (1%) of the Contract price or ten thousand dollars ($10,000). Subcontractors, if any, engaged by the Contractor under this Contract shall be subject to the approval of the District. Contractor agrees to bind every subcontractor by the terms of the Contract as far as such terms are applicable including, without limitation, all indemnification, insurance, bond, and warranty requirements. Nothing contained in the Contract Documents shall create any contractual relations between any subcontractor and the District.

29. **Labor Code Requirements.** The Contractor shall comply with all applicable provisions of the California Labor Code, Division 3, Part 7, Chapter 1, Articles 1-5, including, without limitation, the payment of the general prevailing per diem wage rates for public work projects of more than one thousand dollars ($1,000). Copies of the prevailing rate of per diem wages are on file with the District. Contractor specifically acknowledges that if the District and/or its designee operates a labor compliance program on this Project, that the Contractor shall perform the Work in compliance with all applicable provisions of the District's labor compliance program. In addition, the Contractor and each subcontractor shall comply with Chapter 1 of Division 2, Part 7 of the California Labor Code, beginning with Section 1720, and including Section 1735, 1777.5 and 1777.6, forbidding discrimination, and Sections 1776, 1777.5 and 1777.6 concerning the employment of apprentices by Contractor or subcontractors. Willful failure to comply may result in penalties, including loss of the right to bid on or receive public works contracts. **Certified Payroll Records**: Contractor and its subcontractor(s) shall keep accurate certified payroll records of employees and shall make them available to the District immediately upon request.

30. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under Contracts there be no discrimination against any employee engaged in the Work because of race, color, ancestry, national origin, or religious creed, and therefore the Contractor agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment Practice Act beginning with Government Code Section 12900 and Labor Code Section 1735. Willful failure to comply may result in penalties, including loss of the right to bid on or receive public works contracts.

31. **Disabled Veterans.** Section 17076.11 of the Education Code requires school districts using funds allocated pursuant to the State of California School Facility Program for the construction or modernization of a school building (SFP Funds) to have a participation of at least 3 percent, per year, of the overall dollar amount expended each year by the school district, for disabled veteran business enterprises (DVBE). If this Contract uses SFP Funds, Contractor must submit, with its executed Contract, appropriate documentation to the District identifying the steps Contractor has taken to solicit DVBE participation in this Contract.

32. **Anti-Trust Claim.** Contractor and its subcontractor(s) agree to assign to the District all rights, title, and interest in and to all causes of action they may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the Contract or a subcontract. This assignment shall be made and become effective at the time the District tenders final payment to the Contractor, without further acknowledgment by the parties.

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33. **Disputes.** In the event of a dispute between the parties as to performance of the Work, the interpretation of this Contract, or payment or nonpayment for work performed or not performed, the parties shall attempt to resolve the dispute by those procedures set forth in Public Contract Code section 20104, et seq., if applicable. Pending resolution of the dispute, Contractor agrees it will neither rescind the Contract nor stop the progress of the Work, but will allow determination by the court of the State of California, in the County of Santa Clara, having competent jurisdiction of the dispute.

    All claims of over $375,000, which are outside the scope of Public Contract Code section 20104, et seq., may be determined by independent arbitration if mutually agreeable, otherwise by litigation. Notice of the demand for arbitration of a dispute shall be filed in writing with the other party to the Contract within a reasonable time, but in no case longer than ninety (90) days, after initial written notice of the dispute has been provided.

    In the event of any claim, dispute, or legal proceeding arising out of or relating to this Contract, the prevailing party shall be entitled to recover, and the other party shall pay, all reasonable fees (including attorneys fees) and expenses incurred in connection therewith.

34. **Governing Law.** This Contract shall be governed by and construed in accordance with the laws of the State of California with venue of any action in the County of Santa Clara.

35. **Provisions Required by Law Deemed Inserted.** Each and every provision of law and clause required by law 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 therein.

36. **Binding Contract.** This Contract shall be binding upon the parties hereto and upon their successors and assigns, and shall inure to the benefit of said parties and their successors and assigns.

37. **Assignment.** Contractor shall not assign or transfer in any way any or all of its rights, burdens, duties, or obligations under this Contract without the prior written consent of the District.

38. **District Waiver.** District's waiver of any term, condition, covenant or waiver of a breach of any term, condition or covenant shall not constitute the waiver of any other term, condition or covenant or the waiver of a breach of any other term, condition or covenant.

39. **Invalid Term.** If any provision of this Contract is declared or determined by any court of competent jurisdiction to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining parts, terms and provisions shall not be affected thereby, and said illegal, unenforceable or invalid part, term or provision will be deemed not to be a part of this Contract.

40. **Entire Contract.** This Contract, and the exhibits, certificates and documents incorporated herein by reference, set forth the entire Contract between the parties hereto and fully supersedes any and all prior agreements, understanding, written or oral, between the parties hereto pertaining to the subject matter thereof. This Contract may be amended or modified only by a writing signed by the Parties.

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Agreement No. **A2021-126**

STATE OF CALIFORNIA )

) SS:

COUNTY OF SANTA CLARA )

**NONCOLLUSION AFFIDAVIT**

**Public Contracts Code Section 7106**

TO BE EXECUTED BY CONTRACTOR AND SUBMITTED WITH CONTRACT

Mark DuBois of the party making the foregoing bid or contract , that the bid or contract is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid or contract is genuine and not collusive or sham; that the bidder or contractor has not directly or indirectly induced or solicited any other bidder or contractor to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or contractor or anyone else to put in a sham bid or contract, or that anyone shall refrain from bidding or issuing a proposal; that the bidder or contractor has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price or contract price or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid or contract are true; and further, that the bidder or contractor has not, directly or indirectly, submitted his or her bid price or contract price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid or contract.

I certify and declare under penalty of perjury under the laws of the State of California that all the foregoing information in this Non-collusion Affidavit is true and correct.

Date: 6/2/2021

Legal Name of Contractor: DuBois Contracting Inc

Signature: DocuSigned by: Mark DuBois BD03173FFE014E0...

By (Print Name): Mark DuBois

Its (Title): President

**(ATTACH NOTARY ACKNOWLEDGMENT FOR THE ABOVE SIGNATURE)**

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## WORKERS' COMPENSATION CERTIFICATION

Labor Code section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

a. By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this state.

b. By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

I am aware of the provisions of section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Contract.

Date: 6/2/2021

Legal Name of Contractor: DuBois Contracting, Inc

Signature: Mark DuBois (DocuSigned by: BD03173FFE014E0...)

By (Print Name): Mark DuBois

Its (Title): President

(In accordance with Article 5 - commencing at section 1860, chapter 1, part 7, division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any Work under this Contract.)

## PREVAILING WAGE AND RELATED LABOR REQUIREMENTS CERTIFICATION

I hereby certify that I will conform to the State of California Public Works Contract requirements regarding prevailing wages, benefits, on-site audits with 48-hours notice, payroll records, and apprentice and trainee employment requirements, for all Work on the above Project.

Date: 6/2/2021

Legal Name of Contractor: DuBois Contracting, Inc

Signature: Mark DuBois (DocuSigned by: BD03173FFE014E0...)

By (Print Name): Mark DuBois

Its (Title): President

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## FINGERPRINTING/CRIMINAL BACKGROUND CERTIFICATION

(NOTE: This Certification is required in connection with all agreement for services and public work contracts that might allow persons other than District staff to come into contact with District students)

The undersigned does hereby certify to the governing board of the District that I am a duly authorized representative of the Contractor under contract identified above ("Contract"). I further certify as follows:

I am familiar with the facts herein certified, and am authorized and qualified to execute this certificate on behalf of Contractor. Contractor has taken at least one of the following actions with respect to the construction Project that is the subject of the Contract (check all that apply):

____ The Contractor has complied with the fingerprinting requirements of Education Code section 45125.1 with respect to all Contractor's employees and all of its subcontractors' employees who may have contact with District pupils in the course of providing services pursuant to the Contract, and the California Department of Justice has determined that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. A complete and accurate list of Contractor's employees and of all of its subcontractors' employees who may come in contact with District pupils during the course and scope of the Contract is attached hereto; and/or

____ Pursuant to Education Code section 45125.2, Contractor has installed or will install, prior to commencement of Work, a physical barrier at the Work Site, that will limit contact between Contractor's employees and District pupils at all times; and/or

____ Pursuant to Education Code section 45125.2, Contractor certifies that all employees will be under the continual supervision of, and monitored by, an employee of the Contractor who the California Department of Justice has ascertained has not been convicted of a violent or serious felony. The name and title of the employee who will be supervising Contractor's employees and its subcontractors' employees is

Name: _____

Title: _____

_**X**__ The Work on the Contract is at an unoccupied school site and no employee and/or subcontractor or supplier of any tier of Contract shall come in contact with the District pupils.

Contractor's responsibility for background clearance extends to all of its employees, Subcontractors, and employees of Subcontractors coming into contact with District pupils regardless of whether they are designated as employees or acting as independent contractors of the Contractor.

Date: 6/2/2021

Legal Name of Contractor: DuBois Contracting, Inc

Signature: Mark DuBois

By (Print Name): Mark DuBois

Its (Title): President

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## DRUG-FREE WORKPLACE CERTIFICATION

This Drug-Free Workplace Certification form is required from all successful bidders pursuant to the requirements mandated by Government Code section 8350 et seq., the Drug-Free Workplace Act of 1990. The Drug-Free Workplace Act of 1990 requires that every person or organization awarded a contract or grant for the procurement of any property or service from any state agency must certify that it will provide a drug-free workplace by doing certain specified acts. In addition, the Act provides that each contract or grant awarded by a state agency may be subject to suspension of payments or termination of the contract or grant, and the contractor or grantee may be subject to debarment from future contracting, if the contracting agency determines that specified acts have occurred.

Pursuant to Government Code section 8355, every person or organization awarded a contract or grant from a state agency shall certify that it will provide a drug-free workplace by doing all of the following:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace and specifying actions which will be taken against employees for violations of the prohibition;

b. Establishing a drug-free awareness program to inform employees about all of the following:

   (1) The dangers of drug abuse in the workplace.

   (2) The person's or organization's policy of maintaining a drug-free workplace.

   (3) The availability of drug counseling, rehabilitation, and employee-assistance programs.

   (4) The penalties that may be imposed upon employees for drug abuse violations.

c. Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required above, and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.

I, the undersigned, in connection with the Contract identified by Number above, agree to fulfill the terms and requirements of Government Code section 8355 listed above and will publish a statement notifying employees concerning (a) the prohibition of controlled substance at the workplace, (b) establishing a drug-free awareness program, and (c) requiring that each employee engaged in the performance of the contract be given a copy of the statement required by section 8355(a), and requiring that the employee agree to abide by the terms of that statement.

I also understand that if the District determines that I have either (a) made a false certification herein, or (b) violated this certification by failing to carry out the requirements of section 8355, that the Contract awarded herein is subject to termination, suspension of payments, or both. I further understand that, should I violate the terms of the Drug-Free Workplace Act of 1990, I may be subject to debarment in accordance with the requirements of section 8350 et seq.

I acknowledge that I am aware of the provisions of Government Code section 8350 et seq. and hereby certify that I will adhere to the requirements of the Drug-Free Workplace Act of 1990.

Date: 6/2/2021

Legal Name of Contractor: DuBois Contracting, Inc

Signature: Mark DuBois

By (Print Name): Mark DuBois

Its (Title): President

DocuSign Envelope ID: AFC66186-BAFC-42CA-A704-1AA737906F5A



## HAZARDOUS MATERIALS CERTIFICATION

The Contract identified by number above was entered into by and between the Gilroy Unified School District ("District" or "Owner") and DuBois Roofing Inc.

1. Contractor hereby certifies that no Asbestos, or Asbestos-Containing Materials, polychlorinated biphenyl (PCB), or any material listed by the federal or state Environmental Protection Agency or federal or state health agencies as a hazardous material, or any other material defined as being hazardous under federal or state laws, rules, or regulations "New Material Hazardous", shall be furnished, installed, or incorporated in any way into the Project or in any tools, devices, clothing, or equipment used to affect any portion of Contractor's work on the Project for District.
2. Contractor further certifies that it has instructed its employees with respect to the above-mentioned standards, hazards, risks, and liabilities.
3. Asbestos and/or asbestos-containing material shall be defined as all items containing but not limited to chrysotile, crocidolite, amosite, anthophyllite, tremolite, and actinolite. Any or all material containing greater than one-tenth of one percent (.1%) asbestos shall be defined as asbestos-containing material.
4. Any disputes involving the question of whether or not material is New Hazardous Material shall be settled by electron microscopy or other appropriate and recognized testing procedure, at the District's determination. The costs of any such tests shall be paid by Contractor if the material is found to be New Hazardous Material.
5. All Work or materials found to be New Hazardous Material or Work or material installed with "New Hazardous Material" containing equipment will be immediately rejected and this Work will be removed at Contractor's expense at no additional cost to the District.
6. Contractor has read and understood the document Hazardous Materials Procedures & Requirements, and shall comply with all the provisions outlined therein.

Date: 6/2/2021

Legal Name of Contractor: DuBois Contracting, Inc

Signature: Mark DuBois

By (Print Name): Mark DuBois

Its (Title): President

DocuSign Envelope ID: AFC66186-BAFC-42CA-A704-1AA737906F5A



## LEAD-PRODUCT(S) CERTIFICATION

The Contract identified by number above was entered into by and between the Gilroy Unified School District ("District" or "Owner") and DuBois Roofing Inc.

This certification provides notice to the Contractor that:

(1) The Contractor's work may disturb lead-containing building materials.

(2) The Contractor must notify the District if any work may result in the disturbance of lead-containing building materials.

### 1. Lead as a Health Hazard

Lead poisoning is recognized as a serious environmental health hazard facing children today. Even at low levels of exposure, much lower than previously believed, lead can impair the development of a child's central nervous system, causing learning disabilities, and leading to serious behavioral problems. Lead enters the environment as tiny lead particles and lead dust disburses when paint chips, chalks, peels, wears away over time, or is otherwise disturbed. Ingestion of lead dust is the most common pathway of childhood poisoning; lead dust gets on a child's hands and toys and then into a child's mouth through common hand-to-mouth activity. Exposures may result from construction or remodeling activities that disturb lead paint, from ordinary wear and tear of windows and doors, or from friction on other surfaces.

Ordinary construction and renovation or repainting activities carried out without lead-safe work practices can disturb lead-based paint and create significant hazards. Improper removal practices, such as dry scraping, sanding, or water blasting painted surfaces, are likely to generate high volumes of lead dust.

Because the Contractor and its employees will be providing services for the District, and because the Contractor's work may disturb lead-containing building materials, CONTRACTOR IS HEREBY NOTIFIED of the potential presence of lead-containing materials located within certain buildings utilized by the District. All school buildings built prior to 1993 are presumed to contain some lead-based paint until sampling proves otherwise.

### 2. Overview of California Law

Education Code section 32240 et seq. is known as the Lead Safe Schools Protection Act. Under this act, the Department of Health Services ("DHS") is to conduct a sample survey of schools in the State of California for the purpose of developing risk factors to predict lead contamination in public schools. (Ed. Code, § 3224 1.)

Any school that undertakes any action to abate existing risk factors for lead is required to utilize trained and state-certified contractors, inspectors, and workers. (Ed. Code, § 32243, subd. (b).) Moreover, lead-based paint, lead plumbing, and solders, or other potential sources of lead contamination, shall not be utilized in the construction of any new school facility or the modernization or renovation of any existing school facility. (Ed. Code, § 32244.)

Both the Federal Occupational Safety and Health Administration ("Fed/OSHA") and the California Division of Occupational Safety and Health ("Cal/OSHA") have implemented safety orders applicable to all construction work where a contractor's employee may be occupationally exposed to lead.

The OSHA Regulations apply to all construction work where a contractor's employee may be occupationally exposed to lead. The OSHA Regulations contain specific and detailed requirements imposed on contractors subject to that regulation. The OSHA Regulations define construction work as work for construction, alteration, and/or repair, including painting and decorating. It includes, but is not limited to, the following:

a. Demolition or salvage of structures where lead or materials containing lead are present;

b. Removal or encapsulation of materials containing lead;

c. New construction, alteration, repair, or renovation of structures, substrates, or portions thereof, that contain lead, or materials containing lead;

d. Installation of products containing lead;

e. Lead contamination/emergency cleanup;

f. Transportation, disposal, storage, or containment of lead or materials containing lead on the site or location at which construction activities are performed; and

g. Maintenance operations associated with the construction activities described in the subsection.

Because it is assumed by the District that all painted surfaces (interior as well as exterior) within the District contain some level of lead, it is imperative that the contractor, its workers and subcontractors fully and adequately comply with all applicable laws, rules and regulations governing lead-based materials (including title 8, California Code of Regulations, section 1532. 1).

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**The Contractor must notify the District if any Work may result in the disturbance of lead-containing building materials. Any and all Work which may result in the disturbance of lead-containing building materials must be coordinated through the District. A signed copy of this Certification must be on file prior to beginning Work on the Project, along with all current insurance certificates.**

**3. Contractor's Liability**

If the Contractor fails to comply with any applicable laws, rules, or regulations, and that failure results in a site or worker contamination, the Contractor will be held solely responsible for all costs involved in any required corrective actions, and shall defend, indemnify, and hold harmless the District, pursuant to the indemnification provisions of the Contract, for all damages and other claims arising therefrom.

If lead disturbance is anticipated in the Work, only persons with appropriate accreditation, registrations, licenses, and training shall conduct this Work.

It shall be the responsibility of the Contractor to properly dispose of any and all waste products, including, but not limited to, paint chips, any collected residue, or any other visual material that may occur from the prepping of any painted surface. It will be the responsibility of the Contractor to provide the proper disposal of any hazardous waste by a certified hazardous waste hauler. This company shall be registered with the Department of Transportation (DOT) and shall be able to issue a current manifest number upon transporting any hazardous material from any school site within the District.

The Contractor shall provide the District with any sample results prior to beginning Work, during the Work, and after the completion of the Work. The District may request to examine, prior to the commencement of the Work, the lead training records of each employee of the Contractor.

THE CONTRACTOR HEREBY ACKNOWLEDGES, UNDER PENALTY OF PERJURY, THAT IT HAS RECEIVED NOTIFICATION OF POTENTIAL LEAD-BASED MATERIALS ON THE OWNER'S PROPERTY, AS WELL AS THE EXISTENCE OF APPLICABLE LAWS, RULES, AND REGULATIONS GOVERNING WORK WITH, AND DISPOSAL OF, SUCH MATERIALS WITH WHICH IT MUST COMPLY. THE UNDERSIGNED WARRANTS THAT HE/SHE HAS THE AUTHORITY TO SIGN ON BEHALF OF AND BIND THE CONTRACTOR. THE DISTRICT MAY REQUIRE PROOF OF SUCH AUTHORITY.

Date: 6/2/2021

Legal Name of Contractor: DuBois Contracting, Inc

Signature: Mark DuBois BD03173FFE014E0...

By (Print Name): Mark DuBois

Its (Title): President