



Victor Elementary School District

BID NUMBER 26-010

DO Lighting Project

Ashley Pele
Purchasing Manager

Victor Elementary School District
12219 Second Ave
Victorville, CA 92395
(760) 245-1691

VICTOR ELEMENTARY SCHOOL DISTRICT

NOTICE TO BIDDER

The Board of Trustees of the Victor Elementary School District of Victorville, California invites and will receive sealed proposals for BID #26-010 for the award of DO Lighting Project or before 9:00 AM, on July 30, 2026 in the Purchasing Department of Victor Elementary School District, 12219 Second Ave, Victorville, CA 92395, after which time and place the bids will be opened and read in public.

Bids shall be made on forms prepared by the Victor Elementary School District. Bid forms, specifications and further information may be obtained from Ashley Pele, Manager, in the Purchasing Department, phone (760) 245-1691.

The District reserves the right to accept or reject any or all proposals, or any combination of proposals and to waive any irregularities or informalities which may be legally waived.

Published: Dates: (1) July 15, 2026 (2) July 22, 2026

INSTRUCTIONS TO BIDDERS

Specifications and/or Documents are available at:

VICTOR ELEMENTARY SCHOOL DISTRICT
Purchasing Department
12219 Second Ave
Victorville, CA 92395
Attn: Ashley Pele
Phone (760) 245-1691

Or

www.vesd.net/purchasing

Bid Proposal:

No bid proposals shall receive consideration by the Victor Elementary School District for Bid #26-010 unless made in accordance with the following instructions:

1. Deadline For Receipt of Proposals: Bid proposals must be sealed and filed with the Purchasing Department located at 12219 Second Ave, Victorville, CA 92395, on or before 9:00 AM on July 30, 2026. All bids must be received on or prior to that date and time, after which bids will be opened and read in public. The District is not responsible for bid submissions that do not arrive by the deadline. Any bids received after the deadline will not be opened.

2. Requests for Information: Any questions relative to the bid should be directed to the district designee, Ashley Pele, apele@vesd.net, at the address specified for receipt of bid proposals.

3. Bid Proposal Forms: Bid proposals must be made on a form obtained from the District. All items on the form should be filled out. The completed form should be without interlineations, alterations, or erasures.

4. Non-collusion Affidavit: Each bidder must return a fully executed non-collusion affidavit, as required by Public Contract Code section 7106, with the completed bid proposal. The non-collusion affidavit is included in this bidding package.

5. Clarifications: Questions regarding documents, discrepancies, omissions or doubt as to meanings will be clarified by the District Superintendent or designee. Any requests for clarification must come in writing via email by July 23, 2026 at 2:00 PM. All questions will be answered and posted on the District webpage by July 27, 2026 at 2:00 PM.

6. Execution of Forms. Each bid must give the full business address of the bidder and must be signed by the bidder with his or her usual signature. Bids by partnerships must furnish the full names of all partners and must be signed in the partnership name by a general partner with authority to bind the partnership in such matters. Bids by corporations must be signed with the legal name of the corporation, followed by the signature and designation of the president, secretary, or other person authorized to bind the corporation in this matter. The name of each person signing shall be typed or printed below the signature. When requested by the District, satisfactory evidence of the authority of the officer signing on behalf of the corporation shall be furnished. A bidder's failure to properly sign required forms may result in rejection of the bid.

7. Withdrawal of Bid Proposals: Bid proposals may be withdrawn by the bidders prior to the time fixed for the opening of bids, but may not be withdrawn for a period of Forty Five (45) days after the opening of bids. A successful bidder shall not be relieved of the bid submitted without the District's consent or bidder's recourse to Public Contract Code Section 5100 et. Seq.

8. Addenda or Bulletins. Any addenda or bulletins issued during the time of bidding shall form a part of the drawings and specifications issued to bidders for the preparation of their proposals and shall constitute a part of the contract documents.

9. Award of Contract: The District reserves the right to reject any and all bid proposals, to contract work with whomever and in whatever manner the District decides, to abandon the work entirely and to waive any informality or no substantive irregularity as the interest of the District may require. The District reserves the right to award this bid by line item or in total which ever may be in the best interest of the District.

10. Rejection of Bids: The District reserves the right to accept or reject any and all bids, or any portion or combination thereof, or award on the basis of the total bid.

11. Execution of Contract: The successful bidder shall, within fourteen (14) calendar days of notice of award of the contract, sign and deliver to the District the executed contract. In the event the bidder to whom an award is made fails or refuses to execute the contract within fourteen (14) calendar days from the date of receiving notification that the contract has been awarded to the bidder, the District may declare the bidder's bid deposit or bond forfeited as damages caused by the failure of the bidder to enter into the contract, and may award the work to the next lowest responsible bidder, or may reject all bids and call for new bids.

12. Drawings and Specifications: Each bidder shall not be required to return to the District all drawings and specifications in an unmutilated condition and without any marks or annotations. All drawings, specifications and other documents used or prepared during the project shall be the exclusive property of the District.

13. Evidence of Responsibility: Upon the request of the District, a bidder shall submit promptly to the District satisfactory evidence showing the bidder's financial resources, the bidder's experience in the type of work being required by the District, the bidder's organization available for the performance of the contract and any other required evidence of the bidder's qualifications to perform the proposed contract. The District may consider such evidence before making its decision awarding the proposed contract. Failure to submit evidence of a bidder's responsibility to perform the proposed contract may result in rejection of the bid.

14. Taxes: Taxes shall NOT be included in the unit prices of the materials, but may be provided as part of the Cost Analysis. The District will pay only the State sales and use taxes. Federal excise taxes are not applicable to school districts.

15. Bid Exception: All exceptions which are taken in response to this bid must be stated clearly. The taking of bid exceptions or providing false, incomplete or unresponsive statements may result in the disqualification of the bid. Allowance of exceptions will be determined by the Board of Trustees, whose decisions shall be final. Any bid exceptions or additional conditions requested after bid closure, which are not detailed within the bid response, may result in disqualification of the bid. No oral or telephonic modification of any bid submitted will be considered and a telegraphic modification may be considered only if the postmark evidences that a confirmation of the telegram duly signed by the bidder was placed in the mail prior to the opening of the bids.

16. Discounts: Any discount which the bidder desires to provide the District must be stated clearly on the bid form itself so that the District can calculate properly the net cost of the bid proposal. Offers of discounts or additional services not delineated on the bid form will not be considered by the District in the determination of the lowest responsible bidder.

17. Prices: Bidders must quote prices F.O.B. Victor Elementary School District unless otherwise noted. Prices should be stated in the units specified and bidders should quote each item separately.

18. Quantities: The quantities shown are approximate. The District reserves the right to increase or

decrease quantities as desired.

19. Samples: On request, samples of the products being bid shall be furnished to the District at no charge.

20. Special Brand Names: Whenever a manufacturer's name, trade name, model number, catalog number, or brand is referenced in these specifications, it is intended solely to establish the minimum level of quality, performance, compatibility, functionality, and design required by the District and shall not be construed as limiting competition.

Bidders may propose an equivalent product provided it meets or exceeds all specified requirements. Any bidder proposing an alternate product shall clearly identify the proposed manufacturer and model number on the bid proposal and shall submit complete product specifications, technical literature, compatibility documentation, and any other information requested by the District sufficient to evaluate the proposed substitute.

The bidder shall bear the burden of demonstrating that the proposed product is fully compatible with the District's existing hardware, software, network infrastructure, management systems, accessories, mounting systems, power requirements, and operational environment.

Compatibility shall include installation, operation, maintenance, monitoring, programming, software integration, replacement parts availability, and interoperability with the District's existing equipment.

The District shall be the sole judge in determining whether a proposed substitute is equal and compatible. Failure to provide sufficient documentation may result in the bid being deemed non-responsive.

Any costs associated with adapters, additional licensing, software, programming, gateways, controllers, mounting hardware, accessories, labor, configuration, or modifications necessary to achieve compatibility with the District's existing system shall be included in the bidder's price and shall be the sole responsibility of the successful bidder.

The District reserves the right to require demonstrations, compatibility testing, factory certifications, or references prior to award. If the proposed product fails compatibility testing or does not function as represented, the District may reject the bid as non-responsive.

Requests for approval of substitute or "equal" products shall be submitted no later than five (5) business days prior to the deadline for questions. Requests submitted after that date may not be considered.

21. Container Costs and Delivery: All costs for containers shall be borne by the bidder. All products shall conform to the provisions set forth in the federal, county, state and city laws for their production, handling, processing and labeling. Packages shall be so constructed to ensure safe transportation to point of delivery.

22. Bid Negotiations: A bid response to any specific item of this bid with terms such as negotiable, will negotiate or similar, will be considered as non-compliance with that specific term.

23. Indemnity: The bidder must hold harmless and fully indemnify the District, its Board of Trustees, officers, employees and agents from all damages or claims for damages, costs or expenses that may at any time arise out of the bidder's performance of, or failure to perform acts, required by the contract documents, including but not limited to infringement or use of any copyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in connection with this bid.

24. In the event of any conflict or ambiguity between these instructions and state or federal law or regulations, the latter shall prevail. Additionally, all equipment to be supplied or services to be performed under the bid proposal shall conform to all applicable requirements of local, state and federal law.

25. Bidder Default: If the bidder defaults, the District may procure the articles or services from other sources and may recover the loss occasioned thereby from any unpaid balance due the bidder or by proceeding against a bidder's bond, if any, or by suit against the bidder. The prices paid by the District shall be considered the prevailing market prices at the time such purchase is made.

26. Governing Law and Venue: In the event of litigation, the bid documents, specifications and related matter shall be governed by and construed in accordance with the laws of the State of California. Venue shall be with the appropriate state or federal court located in San Bernardino County.

27. Delivery Deadline: The equipment/materials sought by this bid proposal must be delivered in satisfactory condition to the location specified by the District in the bid proposal on or before delivery time as indicated by vendor. This time limit is of the essence of the contract. A bidder's failure to provide the equipment/materials to the District by the contract date shall subject the bidder to liquidated damages in the amount of \$200.00 for each and every calendar day by which completion is delayed beyond the contract date.

28. Proposal Submission: Submission of a bid proposal constitutes the bidder's promise to pay liquidated damages as set forth above and the bidder's agreement that the actual occurrence of damages and the actual amount of damages which the District would suffer if the requirements were not completed by the contract date is impracticable and extremely difficult to fix. Damages which the District would suffer in the event of delay are dependent on many circumstances and factors but would include the loss of use of the materials, disruption of school activities, cost of administration and supervision, and the loss suffered by the public and the District by reason of delay in completion of the contract. Accordingly, bidder agrees that the amount set forth herein as liquidated damages shall be presumed to be to be the Amount of damages actually sustained by the bidder's failure to complete the project by the contract date.

If the bidder becomes liable to the District for liquidated damages, the District shall, in addition to all other remedies provided by law, have the right to deduct the amount of liquidated damages owed from the contract sum or to deduct the amount of liquidated damages owed by the bidder from moneys previously retained from the bidder. If the sum deducted by the District is insufficient to discharge the bidder's liability for liquidated damages, the bidder and its sureties shall remain liable to the District until all such liabilities are fully satisfied.

29. Participation: Bidder agrees to extend the terms of the resulting contract to other political subdivisions, municipalities and tax supported agencies.

Such participating governmental bodies shall make purchases in their own name, make payment directly to the bidder, and be liable directly to the bidder, holding Victor Elementary School District harmless.

The successful bidder will invoice each Agency separately. Invoices must show each Agency's purchase order number, and be mailed as directed by each separate Agency.

30. Bid Quantity Clarification: Line-item quantities are listed for bid pricing purposes only. The District reserves the right to increase or decrease quantities. District will determine final order quantities based on bid pricing and available budget at time of award.

Low bid will be determined by line item or total, whichever is in the best interest of the District.

31. Interpretation of Specifications: The District reserves the right to interpret the intent and meaning of these specifications and to determine whether any proposed product or service complies with the requirements of this solicitation. The District's determination regarding responsiveness, responsibility, equivalency, compatibility, and compliance with the specifications shall be final.

**VICTOR ELEMENTARY SCHOOL DISTRICT
BID PROPOSAL FORM**

Board of Trustees
VICTOR ELEMENTARY SCHOOL DISTRICT
12219 Second Ave
Victorville, CA 92395
RE: BID #26-010

Dear Members of The Board of Trustees:
The undersigned, doing business under the firm name of

_____, having carefully
examined the Notice to Bidders, the Instructions to Bidders, the Contract, the Specifications and all of the
contract documents for the proposed DO lighting project proposes to perform the contract, including all of its
component parts, and to furnish all materials and labor called for by them for the entire order, including all taxes
as follows:

SUBMITTED BY:

COMPANY

ADDRESS

CITY/STATE/ZIP

SIGNATURE,

PLEASE TYPE OR PRINT NAME

TITLE

DATE

PHONE

District reserves the right to award bid by line item, or in total, whichever is in the District's best interest.

**VICTOR ELEMENTARY SCHOOL DISTRICT
COST ANALYSIS FORM**

<u>Item</u>	<u>Qty</u>	<u>Description</u>	<u>Unit Cost</u>	<u>Estimated delivery lead time in number of days</u>
1	22	Brand: WTEC or District Approved equal meeting the following minimum requirements: Product Type: Smart Engine Application: Powers and communicates with smart gateways, sensors and wall switches. Powers and controls LED light fixtures. LED Indicators: Channel Status, Network Activity, Power Mount Type: Rack, Wall Rack Type: EIA 19 Inch. Storage: nonvolatile Memory for Configuration Dimensions: Depth: 22 inch Height: 2.60 inch Width: 17.40 inch Front Clearance Required: 6 in minimum Back Clearance Required: 6 in minimum Weight: 23 lbs. LED Driver Specifications: Power/Data Ports, Qty: 48 Driver Efficiency: Up to 94% Output Current per Port: 100-700 ma Output Power per Port, max.: 34W Output Voltage Range per Port: 18-48 Vdc Power Dimming Range: 10-100% Power Dissipation: 230W, 785 BTU/h Power Factor: 0.9 @ 200-250 VAC Dimming Curve: Square Law Mechanical Specifications: Communication Port Interface: RJ45 Communications Ports: 2 Power Cord Connector Interface: IEC 60320-C19		
2	1	Brand: WTEC or District Approved equal meeting the following minimum requirements: Product Type: Smart Director Application: Hosts the smart engine open application framework. Provides unified management, control, and reporting on a cluster up to 2000 smart engine end points. The smart director operates with software version 5.6.0 or newer. Software: Version 5.6.0 or newer is installed LED Indicators: Hard drive activity, network activity, power, system identification, front panel LCD. Mount Type: Rack, sliding rack rails Dimensions: Depth: 23.50 inch Height: 1.67 Width: 17.09 Front Clearance Required: 6 in minimum Back Clearance Required: 6 in minimum Weight: 29.98 lbs.		

3	22	L6-20P to C19 Power Cable Length: 15ft 250V 20A		
4	1	Minimum 5-year manufacturer warranty Warranty starts upon District acceptance Replacement parts availability The successful bidder shall provide the manufacturer's standard warranty, which shall not be less than five (5) years unless otherwise specified. All required software, firmware, licenses, updates, and programming necessary for operation shall be included in the bid price. Products proposed shall be current production models and shall not be discontinued or scheduled for end-of-life prior to delivery.		

DO Lighting Project

ADDENDA

The undersigned acknowledges receipt of the following Addenda and the cost, if any, of such revisions has been included in the Lump Sum Grand Total of your bid.

Addenda No. _____ Dated _____

Addenda No. _____ Dated _____

Addenda No. _____ Dated _____

Name of Bidder _____

INDEPENDENT CONTRACTOR/SERVICES AGREEMENT

THIS INDEPENDENT CONTRACTOR/SERVICES AGREEMENT (this “**Agreement**”) is made and entered into as of [MONTH, DAY, 20__] (the “**Effective Date**”) by and between [____], a(n) (“**Contractor**”), and VICTOR ELEMENTARY SCHOOL DISTRICT, a California public school district (“**District**”) and together with Contractor, each a “**Party**” and collectively the “**Parties**”).

RECITALS

1. WHEREAS, District leases and owns certain real property (collectively, “**Property**”);
2. WHEREAS, District desires to engage Contractor to provide the Services (defined below), and Contractor is in the regular business of providing the Services described in this Agreement; and
3. WHEREAS, the Parties desire to set forth the terms and conditions of an agreement covering the Services.

AGREEMENT

NOW THEREFORE, in reliance upon the foregoing Recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Services.** Contractor shall provide goods and/or services as more particularly described on Exhibit A attached hereto (collectively, the “**Services**”). Exhibit A is a part of this Agreement; provided, if there is any contradiction between the terms of Exhibit A and the rest of this Agreement, the terms of the rest of the Agreement shall control over Exhibit A. The Services shall be performed in accordance with the following:

a. Contractor shall furnish, at its own expense, all labor, materials, equipment, supplies and other items necessary to complete the Services to be provided pursuant to this Agreement.

b. Contractor represents and warrants that it has the requisite knowledge, skill, training, and expertise to provide the Services.

c. Contractor agrees to provide the Services in compliance with applicable laws, board policies and administrative regulations, including but not limited to fingerprinting under Education Code section 45125.1, confidentiality of records, Education Code section 49406 and others. At all times, Contractor shall, and shall instruct its employees to, provide Services in accordance with District’s reasonable rules and safety measures.

d. District shall have the right to instruct Contractor as to time when Services can and cannot be performed. Contractor shall not visit District’s property without the prior knowledge and written approval of District.

e. Contractor shall take reasonable precautions to prevent damage, injury and/or loss. If the performance of the Services causes any damage to a Property, Contractor shall restore such Property to the condition that it was in prior to the performance of the Services. While performing Services at a Property, Contractor shall maintain its work area in a reasonably safe condition.

f. Contractor acknowledges that if any Services are performed at a Property, Contractor shall use commercially reasonable efforts to avoid disruption of District operations.

2. **Qualifications.** Contractor represents and warrants to District that Contractor and all of its employees, agents, subcontractors, or volunteers (collectively, the “**Contractor Parties**”) shall maintain, throughout the Term,

all licenses, credentials, permits and other qualifications required by law to perform the Services. Contractor shall maintain documentation of all applicable licenses, credentials, permits, and other qualifications held by Contractor and Contractor Parties, and provide a copy to District upon request. If any Services are performed by Contractor Parties, such Services shall only be performed by competent personnel under the supervision of Contractor.

3. Term. This Agreement shall commence upon the Effective Date and continue thereafter until the date that is [] months after the Effective Date (the "**Term**"); thereafter this Agreement shall continue on a month-to-month basis until terminated by either Party upon not less than thirty (30) days' prior written notice to the non-terminating Party. Notwithstanding the foregoing, (i) District shall have the right to terminate this Agreement at any time for any reason or no reason whatsoever, without penalty, upon providing not less than thirty (30) days' prior written notice to Contractor and (b) the Term of this Agreement shall never exceed five (5) years. Either Party may terminate this Agreement upon written notice to the other in the event that the other Party is in material breach of this Agreement, provided that the non-breaching Party provides the breaching Party with prior written notice and a ten (10) day opportunity to cure such breach.

4. Compensation. As payment for the Services, District shall pay Contractor the amount set forth in Contractor's monthly invoice (the "**Fee**") (in accordance with the pricing set forth on Exhibit A). Total payment by District to Contractor shall not exceed \$[] and any Services performed by Contractor in excess of said amount shall not be compensated. District agrees to pay Contractor within sixty (60) days of receipt of a detailed invoice from Contractor; provided, further, that District shall have the right to dispute, in good faith, any invoice and such disputed amounts shall not be due or payable unless and until such dispute is resolved in writing. Contractor shall not increase any amounts charged for Services without the written approval of District. District may withhold or deduct from amounts otherwise due to Contractor hereunder if Contractor fails to timely and completely perform material obligations under this Agreement, with the amounts withheld or deducted being released after Contractor has fully cured such failure of performance, less costs, damages or losses sustained by District resulting therefrom. District shall not be responsible for any reimbursable, pass through, or similar expenses unless (a) such expenses are limited to reasonable, out-of-pocket costs actually incurred by Contractor in performance of the Services and (b) District has pre-approved the type and amount of such expenses, in writing.

5. Indemnity. Contractor shall indemnify, defend and hold harmless District and agents, representatives, officers, consultants, employees, Board of Trustees, and members of the Board of Trustees (collectively, the "**District Parties**") from and against claims, demands, liabilities, damages, losses, suits and actions, and expenses (including, but not limited to attorney fees and costs including fees of consultants) of any kind, nature and description (collectively, the "**Claims**") directly or indirectly arising out of, connected with, or resulting from (a) Contractor's and Contractor Parties performance of the Services, (b) Contractor's and Contractor Parties breach of this Agreement, and (c) for injury to or death of persons, and damage to property, caused by or to Contractor and Contractor Parties while at a Property; provided this indemnity shall not apply to the extent any Claims directly arise out of a District Parties' gross negligence or willful misconduct.

6. Limitation of Liability. TO THE EXTENT PERMITTED BY LAW, DISTRICT AND ALL OTHER DISTRICT PARTIES SHALL NOT BE LIABLE TO CONTRACTOR FOR ANY INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES.

7. Insurance. Without in any way limiting Contractor's liability or indemnification obligations set forth in this Agreement, Contractor shall, at no cost to District, secure and maintain throughout the term of this Agreement the following insurance coverage from California licensed and/or admitted insurer with an A minus (A-), VII, or

better rating from A.M. Best, sufficient to cover any claims, damages, liabilities, costs, and expenses (including counsel fees) arising out of or in connection with Contractor's fulfillment of any of its obligations under this Agreement or either Party's use of the work or any component or part thereof: (i) comprehensive general liability insurance with limits of not less than \$2,000,000 each occurrence and \$3,000,000 in the aggregate; (ii) commercial automobile liability insurance with limits not less than \$1,000,000 each occurrence and \$2,000,000 in the aggregate, if applicable; (iii) worker's compensation insurance as required by Labor Code section 3200, *et seq.*, if applicable; and (iv) professional liability (errors and omissions) insurance as appropriate to Contractor's profession with limits not less than \$1,000,000 in the aggregate.

For Services involving hired/volunteer adults working with students in school activities, therapy, recreational programs, athletics, studies, or any activities involving the custodial care of children. Contractor shall provide sexual abuse-molestation coverage with a limit of no less than \$2,000,000 per occurrence and \$4,000,000 aggregate. This insurance shall cover potential claims of sexual abuse or molestation. The sexual abuse and molestation coverage must either be included under a comprehensive general liability insurance or obtained in a separate policy. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Agreement, and Contractor agrees to maintain continuous coverage through a period no less than three years after completion of the Services required by this Agreement.

If applicable to the Services, Contractor shall maintain Cyber Risk insurance to cover both tangible and intangible property risk of the system and data, as well as third party liability for breaches of security. Cyber Risk insurance shall be in an amount and scope acceptable to District, and desired coverage includes: (i) security and privacy liability, including privacy breach response costs, regulatory fines and penalties; (ii) media liability, including infringement of copyright, trademark and trade dress (intellectual property by appearance of product, design, or packaging); (iii) cyber extortion; and (iv) privacy with a limit of no less than \$2,000,000 per occurrence. Cyber Risk insurance must include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of District in the care, custody, or control of Contractor.

Neither Contractor nor any of the Contractor Parties shall commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverages have been delivered to and approved by District. All insurance policies shall include an endorsement stating that District and District Parties are named additional insureds. All of the policies shall be amended to provide that the insurance shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to District. If any of the required insurance is not reinstated, District may, at its sole option, terminate this Agreement. All of the policies shall also include an endorsement stating that it is primary to any insurance or self-insurance maintained by District and shall waive all rights of subrogation against District and/or the District Parties. A copy of the declarations page of Contractor's insurance policies shall be attached to this Agreement as proof of insurance. Any deductibles in required insurance policies shall be assumed by Contractor. If Contractor maintains limits greater than set forth herein, District and additional insureds shall be included therein as additional insureds to the full extent of such insurance.

8. No Lien. To the extent permitted by law, Contractor, for itself, and on behalf of all subcontractors, suppliers, materialmen and others claiming by, through or under Contractor, hereby waives and releases the right

to place a lien upon a Property or any improvements thereon in connection with any Services provided under this Agreement.

9. Notice. All notices and other communications under this Agreement shall be in writing and shall be deemed to be given: (i) if personally delivered, on the date of delivery, (ii) if by electronic mail, upon receipt (provided the sender has retained confirmation of delivery therefor), or (iii) if by overnight delivery provided by a nationally recognized courier service (i.e. Fed-Ex or UPS), on the next business day after deposit with such service, in each case addressed as follows:

District:

Victor Elementary School District

Attn: _____

Email: _____

Contractor:

Attn: _____

Email: _____

Such addresses may be changed from time to time by either Party by providing written notice to the other in the manner set forth above.

10. Independent Contractor Status/Taxes.

a. Nothing contained in this Agreement will be construed as creating any agency, partnership, or other form of joint enterprise between the Parties. Neither Party will have authority to contract for or bind the other in any manner whatsoever. This Agreement confers no rights upon either Party except those expressly granted herein.

b. IN PROVIDING THE SERVICES, CONTRACTOR IS ACTING AS AN INDEPENDENT CONTRACTOR AND THIS AGREEMENT IS NOT INTENDED TO, NOR DOES IT, CREATE ANY EMPLOYER-EMPLOYEE RELATIONSHIP. It is the intention of the Parties that any individual providing Services pursuant to this Agreement are employees of Contractor. Contractor shall be responsible for all aspects of all its employees' performance. Contractor shall (i) ensure payment of salaries, taxes, workers compensation insurance and benefits to its employees; (ii) supervise its employees; (iii) ensure its employees are licensed (if applicable) and trained to industry standards for safety and skill; (iv) ensure its employees do not hold themselves out as District's employees; and (v) pay any and all workers' compensation insurance or similar costs for its employees. To the extent Contractor (or its employees) become eligible for any benefit programs maintained by District (regardless of the timing of or reason for eligibility), Contractor (on behalf of itself and its employees) hereby waives its right to participate in the programs. Contractor also agrees that, consistent with its independent contractor status, it will not apply for any benefits that are intended to apply to District employees.

c. All payments made by District to Contractor pursuant to this Agreement shall be reported to the applicable federal and state taxing authorities as required. District will not withhold any money from compensation payable to Contractor, including FICA (social security), state or federal unemployment insurance contributions, or state or federal income tax or disability insurance. Contractor shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Contractor and the Contractor Parties and otherwise in connection with this Agreement.

11. Confidential Information and Student Privacy. Contractor and Contractor Parties shall maintain the confidentiality of, and protect from unauthorized disclosure, all information received in the course of performing any Services pursuant to this Agreement ("**Confidential Information**"), including without limit, all District student information and records ("**Student Records**"); whether disclosed verbally, identified as confidential or proprietary at the time of disclosure, or that Contractor should have reasonably determined to be confidential based on the nature of the information and/or the circumstances of its disclosure. Contractor and the Contractor Parties shall not use Confidential Information for any purpose other than as necessary to carry out its obligations under this Agreement. Contractor shall comply with all applicable federal, state, and local laws concerning the maintenance and disclosure of Student Records and Confidential Information, including but not limited to, the Family Educational Rights and Privacy Act ("**FERPA**") and maintain the confidentiality of and protect from unauthorized disclosure any and all Student Records received from District, including but not limited to student names and other identifying information. Upon termination of this Agreement, Contractor shall turn over to District (in a format requested by District) all educational records related to the Services provided to any District student pursuant to this Agreement. The requirement to maintain confidentiality under this Section 11 shall extend beyond the termination and expiration of this Agreement.

12. Audit. Contractor shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Contractor transacted under this Agreement. Contractor shall retain these books, records, and systems of account during the Term of this Agreement and for three (3) years thereafter. Contractor shall permit District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that District shall give reasonable prior notice to Contractor and shall conduct audit(s) during Contractor's normal business hours, unless Contractor otherwise consents.

13. Severability. In the event any one or more of the provisions of this Agreement is invalid or otherwise unenforceable, the enforceability of remaining provisions shall be unimpaired. Each and every provision of law and clause required to be inserted in this Agreement shall be deemed to be inserted herein, and this Agreement 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.

14. Assignment/Subcontracting. Contractor shall not assign or subcontract this Agreement or any of its obligations hereunder without the prior written approval of District (in District's sole discretion). This Agreement shall be binding upon and inure to the benefit of the Parties permitted successors and assigns.

15. Governing Law & Venue. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California, without reference to its conflicts of law provisions and shall be subject to the exclusive jurisdiction of state and federal courts sitting in San Bernadino County, California, subject to transfer of venue under applicable State law, provided that nothing in this Agreement shall constitute a waiver of any immunity to suit by District.

16. Headings. The headings used in this Agreement are for convenience only and do not define, limit or describe the scope or intent of this Agreement.

17. Counterparts. This Agreement may be executed in one or more counterparts, including electronically transmitted counterparts, each of which shall be deemed to be an original, and such counterparts shall together constitute one and the same instrument.

18. Entire Agreement. This Agreement, and any exhibit attached hereto, constitute the entire agreement between the Parties with respect to the subject matter hereof. This Agreement shall supersede all prior understandings, arrangements and agreements between the parties hereto with respect to the subject matter hereof.

19. Drafter. The Parties acknowledge they have read this Agreement, had the opportunity to review it with an attorney, and agreed to all its terms. The Parties agree that (i) in interpreting this Agreement, and (ii) in the event of any ambiguity in this Agreement such ambiguity shall not be construed for or against either Party on the basis that such Party did or did not draft this Agreement.

20. Authority. Contractor represents and warrants to District that the undersigned has the authority to enter into this Agreement.

21. Intellectual Property/Work for Hire. Contractor agrees that any material, documentation, deliverables and other tangible expressions of information including but not limited to software programs and software documentation, notes, reports, specifications, documents, drawings, designs, customer lists, inventions, creations, works, models, samples and work-in-progress, data, formulae, and processes, whether in final production or draft, which (a) are specifically created for use by District as a result of the Services or (b) contain any of District's confidential Information, shall all be deemed to be "works made for hire" and all rights, title and interest, including any copyright, patent rights and all other intellectual property rights, shall belong exclusively to District unless some other arrangements have been agreed to by both Parties in writing. Upon notice from District, Contractor shall immediately provide District with all documents produced, maintained, or collected by Contractor pursuant to this Agreement, whether or not such documents are final or draft documents. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

22. Non-Appropriation. Upon thirty (30) days written notice to Contractor, this Agreement may be terminated in whole or in part at the sole discretion of the District, if the District reasonably determines that: (i) a change in legislation or applicable law materially affects the ability of either party to perform under this Agreement; or (ii) that a change in the availability of funds affects the District's ability to pay under this Agreement. A "change in availability of funds" as used in this paragraph includes, but is not limited to, a change in federal or state funding, whether as a result of a legislative act or by order of the President or the Governor. If a written notice is delivered under this section, the District will reimburse Contractor for the Services properly performed until the effective date of said notice. The District will not be liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of said written notice.

23. Further Assurances. The Parties to this Agreement shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

24. Governing Board Approval. This Agreement shall only be effective and enforceable upon approval and/or ratification by District's governing board.

25. Fingerprinting/Criminal Background Investigation. Unless exempted, Contractor shall comply with the requirements of California Education Code section 45125.1 with respect to fingerprinting of employees who may have contact with District's students under certain circumstances. Contractor shall also ensure that all Contractor Parties, including without limit, all of its employees, agents, contractors, and other designees also comply with the requirements of Section 45125.1. To this end, Contractor and its employees, agents, contractors, and other designees (regardless of whether such individuals are paid or unpaid) must provide for the completion of District's

standard certification form ("**Certification**") attached hereto as Exhibit B prior to any of Contractor's employees, agents, contractors, and other designees, coming into contact with District's students. Contractor shall be responsible for costs of any required fingerprinting and criminal background checks. No employee, agent, or other assign of Contractor may work on or have access to a Property unless their access complies with applicable law, applicable District policies and other legal requirements.

26. Tuberculosis Certification. Contractor and the Contractor Parties shall at all times comply with the tuberculosis ("**TB**") certification requirements of Education Code section 49406. Accordingly, Contractor hereby represents and warrants to District any Contractor Parties which have more than limited contact (as determined by District) with District students during the Term of this Agreement, at no cost to District, have received a TB test in full compliance with the requirements of Education Code section 49406. Contractor shall maintain on file the certificates showing that the Contractor Parties was examined and found free from active TB. These forms shall be regularly maintained and updated by Contractor and shall be available to District upon request or audit. Contractor further agrees and acknowledges that all new personnel hired after the Effective Date are subject to the TB certification requirements and shall be prohibited from having any contact with District students until the TB certification requirements have been satisfied and District determines whether any such contact is permissible.

27. NON-DISCRIMINATION. Contractor agrees it will not engage in unlawful discrimination in employment of persons because of race, color, religious creed, national origin, ancestry, physical handicap, medical condition, marital status, sex, or other legally protected characteristic of such persons.

28. Exhibits. 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:

Exhibit A - Scope of Services and Pricing

Exhibit B - Criminal Records Check

Exhibit C - Certificate Regarding Alcohol and Tobacco-Free Policy

29. Survival. The following sections shall survive the expiration or earlier termination of this Agreement: Sections 1(e), 5, 6, 8, 10, 11, 12, 14, 15, 16, 17, 18, 19, and 21.

[Signature Page to Follow]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

District:

VICTOR ELEMENTARY SCHOOL DISTRICT, a
California public school district

Signature

Name

Title

Contractor:

[_____,]
a [_____]

Signature

Name

Title

