



**CATALINA FOOTHILLS UNIFIED SCHOOL DISTRICT #16**

2101 E. RIVER ROAD, TUCSON, AZ 85718  
(520) 209-7500 (520) 209-7570 FAX WWW.CFSD16.ORG

**NOTICE OF INVITATION FOR BIDS**

Material and/or Service: **IFB #18-07-18 ORANGE GROVE MIDDLE SCHOOL BATTING CAGES**

Bid DUE DATE: **TUESDAY, APRIL 17, 2018 Time: 2:00 P.M. Local Time**

Opening Location: **Catalina Foothills Unified School District Office  
2101 E. River Road  
Tucson, AZ 85718**

In accordance with School District Procurement Rules in the Arizona Administrative Code (A.A.C.) promulgated by the State Board of Education pursuant to A.R.S. 15-213, competitive sealed bids for the material or services specified will be received by the Catalina Foothills School District, at the above specified location, until the time and date cited. Bids received by the correct time and date shall be opened and the amounts from vendors submitting bids shall be publicly read. All other information contained in the Bid shall remain confidential until award is made. **If you need directions to our office**, please call 520-209-7500.

**Pre-Bid Meeting: APRIL 3, 2018 at 2:30 PM at Orange Grove Middle School Baseball Field.**

Bids shall be in the actual possession of the District, at the location indicated, on or prior to the exact time and date indicated above. **Late Bids shall not be considered.**

Bids must be submitted in a sealed envelope with the solicitation number and Bidder's name and address clearly indicated on the envelope. All Bids must be written legibly in ink or typewritten. Additional instructions for preparing a Bid are provided herein. Full bid documents may be reviewed **online** at Catalina Foothills District website: [www.cfsd16.org](http://www.cfsd16.org). To access as follows: Select: Administrative; then Financial Services, then click on appropriate bid number or [www.azpurchasing.org](http://www.azpurchasing.org).

It shall be mandatory on the contractor to whom the Contract is awarded, and upon any Subcontractor under him, to comply in every respect with the applicable provisions of the Arizona Revised Statutes and with all other requirements of the laws of Arizona applicable to contracts for the construction of public works for school districts. **VENDORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE INVITATION FOR BID DOCUMENT.**

Questions regarding this Invitation for Bid shall be requested in writing and directed to: Sharri Smith, Procurement Specialist at [ssmith@cfsd16.org](mailto:ssmith@cfsd16.org).

**ALL QUESTIONS MUST BE RECEIVED BY 4:00 PM, APRIL 5, 2018.**

Authorization: \_\_\_\_\_  
Angelie Hawley, Director of Finance Date

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**DOCUMENTS REFERENCED:**

You may access a copy of the documents referenced within this bid at the following web addresses:

Arizona Revised Statutes (A.R.S.) is available at: [www.azleg.gov/](http://www.azleg.gov/).

The Arizona School District Procurement Rules in the Arizona Administrative Code is available at: [www.azsos.gov/rules/arizona-administrative-code](http://www.azsos.gov/rules/arizona-administrative-code).

I.R.S W-9 Form (Request for Taxpayer I.D. Number) is available at: [www.irs.gov/pub/irs-pdf/fw9.pdf](http://www.irs.gov/pub/irs-pdf/fw9.pdf).

**UNIFORM INSTRUCTIONS FOR OFFERS****1. DEFINITION OF TERMS**

As used in these instructions, the terms listed below are defined as follows:

- A. ***“Attachment”*** means any item the Solicitation requires a Bidder or Offeror to submit as part of the Offer.
- B. ***“Award”*** means a determination by District that it is entering into a contract with one or more Bidders or Offerors.
- C. ***“Bid”*** means a response to an invitation for bids and includes an offer to contract with District.
- D. ***“Bidder”*** means a person submitting a Bid in response to an invitation for bids.
- E. ***“Contract”*** means the combination of the Solicitation, including the uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments (Addenda) or Contract Amendments; and any terms applied by law.
- F. ***“Contract Amendment”*** means a written document signed by the District Representative and issued by the District for the purpose of making changes in the Contract.
- G. ***“Contractor”*** means any person who has a contract with the School District/public entity.
- H. ***“Days”*** means calendar days unless otherwise specified.
- I. ***“District”*** means Catalina Foothills Unified School District No. 16
- J. ***“District Representative”*** means the person duly authorized to enter into and administer Contracts and make written determinations with respect to the Contract or his or her designee.
- K. ***“Exhibit”*** means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the solicitation.
- L. ***“Gratuity”*** means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
- M. ***“Offer”*** means bid, proposal or quotation.
- N. ***“Offer Deadline”*** means the exact date and time when no Offer submitted thereafter may be considered or accepted by District.
- O. ***“Offeror”*** means a vendor who responds to a Solicitation.
- P. ***“Proposal”*** means a response to a request for proposals and includes an Offer to contract with District.

- Q.** *“Purchase Order”* means a document issued by District, in writing or electronically, and identified as a Purchase Order that authorizes Contractor to proceed with fulfillment of all or part of an awarded Contract by delivery of materials or services in quantities and at times and locations specified in the Purchase Order.
- R.** *“Responsible Bidder or Offeror”* means a person who at the time of Contract Award has the capability to perform the Contract requirements and the integrity and reliability, which will assure good faith performance.
- S.** *“Responsive Bidder or Offeror”* means a person who submits an Offer that reasonably and substantially conforms to all material requirements of the Solicitation.
- T.** *“Solicitation”* means an Invitation for Bids (“IFB”), a Request for Proposals (“RFP”), or a Request for Quotations (“RFQ”).
- U.** *“Solicitation Amendment (or Addendum)”* means a written document that is authorized by the Procurement Officer and issued for the purpose of making changes, clarifications or additions to the Solicitation.
- V.** *“Subcontract”* means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishings of any material or any service required for the performance of the Contract.

## 2. Inquiries

- A.** Duty to Examine. It is the responsibility of each Offeror to examine the entire Solicitation, seek clarification in writing, and check its Offer for accuracy before submitting the Offer. Lack of care in preparing an Offer shall not be grounds for withdrawing the Offer after the Offer due date and time nor shall it give rise to any Contract claim.
- B.** Solicitation Contact Person. Any inquiry related to a Solicitation, including any requests for or inquiries regarding standards referenced in the Solicitation shall be directed solely to the Solicitation contact person. The Offeror shall not contact or direct inquiries concerning this Solicitation to any other employee unless the Solicitation specifically identifies a person other than the Solicitation contact person as a contact.
- C.** Submission of Inquiries. The Procurement Officer or the person identified in the Solicitation as the contact for inquiries may require that an inquiry be submitted in writing. Any inquiry related to a Solicitation shall refer to the appropriate Solicitation number, page, and paragraph. Do not place the Solicitation number on the outside of the envelope containing that inquiry since it may then be identified as an Offer and not be opened until after the Offer due date and time.
- D.** Timeliness. Any inquiry shall be submitted as soon as possible and at least seven (7) days before the Offer due date and time. Failure to do so may result in the inquiry not being answered.
- E.** No Right to Rely on Verbal Responses. Any inquiry that results in changes to the Solicitation shall be answered solely through a written Solicitation Amendment or Addendum. An Offeror may not rely on verbal responses to inquiries.

- F. Solicitation Amendments/Addenda. The Solicitation shall only be modified by a Solicitation Amendment or Addendum.
- G. Pre-Bid Meeting. If a pre-bid conference has been scheduled under this Solicitation, the date, time, and location appear on the Solicitation cover sheet or elsewhere in the Solicitation. An Offeror should raise any questions it may have about the Solicitation or the procurement at that time. An Offeror may not rely on any verbal responses to questions at the conference. Material issues raised at the conference that result in changes to the Solicitation shall be answered solely through a written Solicitation Amendment or Addendum.
- H. Persons with Disabilities. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the appropriate Solicitation contact person. Requests shall be made as early as possible to allow time to arrange the accommodation.

### 3. Offer Preparation

- A. Forms: No Facsimile or Electronic Offers. An Offer shall be submitted either on the forms provided in this Solicitation or their substantial equivalent. Any substitute document for the forms provided in this Solicitation will be legible and contain the same information requested on the form. A facsimile, electronic or mailgram offer shall be rejected.
- B. Typed or Ink; Corrections. The Offer must be typed or in ink. Erasures, interlineations or other modifications in the Offer must be initialed in ink by the person signing the Offer. Modifications shall not be permitted after Offers have been opened except as otherwise provided under applicable law.
- C. Evidence of Intent to be Bound. The Offer and Acceptance form within the Solicitation must be submitted with the Offer and must include a signature by a person authorized to sign the Offer. The signature shall signify the Offeror's intent to be bound by the Offer and the terms of the Solicitation and that the information provided is true, accurate, and complete. Failure to submit verifiable evidence of intent to be bound, such as an original signature, may result in rejection of the Offer.
- D. Exceptions to Terms and Conditions. All exceptions included with the Offer shall be submitted in a clearly identified separate section of the Offer in which the Offeror clearly identifies the specific paragraphs of the Solicitation where the exceptions occur. Any exceptions not included in such a section shall be without force and effect in any resulting Contract unless such exception is specifically referenced by the Procurement Officer in a written statement. The Offeror's preprinted or standard terms will not be considered as a part of any resulting Contract.
  - 1. Invitation for Bids: An Offer that takes exception to a material requirement of any part of the Solicitation, including terms and conditions, shall be rejected.
- E. Subcontracts. Offeror shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities in the Offer.
- F. Cost of Offer Preparation. The District will not reimburse any Offeror the cost of responding to a Solicitation.

- G.** Solicitation Amendments/Addenda. Unless otherwise stated in the Solicitation, each Solicitation Amendment or Addendum shall be signed with an original signature by the person signing the Offer, and shall be submitted no later than the Offer due date and time. Failure to return a signed copy of a material Solicitation Amendment or Addendum or to follow the instructions for acknowledgement of the Solicitation Amendment/Addendum may result in rejection of the Offer.
- H.** Federal Excise Tax. School Districts are exempt from Federal Excise Tax on manufactured goods. Exemption Certificates will be prepared upon request.
- I.** Provision of Tax Identification Numbers. Offerors are required to provide their Arizona Transaction Privilege Tax number and/or Federal Employer Identification number, if applicable, in the space provided on the Offer and Acceptance Form and provide the tax rate and amount, if applicable, on the Cost Form.
- J.** Identification of Taxes in Offer. School Districts are subject to all applicable state and local transaction privilege taxes. If Arizona resident Offerors do not indicate taxes on a separate item in the Offer, the School District will conclude that the price(s) offered includes all applicable taxes.
- K.** Disclosure. If the firm, business, or person submitting this Offer has been debarred, suspended, or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any federal, state, or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Offeror must fully explain the circumstances relating to the preclusion or proposed preclusion in the Offer. The Offeror shall include a letter with its Offer setting forth the name and address of the governmental unit, the effective date of this suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above must be provided.
- L.** Solicitation Order of Precedence. In the event of a conflict in the provisions of this Solicitation, the following shall prevail in the order set forth below:
1. Addenda/Amendments;
  2. Special Terms and Conditions;
  3. General Terms and Conditions of Contract;
  4. Statement of Scope of Work/Specifications;
  5. Attachments and Exhibits;
  6. Uniform Instructions to Offerors
- M.** Delivery. Unless stated otherwise in the Solicitation, all prices shall be F.O.B. Destination and shall include all delivery and unloading at the destination(s).

#### **4. Submission of Offer**

- A.** Sealed Envelope or Package. Each Offer shall be submitted to the submittal location identified in this Solicitation, in a sealed envelope or package that identifies its contents as an Offer and the Solicitation number to which it responds. The appropriate Solicitation number shall be plainly marked on the outside of the envelope or package.

**B.** Offer Amendment or Withdrawal. An Offer may not be amended or withdrawn after the Offer due date and time except as otherwise provided under applicable law.

**C.** Confidential Information.

Request for Confidentiality - Request for Confidentiality. If a Bidder or Offeror believes that its Offer contains confidential trade secrets or other proprietary information that should not be disclosed, the Bidder or Offeror may submit to the District Representative and the Solicitation Contact Person a Request for Confidentiality of Proprietary Information form that identifies the specific information and explains why it should be protected from disclosure. All information proposed for protection from disclosure shall be so identified wherever it appears in the Offer. The District Representative shall review the statement and provide the determination in writing whether the information shall be protected. If the District Representative determines that the information shall be protected from disclosure, the District Representative shall inform the Bidder or Offeror in writing of such determination. Requests to protect pricing information or the entire Offer from disclosure will be denied.

Public record. All contents of an Offer submitted in response to a Solicitation, other than those items determined by the District Representative to be confidential will become a matter of public record available for review after Award notification.

**D.** Certifications of Bidder or Offeror. By signing the Offer and Acceptance Form, the Bidder or Offeror certifies the following:

The Bidder or Offeror has examined and understands the terms, conditions, scope of work/services and specification, and other documents in the Solicitation.

The Offer is genuine and not made in the interest of, or on behalf of, any persons not herein named. The Bidder or Offeror, including its owners, employees, and agents, have not directly or indirectly induced or solicited: (i) a Bidder to put in a sham Offer; (ii) any other person, firm or corporation to refrain from submitting an Offer; or (iii) in any other manner sought to secure for itself an advantage over any other Bidder or Offeror or to produce a deceptive show of competition in the matter of the Offer or Award of a Contract under the Solicitation.

The Bidder or Offeror has not given, has not offered to give, or does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a District official or employee in connection with the submitted Offer.

The Bidder or Offeror, including its owners, employees, and agents directly involved in obtaining contracts with the State of Arizona, or any subdivision of the state has not been convicted of false pretenses, attempted false pretenses, or conspiracy to commit false pretenses, bribery, attempted bribery, or conspiracy to bribe under the laws of any state or federal government for acts or omissions after January 1, 1985.

The Bidder or Offeror is not currently suspended, debarred, or otherwise precluded from participating in any public procurement activity with any federal, state, or local government entity.

If awarded a Contract, the Bidder or Offeror shall provide the equipment, commodities, and/or services in accordance with the terms, conditions, scope of work/services, specifications, and other documents of the Solicitation.

The Bidder or Offeror is not engaged in and for the duration of the contract will not engage in a boycott of Israel.

## 5. Additional Bid Information

- A. Unit Price Prevails. Where applicable, in the case of discrepancy between the unit price or rate and the extension of that unit price or rate, the unit price or rate shall govern.
- B. Late Offers. An offer submitted after the exact Offer due date and exact time shall be rejected.
- C. Disqualification. The Offer of an Offeror who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity may be rejected.
- D. Offer Acceptance Period. An Offeror submitting an Offer under this Solicitation shall hold its Offer open for the number of days from the Offer due date that is stated in the Solicitation. If the Solicitation does not specifically state a number of days for the Offer acceptance, the number of days shall be ninety (90).
- E. Confirmation. District may contact the Bidder or Offeror to confirm its understanding of the Offer. Such contact shall occur after the Offer Deadline and prior to award. District shall seek written confirmation from the Bidder or Offeror and shall retain the request and confirmation, if obtained, in the procurement file.
- F. Payment. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment within thirty (30) days.
- G. Waiver and Rejection Rights. Notwithstanding any other provision of the solicitation, the School District reserves the right to:
  - 1. Waive any minor informality;
  - 2. Reject any and all offers or portions thereof; or
  - 3. Cancel a solicitation.

## 6. Award

- A. Number or Types of Awards. Where applicable, the School District reserves the right to make multiple awards or to award a Contract by individual line items, by a group of line items, or to make an aggregate award, whichever is deemed most advantageous to the School District. If the Procurement Officer determines that an aggregate award to one Offeror is not in the School District's interest, "all or none" Offers shall be rejected.
- B. Contract Inception. An Offer does not constitute a Contract nor does it confer any rights on the Offeror to the award of a Contract. A Contract is not created until the Offer is accepted in writing



by an authorized District Representative of the Offer and Acceptance Form. A letter or other notice of award or of the intent to award shall not constitute acceptance of the Offer.

- C. Effective Date. The effective date of this Contract shall be the date that the authorized District Representative signs the Offer and Acceptance Form or other official contract form, unless another date is specifically stated in the Contract.
- D. Final acceptance. The final acceptance will be contingent upon the approval of the Governing Board.

## 7. Protests

A protest shall comply with and be resolved according to Arizona Department of Education School District Procurement Code Rule A.A.C. R7-2-1141 through R7-2-1153. Protests shall be in writing and be filed with the District Representative, Angelie Hawley, Director of Finance. A protest of a solicitation shall be received by the District Representative before the Offer due date. A protest of a proposed award or of an award shall be filed with the Procurement Officer within ten (10) days after the protester knows or should have known the basis of the protest. A protest shall include:

- A. The name, addresses, and telephone number of the protester;
- B. The signature of the protester or its representative;
- C. Identification of the purchasing agency and the Solicitation or Contract number;
- D. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and the form of relief requested.

## UNIFORM TERMS & CONDITIONS

### 1. CONTRACT INTERPRETATION

- A. Arizona Law. The law of Arizona (without regard to conflict of law principles) applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona School District Procurement Code, Arizona Revised Statutes (A.R.S.) 15-213, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 7, Chapter 2, Articles 10 and 11.
- B. Implied Contract Terms. Each Provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
- C. Contract Order of Preference. In the event of a conflict in the provisions of the Contract, the following shall prevail in the order set forth below:
1. Special Terms and Conditions;
  2. Uniform Terms and Conditions;
  3. Statement or Scope of Work;
  4. Specifications;
  5. Attachments;
  6. Exhibits;
  7. Documents referenced or included in the Solicitation.
- D. Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- E. Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
- F. No Parol Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document.
- G. No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

### 2. CONTRACT ADMINISTRATION AND OPERATION

- A. Records. Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each Subcontractor to retain all data and other records ("records") relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the District at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

- B. Non-Discrimination. The Contractor shall comply with State Executive Order No. 99-4 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.
- C. Audit. Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any Subcontractor's books and records shall be subject to audit by the School District and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.
- D. Inspection and Testing. The Contractor agrees to permit access to its facilities, Subcontractor facilities and the Contractor's processes for producing the materials, at reasonable time for inspection of the materials and services covered under this Contract. The School District shall also have the right to test at its own cost the materials to be supplied under this Contract. Neither inspection at the Contractor's facilities nor testing shall constitute final acceptance of the materials. If the School District determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the School District for testing and inspection.
- E. Notices. Notices to the Contractor required by this Contract shall be made by the School District to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the School District required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notices shall be given by written notice and an Amendment to the Contract shall not be necessary.
- F. Advertising and Promotion of Contract. The Contractor shall not advertise or publish information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.
- G. Property of the School District/Public Entity. Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the School District. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the School District.

### 3. COSTS AND PAYMENTS

- A. Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the School District within thirty (30) days. *The Purchase Order number must be referenced on the invoice.*
- B. Delivery. Unless stated otherwise in the Contract, all prices shall be F.O.B. destination and shall include delivery and unloading at the destinations.

C. Applicable Taxes.

1. Payment of Taxes by the School District. The School District will pay only the rate and/or amount of taxes identified in the Offer and in any resulting Contract.
2. State and Local Transaction Privilege Taxes. The School District is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect taxes from the buyer does not relieve the seller from its obligation to remit taxes.
3. Tax Indemnification. Contractor and all Subcontractors shall pay all Federal, state, and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all Subcontractors to hold the School District harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.
4. I.R.S. W-9. In order to receive payment under any resulting Contract, Contractor shall have a current I.R.S. W-9 Form on file with the School District.

- D. Availability of Funds for the Next Fiscal Year. Funds may not presently be available for performance under this Contract beyond the current fiscal year. No legal liability on the part of the School District for any payment may arise under this Contract beyond the current fiscal year until funds are made available for performance of the Contract. The School District will make reasonable efforts to secure such funds.

#### 4. CONTRACT CHANGES

- A. Amendments. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract unless otherwise permitted by the Special Terms and Conditions. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by an unauthorized employee or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments, shall be void and without effect, and the Contractor shall not be entitled to any claim and this Contract based on those changes.
- B. Subcontracts. The Contractor shall not enter into any Subcontract under this Contract without the advance written approval of the Procurement Officer. The Subcontract shall incorporate by reference the terms and conditions of this Contract.
- C. Assignment and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The school district shall not unreasonably withhold approval.

#### 5. RISK & LIABILITY

- A. Risk of Loss. The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or

Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

- B. General Indemnification. To the extent permitted by A.R.S. § 41-621 and § 35-154, the School District shall be indemnified and held harmless by the Contractor for its vicarious liability as result of entering into this Contract. Each party to this Contract is responsible for its own negligence.
- C. Indemnification - Patent and Copyright. To the extent permitted by A.R.S. § 41-621 and § 35-154, the Contractor shall indemnify and hold harmless the School District against any liability, including costs and expenses, for infringement of any patent, trademark, or copyright arising out of Contract performance or use by the School District of materials furnished or work performed under this Contract. The School District shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph.
- D. Force Majeure.
1. Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injections-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.
  2. Force Majeure shall not include the following occurrences:
    - a. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market; or
    - b. Late performance by a Subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or
    - c. Inability of either the Contractor or any Subcontractor to acquire or maintain any required insurance, bonds, licenses, or permits.
  3. If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt, and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.
  4. Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

- E. Third Party Antitrust Violations. The Contractor assigns to the School District/public entity any claim for overcharges resulting from antitrust violation the extent that those violations concern materials of services supplied by third parties to the Contractor toward fulfillment of this Contract.

## 6. AFFORDABLE CARE ACT

Vendor understands and agrees that it shall be solely responsible for compliance with the Patient Protection and Affordable Care Act, Public Law 111-148 and the Health Care Education Reconciliation Act, Public Law 111-152 (collectively the Affordable Care Act "ACA"). Contractor shall bear sole responsibility for providing health care benefits for its employees who provide services to the District as required by state or federal law."

## 7. WARRANTIES

- A. Liens. The Contractor warrants that the materials supplied under this Contract are free of liens.
- B. Quality. Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for two years after acceptance by the School District/public entity of the materials or services, they shall be:
1. Of a quality to pass without objection in the trade under the Contract description;
  2. Fit for the intended purposes for which the materials or services are used;
  3. Within the variations permitted by the Contract and are of even kind, quality, and quantity within each unit and among all units;
  4. Adequately contained, packaged and marked as the Contract may require; and
  5. Conform to the written promises or affirmations of fact made by the Contractor.
- C. Fitness. The Contractor warrants that any material or service supplied to the School District shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.
- D. Inspection/Testing. The warranties set forth in subparagraphs A through C of this paragraph are not affected by inspection or testing of or payment for the materials or services by the School District.
- E. Exclusions. Except as otherwise set forth in this Contract, there are no express or implied warranties or merchant ability or fitness.
- F. Compliance with Applicable Laws. The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.
- G. Survival of Rights and Obligations after Contract Expiration or Termination.
1. Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration of termination hereof. In

addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the School District is not subject to or barred by any limitations of actions prescribed in A.R.S. Title 12, Chapter 5.

2. Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the school district including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

## 8. SCHOOL DISTRICT CONTRACTUAL REMEDIES

- A. Right to Assurance. If the School District in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of days specified in the demand may, at the School District's option, be the basis for terminating the Contract under the Uniform Terms and Conditions.
- B. Stop Work Order.
  1. The School District may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for a period of ninety (90) days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.
  2. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.
- C. Non-exclusive Remedies. The rights and the remedies of the School District under this Contract are not exclusive.
- D. Nonconforming Tender. Materials supplied under this Contract shall fully comply with the Contract. The delivery of materials or a portion of the materials in an installment that do not fully comply constitutes a breach of Contract. On delivery of nonconforming materials, the School District may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.
- E. Right of Offset. The School District shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the School District or damages assessed by the School District concerning the Contractor's nonconforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

## 9. CONTRACT TERMINATION

- A.** Cancellation for Conflict of Interest. Per A.R.S. 38-511 the School District may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of the School District is, or becomes at any time while the Contract or an extension the Contract is in effect, an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time.
- B.** Gratuities. The School District may, by written notice, terminate this Contract, in whole or in part, if the School District determines that employment or gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the School District for the purpose of influencing the outcome of the procurement or securing the Contract, an Amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about Contract performance. The School District, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three (3) times the value of the gratuity offered by the Contractor.
- C.** Suspension or Debarment. The School District may, by written notice to the Contractor, immediately terminate this Contract if the school District determines that the Contractor has been disbarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a Subcontractor of any public procurement unit or other governmental body.
- D.** Termination for Convenience. The School District reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the School District without penalty recourse. Upon receipt of the written notice, the Contractor shall immediately stop all work, as directed in the notice, notify all Subcontractors of the effective date of the termination and minimize all further costs to the School District. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the School District. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed, and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R7-2-1125 shall apply.
- E.** Termination for Default.
1. In addition to the rights reserved in the Uniform Terms and Conditions, the School District reserves the right to terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.
  2. Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the School District on demand.



3. The School District may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials and services to replace those under this Contract. The Contractor shall be liable to the School District for any excess costs incurred by the School District in procuring materials or services in substitution for those due from the Contractor.

- F. Continuation of Performance through Termination. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

## **10. CONTRACT CLAIMS**

All Contract claims and controversies under this Contract shall be resolved according to A.R.S. Title 15-213 and rules adopted there under.

## **11. OFFSHORE PERFORMANCE**

Due to security and identity protection concerns, direct services under any subsequent contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the school district or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or "overhead" services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

## **12. CONTRACTOR'S EMPLOYMENT ELIGIBILITY**

By entering the contract, contractor warrants compliance with A.R.S. 41-4401, A.R.S. 23-214, the Federal Immigration and Nationality Act (FINA), and all other federal immigration laws and regulations.

The District may request verification of compliance from any contractor or subcontractor performing work under this contract. The District reserves the right to confirm compliance in accordance with applicable laws.

Should the District suspect or find that the contractor or any of its subcontractors are not in compliance, the District may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the contract for default, and suspension and/or debarment of the contractor. All costs necessary to verify compliance are the responsibility of the contractor.

## **13. TERRORISM COUNTRY DIVESTMENTS**

Per A.R.S. 35-392, the District is prohibited from purchasing from a company that is in violation of the Export Administration Act.

## **14. FINGERPRINTING REQUIREMENTS**

In accordance with A.R.S. 15-512(H), a contractor, subcontractor or vendor or any employee of a contractor, subcontractor or vendor who is contracted to provide services on a regular basis at an individual school shall obtain a valid fingerprint clearance card pursuant to title 41, chapter 12, article 3.1. Alternately, the School District may fingerprint those persons or employees. A fingerprint check shall be made in accordance with

A.R.S. 41-1750 and Public Law 92-5244 of all contractors, subcontractors or vendors and their employees except those who are not likely to have direct unsupervised contact with students, as determined by the School District. All costs associated with verification and any remedies are the sole responsibility of the contractor and any proposed subcontractor.

#### **15. REGISTERED SEX OFFENDER RESTRICTION**

Pursuant to this order, the named vendor agrees by acceptance of this order that no employee of the vendor or a subcontractor of the vendor, who has been adjudicated to be a registered sex offender, will perform work on District premises or equipment at any time when District students are, or are reasonably expected to be present. The vendor further agrees by acceptance of this order that a violation of this condition shall be considered a material breach and may result in a cancellation of the order at the District's discretion.

Contractor shall advise each subcontractor of the District's rights and the subcontractor's obligations hereunder. Any additional costs attributable directly or indirectly to remedial action under this Article shall be the responsibility of Contractor.

#### **16. CLARIFICATION/DISCUSSIONS**

Clarification means communication with Offeror for the sole purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the Bid. It is achieved by explanation or substantiation, either in response to an inquiry from the District or as initiated by Offeror. Clarification does not give Offeror an opportunity to revise or modify its Offer, except to the extent that correction of apparent clerical mistakes results in a revision.

#### **17. CONFIDENTIAL INFORMATION**

Confidential information request: If Offeror believes that its Bid contains trade secrets or proprietary information that should be withheld from public inspection, a statement advising the School District of this fact shall accompany the Bid, and the information shall be so identified wherever it appears. The School District shall review the statement and shall determine in writing whether the information shall be withheld. If the School District determines to disclose the information, the School District shall inform Offeror in writing of such determination.

#### **18. PROHIBITION OF REPRISALS**

Catalina Foothills Unified School District No. 16 is committed to complying with Federal requirements related to whistleblower protections.

To that end, an employee may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or such person working for the employer who has the authority to investigate, discover, or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives, information that the employee reasonably believes is evidence of;

- A. gross mismanagement of a contract or grant;
- B. a gross waste of public funds;

- C. a substantial and specific danger to public health or safety related to the implementation or use of public funds;
- D. an abuse of authority related to the implementation or use of public funds; or
- E. a violation of law, rule, or regulation related to a school district contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to public funds.

**SPECIAL TERMS AND CONDITIONS****1. PURPOSE**

The Catalina Foothills Unified School District is soliciting bids from qualified General Contractors for the Orange Grove Middle School Batting Cage Project. The project consists of creating two battings cages with concrete slabs, artificial turf, infield surfacing, batting cage netting and chain link fence enclosures. Minor site grading for slab elevations and drainage will be required in addition to providing electrical service to both batting cages. Work location is Orange Grove Middle School located at 1911 Orange Grove Road, Tucson, AZ 85718.

**2. INSURANCE/SAFETY****A. Insurance**

Bidder agrees to maintain such insurance as will fully protect Bidder and the District from any and all claims under any workers' compensation statute or unemployment compensation laws, and from any and all other claims of any kind or nature for damage to property or personal injury, including death, made by anyone, that may arise from work or other activities carried on, under, or facilitated by this Agreement, either by Bidder, its employees, or by anyone directly or indirectly engaged or employed by Bidder. Bidder agrees to maintain such automobile liability insurance as will fully protect Bidder and the District for bodily injury and property damage claims arising out of the ownership, maintenance or use of owned, hired or non-owned vehicles used by Bidder or its employees, while providing services to the District.

The insurance requirements herein are minimum requirements and in no way limit the indemnity covenants contained in this IFB. Contractor shall provide coverage with limits of liability not less than those stated below.

Workers' Compensation insurance to cover obligations imposed by Federal and State statutes having jurisdiction of employees engaged in the construction of the Work, and Employers' Liability insurance with a minimum limit of One Million Dollars (\$1,000,000) each accident.

General Liability insurance with a minimum combined single limit of Two Million Dollars (\$2,000,000) each occurrence applicable to the Work and an annual aggregate limit of liability of Two Million Dollars (\$2,000,000) applicable to the construction of the Work. The policy shall include coverage for any and all of the following: bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), contractual liability, incidental professional liability, and products and completed operations. Further, the policy shall include coverage for the hazards commonly referred to as XCU. The products and completed operations coverage shall extend for five (5) years past acceptance, cancellation or termination of the Work. Said policy shall contain a severability of interest provision.

Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than One Million Dollars (\$1,000,000) each occurrence with respect to vehicles assigned to or used in the construction of the Work.

Contractor's equipment insurance covering owned, non-owned or leased equipment used in connection with the construction of the Work.

Builder's Risk insurance with a limit liability equal to the final completed value of the Work. The coverage shall be written on an all risk of direct damage basis and shall include coverage for flood, water damage, and earthquake and earth movement.

B. Safety

Bidder, at its own expense and at all times, shall take all reasonable precautions to protect persons and the District property from damage, loss or injury resulting from the activities of Bidder, its employees, its subcontractors, and/or other persons present. Bidder will comply with all specific job safety requirements promulgated by any governmental authority, including without limitation, the requirements of the Occupational Safety Health Act of 1970.

**3. EVALUATION SCHEDULE**

Responses will be initially evaluated for conforming to the requirements of the IFB. Bidders will then be reviewed for ability to perform the contract at the price offered.

**4. TERMS OF AWARD/MULTIPLE AWARDS**

District may award multiple contracts from the Solicitation. The decision to award a single contract, award multiple contracts, or make no award rests solely with District. A multiple Award shall be made only if the District Representative determines in writing that a multiple Award is necessary and is advantageous to District.

In determining whether to award multiple contracts, District will assess whether multiple vendors are necessary and advantageous to ensure the availability of goods or services that fully conform to District's requirements at the time, place and manner needed by District. If District determines that multiple contracts are necessary and advantageous, District will determine the least number of Contractors that are needed and award Contracts to, if an invitation to bid, the Bidders who submitted the lowest responsible and responsive Bids; and, if a request for proposal, the Offerors who submitted the most advantageous Proposals to District.

When determining whether to award of multiple contracts, District may consider a variety of factors, including without limitation: District's experience with existing products and systems, brand continuity for parts replacement, increased demand for goods or services, a single Contractor's ability to provide for District's needs, bonding capacity, location of Contractor and the area(s) served, District's past experience with Contracts for similar product/services, and other relevant criteria.

The contract may be terminated by either party prior to the expiration date upon thirty (30) days written notice to the other party. Cancellation of the contract shall not relieve the contractor of responsibility for satisfaction of all work that should have been done up to the last day of the contract.

**5. CONTRACT AWARD**

It is expected that the award for this contract will be made in June 2018. However, no commitment is made to this award date.

## 6. AWARD BASIS

The contract shall be awarded to the lowest responsible and responsive offeror whose bid conforms in all material respects to the requirement set forth in the Invitation for Bids and evaluation factors, if any, set forth the Special Requirements of Solicitation.

If a Bidder is awarded a Contract and is unable to meet its contractual obligations, District may cancel the Contract and award a Contract to the next lowest ranked Bidder if this determination occurs within a reasonable time period after the original Contract Award.

No requirement or factor may be used in the evaluation of offers that is not set forth in the Solicitation. The amount of any applicable transaction privilege or use tax of a political subdivision of the State shall not be a factor in determining the lowest Bid.

## 7. EVALUATION

Representatives of the District will evaluate the bids to determine if the low bidder is responsive and responsible. Bids shall be awarded to the low responsible and responsive offeror.

- Responsiveness means a person (or company) who submits a bid which conforms in all material respects to the Invitation for Bids.
- Responsibility means a person (or company) who has the capability to perform the contract requirements and the integrity and reliability which will assure good faith performance.

### Award of Alternates:

1. Alternates are not listed in the order of award. Owner reserves right to award any, none or all alternates at their discretion.
2. The combined sum of the chosen alternates and the base bid shall be the basis of determination for the apparent low bidder.
3. Alternate pricing is to be held for a period of ninety (90) days from date of receipt of bids.

## 8. BILLING

All billing notices must be sent to the District's Accounts Payable Department, 2101 East River Road, Tucson, AZ 85718. All invoices shall identify the specific item(s) being billed, purchase order number and refer to the bid number of this solicitation.

## 9. PRICE CLAUSE

Prices shall be firm for the term of the contract. Prices as stated must be complete for the services offered and shall include all associated costs. DO NOT include sales tax on any item in the bid.

After initial contract term and prior to any contract renewal, the Catalina Foothills Unified School District No. 16 will review fully documented requests for price increases and may at its sole option accept any changes or cancel from the contract those items concerned. The vendor shall likewise offer any published price reduction, during the contract period, to the District concurrent with its announcement to other customers. All price adjustments will be effective upon acceptance of the Catalina Foothills Unified School District #16.

**10. FINGERPRINT REQUIREMENTS**

The District anticipates that services under this contract may cause the contractor and proposed subcontractors to have direct, unsupervised contact with pupils. In accordance with A.R.S. 15-512(H), a contractor, subcontractor or vendor or any employee of a contractor, subcontractor or vendor who is contracted to provide services on a regular basis at an individual school shall be required to obtain a valid fingerprint clearance card pursuant to title 41, chapter 12, article 3.1. Therefore, the Contractor and any proposed subcontractors warrant compliance with ARS subsection 41-4401, ARS subsection 23-214, the Federal Immigration and Nationality ACT (FINA) and all other federal, state and local immigration laws and regulations related to the immigration status of its employees. The contractor must have all employees on-site submit to a fingerprint clearance conducted by Department of Public Safety and all employees must carry fingerprint card at all times. These warranties shall remain in effect through the term of the contract.

The District may, at its sole discretion, require evidence of compliance during the evaluation process or contract term. Should the District request evidence of compliance, the Contractor and any proposed subcontractors shall have 5 working days from receipt of the request to supply adequate information. Failure to supply the requested information or if the District suspects or finds the Contractor or any of its subcontractors are not in compliance, the District may pursue any and all remedies allowed by law, including, but not limited to: non consideration of contract award, suspension of work, termination of the contract for default, and suspension and/or debarment of the Contractor. All costs associated with verification and any remedies are the sole responsibility of the Contractor and any proposed subcontractor.

**11. PERFORMANCE OF WORK**

All materials, if required, and services supplied under the contract shall be the best of their respective kinds for the purposes intended and must conform to the latest and best practices of the industry.

The contractor shall protect all of their furnishings from damage, and shall protect the District's property from damage or loss that may occur in connection with this contract. Contractor shall be responsible for the repair of any such damage, injury or loss caused by the contractor's actions, or the actions of the subcontractors enlisted by the contractor, while performing work for Catalina Foothills Unified School District. The contractor shall confine all equipment and shall be responsible for the storage of equipment according to the instructions provided by the unit District Representative in the area that the work is being performed. Any damage caused to lawns, shrubs, window glass, utilities, buildings and any and all District property shall be immediately repaired or replaced at no expense to the District.

The successful bidder shall take all necessary precautions for the safety of students, school employees and the public, and shall comply with all applicable provisions of Federal, State and Municipal Safety Laws. Successful bidder agrees that they are fully responsible to the District for the acts and omissions of any and all persons whether directly or indirectly employed by them. They shall maintain such insurance as will protect them and the District from claims or damage from personal injury including death, which may arise from operations under this contract.

The successful bidder must be prepared to provide an adequate work force and inventory of vehicles, materials and equipment. It shall be the successful bidder's responsibility to ensure continuation of service.

The successful bidder must provide adequate training for all contracted employees providing services under this contract.

Bidder **shall** have a LOCAL field representative available at all times during the contract period.

**NOTE: The contractor will be responsible for supplying all restroom facilities for their employees and subcontractors.**

## 12. DISTRICT REQUIREMENTS

**Fire Drills** - All vendors must be aware that, while at any site within the Catalina Foothills Unified School District #16, any and all personnel employed by their firm must respond and act accordingly to all fire drills. This requirement applies whether vendor is participating in a site visit, evaluating the scope of a job for bid response or performing work at a site.

**Alcohol/Drugs/Tobacco** - All Schools and Facilities are alcohol, drug and tobacco-free environments.

**NOTE: Substances of these types are strictly prohibited on any District Campus and/or Facility.**

### **Dangerous Instrument/Deadly Weapons**

- A. "Dangerous Instrument" means a knife, CO<sub>2</sub> powered gun, or other instrument, not designated for lethal use but which may be capable of causing physical injury.
- B. "Deadly Weapon" means anything designated for lethal use including a firearm.
- C. "Firearm" means any operable or inoperable, loaded or unloaded (a) weapon, including a starter gun, which will or is designed to, or may be converted to expel a projectile by the action of an explosive.

**NOTE: Dangerous Instruments and Weapons of these types are strictly prohibited on any District Campus and/or Facility.**

### **Worker Age Requirement/Dress Attire**

- A. All employees of the Contractor or their Subcontractors must be at least eighteen (18) years of age.
- B. Shirt and shoes must be worn at all times.

### **Language Requirement**

- A. An English speaking supervisor/foreman shall be on site at all times, during working hours.
- B. The use of abusive, offensive sexually oriented or vulgar language is prohibited.

## 13. CLEAN UP

**The successful bidder shall clean up and remove all project related debris and rubbish on a daily basis.** Upon completion of the work the premises shall be left in a neat, unobstructed condition. All material collected shall be disposed of by the contractor and in accordance with all City, County, State and Federal requirements.

**NOTE: School dumpsters are not to be used for disposing of any trash, or other materials, by the contractor.**



**14. EXTRA WORK**

The contractor shall perform such extra work and charge the owner at actual cost of labor and materials.

The contractor shall have the right to add not more than 10% to the subcontractor's prices for authorized extra work performed solely by the subcontractor's. Such percentage shall include all of the contractor's charges for overhead, profit, administration and supervision. A 15% mark-up for overhead, profit, administration and supervision may be added to the contractor's cost of labor and materials for extra work authorized to be done by their own forces. The subcontractor's maximum allowable additions for overhead, profit, administration and supervision shall not exceed 15% of cost of labor and materials. The contractor and subcontractors will not be allowed any additional compensation beyond the allowable markups for overhead, profit, administration and supervision as noted above. Note: Any additional work must have prior written approval by the District Representative, before the contractor proceeds with work.

**15. PAYMENTS**

Upon completion of the job, and before submitting application for final payment, the successful bidder shall call for a final inspection to be made by the authorized representative of the District. Invoices must be submitted in duplicate, and prices and extensions must appear on all copies of invoices. Payment will be made only after submission of proper invoices as required by the District and within applicable state law.

**16. FINAL ACCEPTANCE**

Upon completion the contractor shall schedule a joint inspection of the completed work for final acceptance. All punch list items generated during the joint inspection shall be completed to the satisfaction of the District before the final payment will be released.

**17. FINAL PAYMENT**

Before the final payment will be released the contractor must complete the following:

1. All punch list items generated during the final joint inspection shall be completed to the satisfaction of the District.
2. Payment of invoice item shall not preclude the District from making a claim for adjustment on any item found not to have been in accordance with general conditions and specifications.

**18. TAXES**

Taxation for contractors is equated as follows: a 35% standard deduction is allowed. The remaining 65% is the prime contractor's taxable base.

Catalina Foothills Unified School District #16 and each of its schools and facilities are located outside the Tucson City limits, within Pima County. Therefore, any work that is performed at a Catalina Foothills school, office or facility shall have 6.1% tax applied to 65% of the total price (or 3.965% to the total price).

## 19. LICENSES/PERMITS

Contractor shall maintain in current status all federal, state, and local licenses, bonds, and permits required for operation of the business conducted by Contractor. Contractor shall remain fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of services under the Contract. District reserves the right to stop work and/or cancel the contract of any Contractor whose license(s) expire, lapse, are suspended, or are terminated. The vendor shall be responsible for the payment of all sales, excise and other taxes levied on all items concerned with the contract. **The installer must hold a current Arizona Commercial Contractor's license covering the scope of this project.**

**The contractor's qualifications must be acceptable to the Arizona Registrar of Contractors.** All licenses and insurance must be current and on file with Catalina Foothills Unified School District before project begins.

## 20. PERFORMANCE BONDS

If awarded a contract, the vendor agrees to furnish a 100% (including sales tax) Statutory Performance/Payment Bond for **all jobs that are \$50,000.00 and over** in accordance with ARS34-222 and provide a General Power of Attorney from an insurance company, licensed in the State of Arizona and rated "B+" in Best's Guide, or furnish a letter from the bonding company stating that a bond is being processed and provide the delivery date. This must be done within ten (10) days after written notice of award. Payment will not be made until required bonds have been received.

Personal surety bonds are not accepted by the Catalina Foothills Unified School District #16.

Indicate in the Pricing Page of this bid the percentage or formula you use to calculate performance and payment bonds for jobs over \$50,000.00. Performance bonds will be required **only** when a job of \$50,000.00 or more is offered.

**NOTE:** Do not include any costs for bonds in your bid pricing. The cost for bonds, if needed, will be paid separately.

## 21. SUBCONTRACTORS

Each bidder shall submit with the bid, in a separate, sealed envelope, a complete list of all subcontractors the bidder proposes to use, if applicable. Failure to submit a subcontractor's list may constitute sufficient grounds on which to reject the bid.

It is the responsibility of the bidder to insure Catalina Foothills Unified School District #16 that all subcontractors hold a valid commercial license and are bonded through the State of Arizona Registrar of Contractors. Only subcontractors who are properly licensed and bonded for performance and labor and materials payment for this work shall be retained by the contractor. **The bidder shall supply proof of certification, as stated in this Invitation for Bid, for any subcontractors they may retain.** This shall be a minimum requirement in evaluating the acceptability of a subcontractor. The Catalina Foothills Unified School District reserves the right to reject proposed subcontractors. All subcontractors must be approved by the school district prior to start of work.

**It is the responsibility of the bidder to ascertain that all subcontractors are properly insured prior to commencing work on Catalina Foothills Unified School District property.**

Catalina Foothills Unified School District will open the subcontractor envelope which accompanies the bid response from the apparent successful low bidder. Verification that the subcontractors are properly licensed through the State of Arizona will be done prior to making a recommendation to the governing board.

If a subcontractor fails to fulfill the responsibilities as set forth by the general contractor, the general contractor will then be allowed up to, and including, five (5) calendar days to replace the vacancy resulting from the non-responsive subcontractor. This vacancy is to be filled by another subcontractor who is properly insured and licensed and bonded by the State of Arizona Registrar of Contractors. It is the responsibility of the general contractor to advise the District that a subcontractor has been replaced by another qualifying subcontractor.

**The contract sum shall not be increased by the difference in cost occasioned by such substitution.** If the Contractor refuses to provide an acceptable substitution at the same contract sum, this bid shall be rejected and the next lowest bidder will be considered, the previous low bidder being in default on his bid and no longer eligible for consideration. The rejected bidder's Bid Bond shall, at the District's discretion be subject to forfeiture.

## 22. LIQUIDATED DAMAGES

If the contractor shall neglect, fail or refuse to complete the work, surrender job documentation or update management plans within the time specified (in writing), or any proper extension granted by the District, then the contractor shall, as a part consideration for the awards of this contract, pay to the District the sum of \$500 per calendar day, not as a penalty, but as liquidated damages, for each and every calendar day the contractor shall fail after the time stipulated in the contract (or work order) to complete the work, surrender job documentation or update management plans.

The provision regarding completion time and liquidated damages which is included in this Invitation for Bid is a part of the contract documents and is incorporated by reference herein in its entirety.

It is hereby understood and mutually agreed that the date and time of beginning, rate of progress, number of shifts, hours in each shift, number of workers per shift and the time for completion of the work to be done **(in writing)** are essential conditions of this contract.

For any unforeseeable causes beyond the control and without the fault or negligence of the contractor, the contractor shall immediately from the beginning of any such delay, notify the District in writing of the causes of the delay, who shall ascertain the facts and extent of the delay and notify the contractor within a reasonable time limit of its decision in the matter.

## 23. DELIVERY

All vendor expenses, including service/inspections, material, insurance, travel costs, per diem cost, clerical, etc. must be included in bid. The Catalina Foothills Unified School District will not be responsible for payment for any cost not specified herein. No services shall be rendered until receipt of an official purchase order number from the District.

## SCOPE OF WORK

The project general site identified as **Orange Grove Middle School** is located at 1911 E Orange Grove Road, Tucson, AZ 85718. The project consists of creating two battings cages with concrete slabs, artificial turf, infield surfacing, batting cage netting and chain link fence enclosures. Minor site grading for slab elevations and drainage will be required in addition to providing electrical service to both batting cages. The bid shall include all labor, materials, equipment, services and transportation necessary to complete the job. The attached plans and drawings provide more work details.

## PERMITS AND FEES:

The District administration intends to notify the building official having jurisdiction that the District elects not to use the permitting process on the project as permitted by A.R.S. 34-461(G). The District will pay appropriate fees and obtain appropriate permits from the authority having jurisdiction over the fire code applicable to any District project.

## SUBMITTALS:

Submittals should be provided for the items listed in the contract documents.

## BID REQUIREMENTS AND TIMELINE

One (1) Original bid plus one additional copy of your bid must be submitted. The Catalina Foothills Unified School District will not assume responsibility for any costs related to the preparation or submission of the bid. In order for your bid to be considered, the following should be included and should be referenced with **sectioned tabs**:

### Section 1

1. Acknowledgement of Amendment/Addendum
2. Request for Confidentiality of Proprietary Information, if needed (Price cannot be confidential)
3. Bid Cost Form
4. Subcontractor List with Certificate/License numbers (separate sealed envelope)
5. Offer and Acceptance Form
6. Non-Collusion Form
7. W-9 Form
8. Certificate of Insurance
9. Bid Bond Form

## Proposed Solicitation Timetable

IFB Issuance	March 20, 2018
Pre-Bid Meeting	April 3, 2018 @ 2:30 P.M.
Deadline Questions/Clarifications	April 5, 2018 @ 11:00 A.M.
Issuance of Final Amendment (if needed)	April 9, 2018
Bid Due Date	April 17, 2018 @ 2:00 P.M.
Final Approval by Governing Board	April 24, 2018 (Date subject to change)



**ADDENDUM/AMENDMENT ACKNOWLEDGEMENT**

The undersigned Bidder hereby acknowledges receipt of the following Addenda, if any:

Addendum No.	Date
_____	_____
_____	_____

The Undersigned Bidder understands that the Owner reserves the right to reject any or all Bid Proposals or to waive any formality or technicality, and to determine the low bidder on the basis of the sum of the Base Bid, as determined by the Owner in its sole discretion, in any Proposal in the interest of the Owner.

Contractor's Arizona Contractor's License No(s). \_\_\_\_\_.

SEAL – If Bidder is a  
Corporation

\_\_\_\_\_  
(Official Name of Firm)

By \_\_\_\_\_

Title \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Complete Business Address)

**BID BOND**

PURSUANT TO RULE R7-2-1111 OF THE ARIZONA ADMINISTRATIVE CODE  
(SCHOOL DISTRICT PROCUREMENT RULES)

**(Penalty of this bond must be not less than 10% of the bid amount)**

KNOW ALL PERSONS BY THESE PRESENTS:

THAT, \_\_\_\_\_ (hereinafter called the "Principal"), as Principal, and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_, with its principal office in the City of \_\_\_\_\_ (hereinafter called the Surety"), as Surety are held and firmly bound unto Catalina Foothills Unified School District No. 16 (hereinafter called the ("Obligee") in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for \_\_\_\_\_.

NOW, THEREFORE, if the Obligee shall accept the proposal of the Principal and the Principal shall enter into a contract with the Obligee in accordance with the terms of the proposal and give the bonds and certificates of insurance as specified in the standard specifications with good and sufficient surety for the faithful performance of the contract and for the prompt payment of labor and materials furnished in the prosecution of the contract, or in the event of the failure of the Principal to enter into the contract and give the bonds and certificates of insurance, if the Principal pays the Obligee the difference not to exceed the penalty of the bond between the amount specified in the proposal and such larger amount for which the Obligee may in good faith contract with another party to perform the work covered by the proposal then this obligation is void. Otherwise it remains in full force and effect provided, however, that this bond is executed pursuant to the provisions of Ariz. Admin. Code Rule R7-2-1111, and all liabilities on this bond shall be determined in accordance with the provisions of the section to the extent as if it were copied at length herein.

The prevailing party in a suit on this bond shall recover as a part of his judgment such reasonable attorneys' fees as may be fixed by a judge of the Court.

Witness our hands this day of \_\_\_\_\_, 20\_\_.

Principal Seal  
By \_\_\_\_\_  
Title

Surety Seal  
By \_\_\_\_\_  
Title

Agency of Record \_\_\_\_\_

Agency Address \_\_\_\_\_

COMPANY BIDDING

**LIST OF SUBCONTRACTORS**

This attachment to Bid shall be submitted along with the Bid Form, each of which shall be placed in a separate SEALED envelope. Each envelope shall bear the name of the Contractor making submittal with identification of contents contained therein. The Contractor must list below the names, license and classification numbers of all qualified subcontractors and/or suppliers they will employ for the various portions of the work indicated. Failure on the part of the Contractor to complete this list properly will constitute sufficient grounds to reject the bid.

Contractor must indicate any changes in the Subcontractor list that would result from acceptance by the Owner of any combination of alternates by identifying the substitute Subcontractor to be used, along with the number of the alternate that would result in such substitution. No substitutions or deviations from this list shall be permitted without written consent of the Owner.

TRADE	FIRM NAME	LICENSE NO./CLASS
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____



**OFFER AND ACCEPTANCE**

The Undersigned hereby offers and agrees to furnish the material, service or construction in compliance with all terms, conditions, specifications, and amendments in the Solicitation and any written exceptions in the offer.

Arizona Transaction (Sales) Privilege Tax License No.:

\_\_\_\_\_

Federal Employer Identification No. \_\_\_\_\_

\_\_\_\_\_

Tax Rate: \_\_\_\_\_%

\_\_\_\_\_ Company Name

\_\_\_\_\_ Address

\_\_\_\_\_ City State Zip

For clarification of this offer, contact:

Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-Mail: \_\_\_\_\_

\_\_\_\_\_ Signature of Person Authorized to Sign Offer

\_\_\_\_\_ Printed Name

\_\_\_\_\_ Title

**CERTIFICATION**

By signature in the Offer section above, the bidder certifies:

1. The submission of the offer did not involve collusion or other anti-competitive practices.
2. The Offeror shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 99-4 and 2000-4 or A.R.S. §§ 41-1461 through 1465.
3. The Offeror has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
4. The offer complies and maintains compliance with FINA, ARS 41-4401 and 23-214 which requires compliance with federal immigration laws by State Employers, State contractors and State subcontractors in accordance with the E-Verify Employee Eligibility Verification Program.

**ACCEPTANCE OF OFFER**

**The offer is hereby accepted.**

**The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by the school district/public entity.**

**This contract shall henceforth be referred to as Contract No.**

\_\_\_\_\_

The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives purchase order, contract release document, or written notice to proceed.

Awarded this \_\_\_\_\_ day of 20 \_\_\_\_\_

\_\_\_\_\_ AUTHORIZED SIGNATURE



<b>CONFIDENTIAL/PROPRIETARY SUBMITTALS FORM</b>	
Confidential/Proprietary Submittals (Check one):	
<input type="checkbox"/>	No confidential/proprietary materials have been included with this offer
<input type="checkbox"/>	Confidential/Proprietary materials are included. Offerors should identify below any portion of their offer deemed confidential or proprietary (see Uniform Terms and Conditions, paragraph 18). Identification in this section does not guarantee that disclosure will be prevented but that the item will be subject to review by the Offeror and the School District prior to any public disclosure. Requests to deem the entire offer or to deem any prices and costs as confidential will not be considered.
Identify or describe:	
Printed Name	
Signature	
Date	



**CATALINA FOOTHILLS UNIFIED SCHOOL DISTRICT #16**

2101 E. RIVER ROAD, TUCSON, AZ 85718  
(520) 209-7500 (520) 209-7570 FAX www.cfsd16.org

**“NO” RESPONSE FORM  
IFB#18-01-18  
ORANGE GROV MIDDLE SCHOOL BATTLING CAGE PROJECT**

If you do not wish to bid on this solicitation, please provide written notification of your decision. Please indicate below in the appropriate area the reason for your decision and return this page. Failure to respond could result in deletion of your name from the District’s vendor listing. This form may be returned to the address listed below, or faxed to 520-209-7571. A “No” will be considered a response.

I am submitting a “No” at this time.

I cannot meet the product/service specifications as described in the solicitation due to: \_\_\_\_\_  
\_\_\_\_\_

I cannot meet the Terms and Conditions of the solicitation because: \_\_\_\_\_  
\_\_\_\_\_

I do not provide services of this nature.

I no longer wish to do business with Catalina Foothills Unified School District #16.

\_\_\_\_\_  
Name of Company Proposing

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Authorized Signature/Local Representative

\_\_\_\_\_  
Telephone/Fax Number

\_\_\_\_\_  
Type Name and Position Held with Company

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

**Please return this completed form to:  
Catalina Foothills School District No. 16  
PROCUREMENT DEPT.  
2101 E. River Road  
Tucson, AZ 85718  
FAX: 520-209-7571**