

# REQUEST FOR QUALIFICATION

23-004-28

## JOB ORDER CONTRACTING – GENERAL CONTRACTORS

Buckeye Elementary School District #33

25555 W Durango St.

Buckeye, AZ 85326

RELEASE DATE: September 16, 2022

DEADLINE FOR QUESTIONS: September 28, 2022

RESPONSE DEADLINE: October 7, 2022, 10:00 am

RESPONSES MUST BE SUBMITTED ELECTRONICALLY TO:

<https://secure.procorenow.com/portal/besd33>

Buckeye Elementary School District #33  
REQUEST FOR QUALIFICATION  
Job Order Contracting – General Contractors

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## 1. INTRODUCTION

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, bids for the material or services specified will be received by the Buckeye Elementary School District #33 electronically through OpenGov/ProcureNow.

Proposals received by the correct time and date shall be opened and the vendor's who submitted shall be publicly read. After the SOQ and Offers submitted in response to the solicitation are opened and the award is made, the Governing Board shall make available for public inspection all information, all responses and all findings and other information considered in determining whose Offer conforms to the solicitations and will be the most advantageous with respect to price, conformity to the specifications and other factors to be selected for the award.

### 1.1. Summary

This Request for Qualifications is the first of a two-step procurement process to develop term contracts with qualified General Commercial Contractors to perform miscellaneous construction and repair services, including limited pre-construction design services (i.e. professional services), for various projects to be determined such as repairs, maintenance, additions, renovations, remodeling, and tenant improvements to buildings and facilities utilizing Job Order Contracting (JOC) project delivery method. Contracts will be awarded with the subsequent Request for Proposal. In accordance with the School District Procurement Rules R7-2-1111(C), A.R.S. §34-604(F)(2), and A.R.S. §41-2579(F)(2), Buckeye Elementary School District will issue a Request for Proposal to a final list of responsive and responsible contractors determined to be the most qualified to perform the specified services.

The method used for JOC Task Order pricing will be determined by the District and JOC contractor prior to any pricing being completed. Acceptable methods of determining pricing may include open book pricing or Unit Price Book.

In accordance with R7-2-1112 (E)(1) and 41-2580 (F)(1), the maximum dollar amount of an individual job order for job-order-contracting construction services shall be one million dollars or a higher or lower amount prescribed by the governing board, or purchasing agency, in a policy adopted in a public meeting held pursuant to A.R.S. Title 38, Chapter 3, Article 3.1.

Buckeye Elementary School District #33 intends to award up to three (3) separate Contractors in Category 1, jobs under \$250,000; and award up to four (4) separate Contractors in Category 2, Jobs greater than \$250,000. Contractors awarded Contracts under Category 2 may also perform projects in an amount less than \$250,000 at the discretion of the Contractor and District. If a smaller number of persons respond to the RFQ, the District may proceed with the participating Contractors if there are at least two participating responsive and responsible Contractors.

- Category 1: Projects up to \$250,000
- Category 2: Projects over \$250,000

## 1.2. [Background](#)

This solicitation is being done by Buckeye Elementary School District as a member of the Strategic Alliance for Volume Expenditures “SAVE”. While this solicitation is for BESD, other public entities have expressed interest in utilizing the resulting contracts. School District Procurement Rules A.A.C. R7-2-1191 through R7-2-1195 authorizes and governs intergovernmental procurements. Members of “SAVE”, a group of schools/public entities have signed an intergovernmental agreement under such a cooperative purchase agreement to obtain economies of scale. After award, this solicitation may be utilized by the eligible School Districts/public entities, recognizing potential equipment, logistical and capacity limitations by Offeror may limit “piggybacking” of this award. Individual school districts/public entities would negotiate service with successful Offerors using the proposal pricing specified herein. No volume is implied or guaranteed.

The following members have expressed an interest in utilizing any resultant contract of this solicitation:

### Public Entity Est Annual Expenditure

Balz School District \$2,000,000.00  
Buckeye Elementary School District \$2,000,000.00  
Buckeye Union High School District \$250,000.00  
Cave Creek Unified School District \$1,750,000.00  
Chandler Unified School District \$5,000,000.00  
Dysart Unified School District \$4,000,000.00  
Gilbert Public Schools \$10,000,000.00  
J.O. Combs Unified School District \$100,000.00  
Liberty Elementary School District \$300,000.00  
Litchfield Elementary School District \$175,000.00  
Pendergast Elementary School District \$3,500,000.00  
Phoenix Union High School District \$3,000,000.00  
Roosevelt Elementary School District \$3,000,000.00  
Scottsdale Unified School District \$500,000.00  
Tolleson Elementary School District \$100,000.00

## 1.3. [Contact Information](#)

**Cheryl Burt**  
Procurement Coordinator  
25555 W. Durango Street  
Buckeye, AZ 85326

Email: [cburt@besd33.org](mailto:cburt@besd33.org)

Phone: [\(623\) 925-3413](tel:(623)925-3413)

**Department:**

Procurement

**Department Head:**

Cheryl Burt

Procurement Coordinator

### 1.4. Timeline

Please note the Bid Submission Deadline time. Bids will not be accepted after this programmed time. For example: If the Bid Submission Deadline time is 10:00am the deadline is a hard cut-off. The system will not allow you to click "Submit" at 10:00:00:00:00 (and so on). A submission at 10:00:01 is late and will not be accepted. Also note the submission time is Local Arizona time. We do not observe Daylight Savings time.

<b>Release Project Date</b>	September 16, 2022
<b>Question Submission Deadline</b>	September 28, 2022, 2:00pm
<b>Bid Submission Deadline</b>	October 7, 2022, 10:00am

<p><b>Public Opening of SOQ</b></p>	<p>October 7, 2022, 10:01am          Join Zoom Meeting  <a href="https://us02web.zoom.us/j/81475341754?pwd=V0UvdFd2NUMxdmNpc0VMWUtiTkxVZz09">https://us02web.zoom.us/j/81475341754?pwd=V0UvdFd2NUMxdmNpc0VMWUtiTkxVZz09</a></p> <p>Meeting ID: 814 7534 1754          Passcode: mSZB3m          One tap mobile          +13462487799,,81475341754#,,,,*579348# US (Houston)          +16694449171,,81475341754#,,,,*579348# US</p> <p>Dial by your location          +1 346 248 7799 US (Houston)          +1 669 444 9171 US          +1 669 900 6833 US (San Jose)          +1 719 359 4580 US          +1 253 215 8782 US (Tacoma)          +1 646 931 3860 US          +1 929 436 2866 US (New York)          +1 301 715 8592 US (Washington DC)          +1 309 205 3325 US          +1 312 626 6799 US (Chicago)          +1 386 347 5053 US          +1 564 217 2000 US          Meeting ID: 814 7534 1754          Passcode: 579348          Find your local number:  <a href="https://us02web.zoom.us/u/kef0l3OUyr">https://us02web.zoom.us/u/kef0l3OUyr</a></p>
<p><b>Release RFP to Final List - Tentative</b></p>	<p>October 12, 2022</p>
<p><b>RFP Responses Due - Tentative</b></p>	<p>October 27, 2022</p>
<p><b>Award of Contract(s) - Tentative</b></p>	<p>November 7, 2022</p>

## 2. SAVE MEMBERS LIST

### 2.1. Municipalities

City of Apache Junction

City of Avondale

City of Benson

City of Bisbee

City of Bullhead City

City of Casa Grande

City of Chandler

City of Coolidge

City of Cottonwood

City of Douglas

City of El Mirage

City of Eloy

City of Flagstaff

City of Glendale

City of Globe

City of Goodyear

City of Kingman

City of Litchfield Park

City of Maricopa

City of Mesa

City of Nogales

City of Page

City of Peoria

City of Phoenix

City of Prescott

City of Safford

City of San Luis  
City of Scottsdale  
City of Sedona  
City of Show Low  
City of Sierra Vista  
City of Somerton  
City of Surprise  
City of Tempe  
City of Tolleson  
City of Tucson  
City of Willcox  
City of Winslow  
City of Yuma  
Lake Havasu City  
Town of Buckeye  
Town of Camp Verde  
Town of Carefree  
Town of Cave Creek  
Town of Chino Valley  
Town of Clifton  
Town of Florence  
Town of Fountain Hills  
Town of Gila Bend  
Town of Gilbert  
Town of Guadalupe  
Town of Marana  
Town of Miami  
Town of Oro Valley  
Town of Paradise Valley

Town of Prescott Valley

Town of Queen Creek

Town of Sahuarita

Town of Springerville

Town of Superior

Town of Wickenburg

## 2.2. [Counties](#)

Apache County

Cochise County

Coconino County

Gila County

Graham County

La Paz County

Maricopa County

Mohave County

Navajo County

Pima County

Pinal County

Santa Cruz County

Yavapai County

Yuma County

## 2.3. [Higher Education / Technology Districts](#)

Arizona State University

Arizona Western College

Central Arizona College

Central Arizona Valley Institute of Technology (CAVIT)

Cobré Valley Institute of Technology (CVIT)

Cochise County Community College District

Coconino County Community College District

Diné College

East Valley Institute of Technology (EVIT)

Gila Institute for Technology, a Joint Technology

Education District (JTED)

Graham County Community College District

Maricopa Community College District

MidWestern University (Glendale campus)

Mohave Community College

Mountain Institute JTED

Northeast AZ Tech Institute of Voc Ed

Northern Arizona University

Northland Pioneer College

Pima Association of Governments (PAG)

Pima Community College

Pima County Joint Technology District #11 (JTED)

Pima Prevention Partnership dba Pima Partnership Academy,

Pima Partnership High School & Phoenix Collegiate High School

University of Arizona

Western Arizona Vocational Educ (W.A.V.E.), a Joint Technology Education District #50

Yavapai College

#### 2.4. Political Agencies

Arizona School for the Deaf and the Blind

Arizona Supreme Court

Central Arizona Project

Court of Appeals, Division One

Housing Authority of Maricopa County

Maricopa Association of Governments

Maricopa Integrated Health System

Northern Arizona Council of Governments (NACOG)

Northern Arizona Intergovernmental Public Trans (NAIPTA)

Phoenix-Mesa Gateway Airport Authority

Regional Transportation Authority (RTA)

Superior Court of Arizona, Maricopa County

Tucson Airport Authority

Valley Metro Regional Public Transit Authority

## 2.5. [Fire Districts](#)

Central Yavapai Fire District

Copper Canyon Fire and Medical District

Drexel Heights Fire District

Fire District of Sun City West

Golder Ranch Fire District

Hellsgate Fire Department

Mt. Lemmon Fire District

Northern Arizona Consolidated Fire District

Northwest Fire District

Superstition Mtn Community Facilities District

Sun City West Fire District

Three Points Fire District

Verde Valley Fire District

## 2.6. [Misc. Agencies](#)

Central Arizona Water Conservation District (CAWCD)

Community Hospital Association dba Wickenburg Community Hospital

Metropolitan Domestic Water Improvement District

North Country Community Health Center

Pima County School Reserve Fund

Pine-Strawberry Water Improvement District

Western Arizona Council of Governments

### 3. DOCUMENTS REFERENCED

#### DOCUMENTS REFERENCED:

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

Arizona Revised Statutes (A.R.S.) is available at: [www.azleg.state.az.us/ArizonaRevisedStatutes.asp](http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp).

The Arizona School District Procurement Rules in the Arizona Administrative Code

[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) [www.irs.gov/pub/irs-pdf/fw9.pdf](http://www.irs.gov/pub/irs-pdf/fw9.pdf).

Code of Federal Regulations <http://www.ecfr.gov>

Education Department General Administrative Regulations (EDGAR), 2 C.F.R. §§ 200.318-326

<https://www.govinfo.gov/content/pkg/CFR-2014-title2-vol1/xml/CFR-2014-title2-vol1-part200-subpartD.xml>

BESD [Mitigation Plan](#) for Safe Return to In-Person Instruction & Continuity of Services

## 4. UNIFORM INSTRUCTIONS TO OFFERORS

### 4.1. 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 a legally binding contractual agreement, regardless of what it may be called, for the purchase of materials, services, construction or construction services, or the disposal of materials by District. "Contract" includes the combination of the Solicitation, including the Uniform and Special Instructions, the General 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 Addendums or Contract Amendments; and any terms applied by law. A Contract does not include a contract or agreement prepared and requested by Contractor unless it contains a provision that expressly states that it will be deemed part of the Contract, identifies what provisions of the Contract, if any, are superseded by the Contract or agreement, and is signed by the District Representative.
- F. "Contract Amendment" means a written document that is authorized by the District Representative and issued by District for the purpose of making changes to the Contract.
- G. "Contractor" means any person who has a contract with District. An Offeror or Bidder who has been awarded a Contract by District is a Contractor of District.
- H. "Days" means calendar days unless otherwise specified, and time measured in days in which an act is required to be done shall be computed according to A.R.S. §1-243.
- I. "District" means Buckeye Elementary School District #33.
- J. "District Representative" means CJ Beckstrom, Chief Financial Officer, or his 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 person submitting a Proposal in response to a request for proposals.
- P. "Procurement Officer" means Cheryl Burt, Procurement Coordinator who will approve substitutions, etc
- Q. "Proposal" means a response to a request for proposals and includes an Offer to contract with District.
- R. "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.
- S. "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.
- T. "Responsive Bidder or Offeror" means a person who submits an Offer that reasonably and substantially conforms to all material requirements of the Solicitation.
- U. "Solicitation" means an invitation for bids, an invitation to submit technical offers, a request for proposals, a request for qualification, or any other invitation or request by which District invites a person to participate in a procurement. A Solicitation includes, in addition to the Invitation for Bid or Request for Proposal, the Uniform Instructions for Offers, General Terms and Conditions for Contract, Special Terms and Conditions for Contract, Statement of Scope of Work/Specifications, Solicitation Addendums, and Solicitation Exhibits and Attachments.
- V. "Solicitation Addendum" means a written document that is authorized by the District Representative and issued by District for the purpose of making changes, clarifications, or additions to the Solicitation.
- W. "The Solicitation Contact Person" for the Solicitation is the procurement specialist supervisor designated on the first page of the Solicitation.
- X. "Subcontract" means any Contract, express or implied, between 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.

#### 4.2. [Pre-Offer Inquiries](#)

- A. Duty to Examine. It is the responsibility of the Bidder or 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 Deadline.

- 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 Bidder or Offeror shall not contact or direct inquiries concerning the 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 Solicitation Contact Person 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 the inquiry since it may then be identified as an Offer and not be opened until after the Offer Deadline.
- D. Requests for Exceptions. A Bidder or Offeror may submit to the Solicitation Contact Person a written request for an unsubstantial, nonmaterial exception or deviation to a specific term, condition, or other provision in the Solicitation. Requests for an exception must identify the specific condition, term, or other provision to be excepted or modified and clearly state any proposed substitutions or modifications thereto.
  - 1. A requested exception that substantially or materially alters a term, condition, or other provision shall be rejected. The District Representative or designee shall determine, in his or her sole discretion, whether an exception is substantial or material and advise the Bidder or Offeror of the decision. Submission of the Bidder's or Offeror's preprinted contract in place of the General or Special Terms and Conditions of a Solicitation shall be shall be rejected.
  - 2. A request for exceptions must be submitted to the District Representative not less than ten (10) days prior to the Solicitation Deadline.
  - 3. A request for exceptions shall not be accepted, in whole or in part, unless accepted in writing by the Solicitation Contact Person or District Representative.
  - 4. If the Bidder or Offeror does not receive District's written response to a request for exceptions prior to the Solicitation Deadline, the Bidder or Offeror may restate the request for exception in its Acknowledgment and Acceptance of Terms and Conditions of Solicitation form. A request for exceptions in the form will be considered by District when evaluating the Offer. If the request for exceptions is not acceptable, District will reject the Offer.
- E. Timeliness. Any inquiry shall be submitted as soon as possible and at least ten (10) days before the Offer Deadline. Failure to do so may result in the inquiry not being answered.
- F. No Reliance on Verbal Responses. Any inquiry that results in changes to the Solicitation shall be answered solely through a written Solicitation Addendum. A Bidder or Offeror may not rely on verbal responses from the Solicitation Contact Person to inquiries.

- G. **Pre-Offer Conference.** If a pre-Offer conference has been scheduled under the Solicitation, the date, time, and location shall appear on the Solicitation cover sheet or elsewhere in the Solicitation. A Bidder or Offeror should raise any questions it may have about the Solicitation at the conference.

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Solicitation Contact Person. Requests should be made as early as possible to allow time to arrange for the accommodation.

Verbal responses to questions raised at the conference shall not amend the Solicitation. If an issue is raised at the conference that results in a decision by District to amend the Solicitation, the Solicitation may be amended only by issuance of a written Solicitation Addendum. A Bidder or Offeror may not rely on any verbal responses to questions at the conference.

#### 4.3. Offer Preparation

- A. **Forms: No Facsimile or Physical Mail (USPS, FEDEX, UPS, etc ) Offers.** An Electronic Offer shall be submitted either on the forms provided in the Solicitation or their substantial equivalent. Any substitute document for the forms provided in the Solicitation must be legible and contain the same information requested on the form. A facsimile, physical mail, 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. **Acknowledgement and Acceptance Form:** The Acknowledgement and Acceptance of Terms and Conditions of Solicitation form must be submitted with the Offer and signed by a representative of the Bidder or Offeror.

All exceptions or modifications requested by the Bidder or Offeror, regardless of whether District previously accepted the requested exceptions or modifications requested by the Bidder or Offeror, must be clearly set forth in the Acknowledgement and Acceptance of Terms and Conditions of Solicitation form. Any exceptions or modifications set forth in the form that have not been previously accepted by District, may be rejected if District determines, in its sole judgment, that the a requested exception or modification would substantially or materially alters a term, condition, or other provision of the Solicitation. Unacceptable exceptions or modifications shall remove the Offer from consideration for award.

- D. **Offer and Acceptance Form.** The Offer and Acceptance form within the Solicitation must be submitted with the Offer and signature by authorized representative of the Bidder or Offeror. The signature shall signify the Bidder's or 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.

- E. Subcontractors. A Bidder or Offeror shall clearly list any proposed subcontractors and the subcontractor’s proposed responsibilities in the Offer.
- F. Cost of Offer Preparation. District will not reimburse a Bidder or Offeror for the cost of responding to a Solicitation.
- G. Solicitation Addendum. Unless otherwise stated in the Solicitation, each Solicitation Addendum shall be acknowledged electronically by the person signing the Offer, and shall be submitted no later than the Offer Deadline. Failure to acknowledge a Solicitation Addendum will result in non submission of Offer.
- H. Tax Identification Numbers. A Bidder or Offeror must provide his or her 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.
- I. Taxes. Prices stated in a Solicitation shall not include applicable state and local taxes. District is exempt from paying federal excise tax and state property taxes. District is not exempt from state and local transaction privilege (sales) taxes. The amount of any applicable transaction privilege or use tax of a political subdivision of the State is not a factor in determining the lowest Bidder.
- J. Shipping/Delivery. Terms and conditions relating to shipping and delivery are “FOB Destination, Freight Prepaid and Allowed.” The shipping and delivery terms are further described in the General Terms and Conditions of Contract and are subject to modification in the Special Requirements of Solicitation, if any, for this Solicitation.
- K. Order of Precedence. A Solicitation includes, in addition to the Invitation for Bid or Request for Proposal, the following documents listed in their order of precedence:
  - 1st Solicitation Addendums
  - 2nd Special Requirements of Solicitation
  - 3rd General Terms and Conditions of Contract
  - 4th Statement of Scope of Work/Specifications
  - 5th Solicitation Attachments and Exhibits
  - 6th Uniform Instructions for OffersIn the event of a conflict between provisions in two or more of the foregoing Solicitation documents, the document having a higher order of precedence will prevail over the other document or documents with conflicting provisions.

#### 4.4. [Submission of Offer](#)

- A. Each Offer shall be submitted electronically through ProcureNow.

- B. Offer Amendment or Withdrawal. The Bidder or Offeror may withdraw an Offer any time prior to the Offer Deadline. The Offer may not be amended or withdrawn after the Offer Deadline, except as otherwise provided under applicable law.
- C. Confidential Information.
  - 1. 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.
  - 2. 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:
  - 1. The Bidder or Offeror has examined and understands the terms, conditions, scope of work/services and specification, and other documents in the Solicitation.
  - 2. 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.
  - 3. 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.
  - 4. 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.

5. 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.
6. 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.
7. The Bidder or Offeror is not engaged in and for the duration of the contact will not engage in a boycott of Israel.

#### 4.5. Additional Offer Information

- A. Late Offers. An Offer submitted after the Offer Deadline shall not be accepted..
- B. Unit Price Prevails. 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.
- C. 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.
- D. Offer Acceptance Period. The Bidder or Offeror shall hold its Offer open for the later of (i) the number of days after the Offer Deadline stated in the Solicitation or (ii) ninety (90) days.
- E. Rights of Waiver, Rejection, and Cancellation. Notwithstanding any other provision of the Solicitation, District may waive any minor informality, reject any and all Offers or portions thereof, or cancel a Solicitation.

#### 4.6. Award

- A. Basis of Award. An Award will be made to the Responsible Bidder or Offeror whose Offer is determined to be:
  1. For an Invitation for Bid (IFB), the lowest responsible and responsive Bid or Bids that conform in all material respects to the requirements of the Solicitation 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.
  2. For a Request for Proposal (RFP), the Proposal or Proposals that are determined in writing to be the most advantageous to District based on the requirements of the Solicitation and

evaluation factors set forth in the Special Requirements of Solicitation.

District will evaluate and determine which Proposals are acceptable and unacceptable for further consideration. If determined to be in the best interest of District, District may request interviews with the Offerors determined to be most likely to meet the requirements to discuss cost and/or other portions of the Proposal.

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 or most advantageous Proposal.

- B. **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, prior to making an award 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, Contractor's location and service areas, District's past experience with Contracts for similar product/services, and other relevant criteria, including the criteria set forth in school district procurement code R7-2-1024(B)(1)(D): whether contracts will be awarded by individual line items or groups of line items, by increments, or by designated regions or locations.
- C. **Formation of Contract.** A response to the Solicitation is an offer to contract with District based upon the terms, conditions, scope of work/services, and specifications contained in the Solicitation. An Offer does not become a contract unless and until District accepts it. A contract is formed when the District Representative signs the Award document on behalf of District. No work may commence or products be delivered until District has issued a Purchase Order to Contractor.

#### **4.7. Protests**

A protest of a Solicitation or Award may be made by an interested party as defined by the School District Procurement Code. The protest shall comply with and be resolved according to Rules R7-2-1141 through R7-2-1153 of the School District Procurement Code. Protests shall be in writing and be filed with the

District Representative, CJ Beckstrom, CFO. A protest based on alleged improprieties that are apparent before the Offer Deadline must be delivered to the District Representative before the Offer Deadline. A protest of a Solicitation or Award for any other reason must be delivered to the District Representative within ten (10) days after District makes the Bid file available for public inspection, unless the District Representative finds good cause for the delay of the interested party. A protest shall include:

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

## 5. GENERAL TERMS AND CONDITIONS OF CONTRACT

All Contracts awarded by District are subject to the following terms and conditions. All defined terms in the Uniform Instructions for Offers shall have the same meanings when used in this General Terms and Conditions of Contract. Provisions of this General Terms and Conditions of Contract may be superseded by the Special Requirements of Solicitation, if any, of this Solicitation.

### 5.1. CANCELLATION

- A. Cancellation for Bankruptcy or Acquisition. District reserves the right to cancel, or suspend the use of, any Contract if Contractor files for bankruptcy protection, or is acquired by an independent third party.
- B. Cancellation for Conflict of Interest. District may cancel the Contract pursuant to A.R.S. §38-511 for conflict of interest.
- C. Cancellation for Convenience. District reserves the right to immediately cancel the Contract without penalty or recourse, in whole or in part, when District determines cancellation to be in its best interests. Contractor shall be entitled to receive just and equitable compensation in accordance with applicable Contract pricing for authorized work in progress, authorized work completed, and materials accepted before the effective date of the cancellation.
- D. Cancellation for Non-performance or Contractor Deficiency. District reserves the right to cancel the whole or any part of the Contract due to failure by Contractor to carry out any obligation, term, or condition of the Contract. District may issue a written deficiency notice to Contractor for any of the following:
  - 1. Failing to comply with the accepted terms and conditions of the Contract;
  - 2. Providing material that does not meet the specifications of the Contract;
  - 3. Providing work and/or material that was not awarded under the Contract;
  - 4. Failing to adequately perform the services set forth in the scope of work/services and specifications;
  - 5. Failing to complete required work or furnish required materials within a reasonable amount of time;
  - 6. Failing to make progress in performance of the Contract and/or giving District reason to believe that Contractor will not or cannot perform the requirements of the Contract;
  - 7. Performing work or providing services under the Contract prior to receiving a District-reviewed purchase order for such work.
- E. Upon receipt of a written deficiency notice, Contractor shall have ten (10) days to provide a satisfactory response to District to adequately address all issues of concern. Failure to adequately address all issues of concern may result in Contract cancellation. Upon cancellation,

all goods, materials, and work paid for by District, along with documents, data, and reports prepared by Contractor under the Contract shall become the property of District.

- F. Cancellation for Replacement. District reserves the right to cancel the Contract awarded under a Solicitation and replace it with a newer Contract awarded to the same Contractor for similar goods and services. District may, at its option, replace the Contract awarded from the Solicitation or delay a new Award until the existing Contract expires. The decision to replace the Contract rests solely with District.
- G. Continuation of Performance. Contractor shall continue to perform in accordance with the requirements of the Contract, up to the date of cancellation and as directed in the cancellation notice.
- H. Cancellation for Improper Conduct. District may cancel the Contract if it is found that gratuities in the form of entertainment, gifts, or otherwise were offered or given by Contractor, or any agent or representative of Contractor, to any employee or official of District with a view toward securing a contract or with respect to the performance of this Contract. Paying the expenses of normal business meals shall be in accordance with District’s policy regarding gratuities. Samples of software, equipment, or hardware provided to District for demonstration or evaluation are not considered gratuities.
- I. Cancellation by Contractor. Unless otherwise provided in the Special Requirements of Solicitation, if any, Contractor may cancel the Contract by delivery of prior written notice during the 60-day period prior to an annual contract renewal. Termination shall have no effect on projects in progress at the time that a notice of cancellation is received by District.
- J. Cancellation for Lack of Appropriation. District may cancel the Contract if the Legislature of the State of Arizona at any time fails to appropriate funds necessary for the District to perform the Contract.

## 5.2. CONTRACT ADMINISTRATION

- A. Records and Audit. Contractor shall retain and, by contract, shall require each subcontractor to retain all books, accounts, reports, files, and other records, whether in written or electronic form, relating to the acquisition and performance of the Contract (the “Records”) for a period of five years after the completion of the Contract. At any time during the term of this Contract and five (5) years thereafter, the Records shall be subject to inspection and audit by District at reasonable times. Upon request, Contractor shall produce a legible copy of any or all such Records.
- B. Compliance with Prior Certifications. Upon Award of a Contract, Contractor shall continue to fully comply with all certifications provided to District in the Uniform Rules for Offer of the Solicitation.

- C. **Inspection and Testing.** Contractor agrees to permit access to its facilities, subcontractor facilities, and Contractor’s processes for producing the materials at a reasonable time for inspection of the materials and services covered under the Contract. District shall also have the right to test at its own cost the materials to be supplied under the Contract. Inspection at Contractor’s facilities or testing shall not constitute final acceptance of the materials. If District determines non-compliance of the materials, Contractor shall be responsible for the payment of all costs incurred by District for testing and inspection.
- D. **Notices.** Notices to Contractor required by the Contract shall be made by District to the person indicated on the Offer and Acceptance form submitted by Contractor. Notices to District required by the Contract shall be made by Contractor to Solicitation Contact Person indicated on the Solicitation cover sheet. The Solicitation Contact Person 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.
- E. **Property of District.** Any materials, including reports, computer programs, and other deliverables, created under the Contract shall be the sole property of District. Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. Contractor shall not use or release these materials without the prior written consent of District.
- F. **Advertising.** Contractor shall not advertise or publish information for commercial benefit concerning the Contract or its working relationship with District without prior written approval of the District Representative.

### 5.3. CONTRACT AMENDMENTS

- A. **Amendments.** The Contract is issued under the authority of the District Representative. The Contract may be modified only through a Contract Amendment within the scope of the Contract. 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 Contractor are violations of the Contract. Such changes, including unauthorized written Contract Amendments, shall be void and without effect.
- B. **Subcontracts.** Contractor shall not enter into any Subcontract under the Contract without the advance written approval of the Solicitation Contact Person. The Subcontract shall require the subcontractor to comply with the terms and conditions of the Contract.
- C. **Assignment and Delegation.** Contractor shall not assign any right nor delegate any duty under the Contract without the prior written approval of the District Representative.

### 5.4. CONTRACT CLAIMS

All claims and controversies under the Contract shall be resolved according to A.R.S. §15-213 and the School District Procurement Code.

## 5.5. CONTRACT INTERPRETATION

- A. **Governing Law.** The Contract is governed by Arizona law, including the School District Procurement Code.
- B. **Order of Precedence.** In the event of a conflict in the provisions of the Contract as accepted by District, the following order of precedence shall prevail:
  - 1st Solicitation Addendums
  - 2nd Special Requirements of Solicitation
  - 3rd General Terms and Conditions of Contract
  - 4th Statement of Scope of Work/Specifications
  - 5th Solicitation Attachments and Exhibits
  - 6th Uniform Instructions for Offers
- C. A Contract does not include a contract or agreement prepared and requested by Contractor unless it contains a provision that expressly states that it will be deemed part of the Contract, identifies what provisions of the Contract, if any, are superseded by the contract or agreement, and is signed by the District Representative.
- D. **Severability.** The provisions of the Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
- E. **No Parol Evidence.** The 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 the Contract.
- F. **No Waiver.** Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing to the nonconforming performance knows of the nature of the performance and fails to object to it.

## 5.6. CONTRACTUAL REMEDIES

- A. **Right to Assurance.** If District in good faith has reason to believe that Contractor does not intend to, or is unable to perform or continue performing the Contract, District may demand in writing that Contractor give a written assurance of intent or ability to perform. Failure by Contractor to provide written assurance within the number of days specified in the demand will be treated as an anticipatory breach of the Contract. Upon anticipatory breach, District may pursue all remedies, including termination of the Contract.
- B. **Stop Work Order.**

District may, at any time, by written order to Contractor, require Contractor to stop all or any part, of the work called for by the Contract for a period of up to ninety (90) days after the order is delivered to Contractor, and for any further period to which the parties may agree. Upon receipt of the order, 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.

If a stop work order issued under this clause is canceled or the period of the order or any extension expires, Contractor shall resume work. The District Representative shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

- C. Nonconforming Tender. Products and materials supplied under the Contract shall fully comply with the Contract. The delivery of products and materials or a portion thereof in an installment that do not fully comply with the Contract constitutes a breach of contract. On delivery of nonconforming materials, District may terminate the Contract or pursue any other right or remedy available to it.
- D. Right to Offset. District shall be entitled to offset against any sums due Contractor, any expenses, costs or damages incurred by District as a result of Contractor's nonconforming performance or failure to perform the Contract.
- E. Non-exclusive Remedies. The rights and the remedies of the parties under the Contract are not exclusive.
- F. Force Majeure. Except for payment of sums due, a party shall not be liable to the other or deemed in default under the Contract if and to the extent that such party's performance of the Contract is prevented by reason of Force Majeure. As used in the Contract, the term "Force Majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault, negligence, or reasonable diligence. Force Majeure includes acts of God; acts of the public enemy, war, riots, strikes, labor disputes, civil disorders, fire, flood, lockouts; or failures or refusals to act by government authority. Force Majeure shall not include any of the following occurrences:
  - 1. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market.
  - 2. Late performance by a Subcontractor unless the delay arises out of a Force Majeure as defined in the Contract.
  - 3. Inability of either Contractor or any Subcontractor to acquire or maintain any required insurance, bonds, licenses, or permits.
  - 4. If delayed in the progress of work by Force Majeure, the delayed party shall deliver written notice to the other party as soon as soon as practicable.
  - 5. The notice shall specify the cause of the delay and estimate the time for performance. A delay or failure in performance by either party shall not constitute default or give rise to a claim for damages, to the extent that such delay or failure is caused by a Force Majeure.

## 5.7. FEDERAL and STATE REQUIREMENTS

- A. **Fingerprinting Requirements.** Contractor, including any employee of Contractor, a Subcontractor and employee of a Subcontractor, who is contracted to supply services on a regular basis (at least five (5) times during a month) at a District school shall at its own expense, obtain a valid fingerprint clearance card in accordance with A.R.S. §41-1758 and present it to District or school prior to commencement of services. An exception to this requirement may be made as authorized in Governing Board policy.
- B. **E-Verification.** Contractor agrees to comply and maintain compliance with Federal Immigration and Nationality Act (FINA), A.R.S. §41-4401, and A.R.S. §23-214, which requires compliance of federal immigration laws by employers, contractors, and subcontractors in accordance with the E-Verify Employee Eligibility Verification Program.
- C. **Registered Sex Offender Restriction.** Contractor agrees that no employee or agent of Contractor or a Subcontractor, 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. Contractor further agrees that a violation of this condition shall be considered a material breach and may result in a cancellation of the Contract at District's discretion.
- D. **Non-Discrimination.** Contractor shall comply with all applicable state executive orders and federal and state laws, rules and regulations that protect persons from illegal discrimination on the basis of race, color, religion, national origin, sex, disability, and age.
- E. **Offshore Performance of Work Prohibited.** Due to security and identity protection concerns, direct services under the Contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work/services that directly serve the State of Arizona 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.
- F. **Terrorism Country Divestments.** In accordance with A.R.S. §35-392, District is prohibited from purchasing a company that is in violation of the Export Administration Act.

## 5.8. INSURANCE AND SAFETY

- A. **Insurance.** Contractor shall procure and maintain until all of its obligations under the Contract have been fully discharged, comprehensive insurance against claims for injury to persons or damage to property which may arise from or in connection with the work performed and material delivered by Contractor or subcontractors. Contractor must have workers

compensation insurance unless except by Arizona law. The insurance requirements are minimum requirements and in no way limit the indemnity covenants contained in the Solicitation.

- B. Insurance Coverage. Unless other coverage's or amounts are specified in the Special Requirements of Solicitation, Contractor shall provide coverage's with limits of liability not less than the following:

Commercial General Liability – Liability arising out of activities performed by or on behalf of Contractor

General Aggregate \$5,000,000

Products – Completed Operations Aggregate \$1,000,000

Personal and Advertising Injury \$1,000,000

Each Occurrence \$2,000,000

The policy shall be endorsed to include the following specific language: "Buckeye Elementary School District #33 is named as additional insured with respect to liability arising out of the activities performed by, or on behalf of Contractor."

Automobile Liability – Bodily injury and property damage for any owned, hired, and non-owned vehicles used in the performance of the Contract

Combined Single Limit (CSL) \$1,000,000

The policy shall be endorsed to include the following language: "Buckeye Elementary School District #33 is named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of Contractor, including automobiles owned, leased, hired or borrowed by Contractor."

Workers' Compensation and Employers' Liability

Workers' Compensation Statutory

Employers' Liability:

Each Accident \$100,000

Disease -Each Employee \$100,000

Disease -Policy Limit \$500,000

Property Insurance

Contractors awarded contracts for construction or expansion of buildings shall obtain and maintain for the duration of the project, course of construction builders risk insurance in the amount of the real property being constructed.

- C. Additional Insurance Requirements. The policies are to contain, or be endorsed to contain, the following provisions:

1. Contractor's insurance coverage shall be primary insurance and noncontributory with respect to all other available sources.
2. Coverage provided by Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

- D. Safety. Contractor, at its own expense and at all times, shall take all reasonable precautions to protect persons and District property from damage, loss, or injury resulting from the activities of Contractor, including its employees and subcontractors. Contractor shall comply with all applicable federal, state and local government job safety requirements, including the Occupational Safety Health Act.

## 5.9. LICENSES

Contractor shall maintain in current status all federal, state, and local licenses, bonds, and permits required for the 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.

## 5.10. PAYMENT

- A. Contractor Invoice. Contractor shall invoice District after delivery of goods and/or services. All invoices shall list the specific items being billed, purchase order number, and RFQ number of the Solicitation. Taxes shall be listed separately from the item cost. Contractor shall send invoices to District's Accounts Payable Department, 25555 W. Durango St., Buckeye, AZ 85236. All transactions are payable in U.S. currency only.
- B. Contractor Payment. District shall issue payment to Contractor after receipt of invoice. Payment terms are net thirty (30) days from receipt of Contractor's invoice.
- C. IRS W-9. Contractor shall have a current I.R.S. W-9 Form on file with District to receive payment under the Contract.
- D. Correct Billing. Contract products/services may not be invoiced greater than the purchase order. If incorrect invoices are discovered, Contractor must correct invoices resulting in excess charges, no matter the cause of the error or the delay in noticing error. Any excess payment must be returned to District within the time allowed by law, in the form of a check or credit memo, as determined by District.
- E. Progress Payments. District may make progress payments under the following conditions: 1) District and Contractor agree to the terms of the progress payments prior to issuing a purchase order; 2) the purchase order describes the amounts/percentages to be paid and the dates/frequency of payment; 3) District accepts responsibility for verifying the validity of each payment application; 4) payments are made only after goods and/or services are verified; and 5) any such payments must be made in full compliance with District's local governing entity rules and any and all other applicable state rules and regulations.

### 5.11. PRICE AND PRODUCT CHANGES

- A. Current Products. Contracts shall be for materials and equipment in current production and marketed to the general public and education/government agencies at the time the Bid is submitted.
- B. Discontinued Products. If a product or model is discontinued by the manufacturer, Contractor may request to replace the discontinued product with an acceptable alternate. District may require satisfactory evidence that the product has been discontinued, that the proposed alternate meets or exceeds the Contract specifications, and that the price of the proposed alternate is equal to or less than that of the discontinued product. District, in its sole discretion, may approve the request by issuing notice to the Contractor or a Contract amendment. Upon approval by District, Contractor shall make available electronic price lists/catalog updates at no additional cost to District.
- C. Price Adjustments.
  - 1. Price Increases. Prices shall be firm for the initial term of the Contract, unless otherwise specified in the Special Requirements of Solicitation, if any. Contractor may submit to the Procurement Officer a fully documented request for a price increase not more than 90 days and not less than 60 days prior to the renewal date of the Contract. A price increase adjustment shall only be considered at the time of a Contract extension and shall be a factor in the extension review process.  
The Procurement Officer shall determine whether the requested price increase or any other option is in the best interest of District. The Procurement Officer may require satisfactory evidence that manufacturers, suppliers, or service providers to Contractor have imposed or announced cost increases that contribute directly and substantially to Contractor's cost of doing business. A price increase, if approved, shall be effective upon the effective date of the Contract extension.
- D. Price Decreases. During the term of the Contract, Contractor shall offer to District an equivalent price reduction for any Contract product if Contractor publishes a price reduction for the Contract product for other customers of Contractor. District may accept a price reduction at its discretion.

### 5.12. RELATIONSHIP OF PARTIES

- A. Independent Contractor. Contractor is an independent contractor to District.
- B. No Contractual Relationship with Subcontractor. District shall have no contractual relationship with a Subcontractor.
- C. Affordable Care Act. Contractor understands and agrees that it shall be solely responsible for its 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 District as required by state or federal law.

### 5.13. RISK AND LIABILITY

- A. Risk of Loss. Contractor shall bear all loss of conforming material covered under the Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt of goods or services does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with Contractor regardless of receipt.
- B. General Indemnification. Contractor shall indemnify, defend, save, and hold harmless District and its Governing Board members, employees, and agents (hereinafter referred to collectively as “District”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to collectively as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees, or Subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such Contractor to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is the specific intention of the parties that District shall, in all instances except for Claims arising solely from the negligent or willful acts or omissions of District, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. In consideration of the Award of the Contract, Contractor agrees to waive all rights of subrogation against District for losses arising from the work performed by Contractor for District.
- C. Indemnification – Patent and Copyright. To the extent permitted by law, Contractor shall defend, indemnify, and hold harmless District against any liability, including costs and expenses, for infringement of any patent, trademark, or copyright arising out of Contract performance or use by District of materials furnished or work performed under the Contract. District shall reasonably notify Contractor of any claim for which it may be liable under this paragraph.
- D. Third Party Antitrust Violations. Contractor assigns to District any claim for overcharges resulting from antitrust violation to the extent that those violations concern materials or services supplied by third parties to Contractor toward fulfillment of the Contract.

### 5.14. SHIPPING/DELIVERY

- A. Shipping Terms/Transfer of Title. Shipments shall be F.O.B. Destination (District), Freight Prepaid and Allowed. Title and risk of loss shall not pass to District until District receives the products or materials at delivery point, unless otherwise provided in the Special Requirements of Solicitation, if any.

- B. Shipment Under Reservation. Contractor shall not ship under reservation and no tender of a bill of lading shall operate as a tender of the products or materials.
- C. Shipping Charges. District shall have no responsibility for cost of shipping unless specified in the Special Requirements of Solicitation, if any.
- D. Shipping Errors/Risk of Transportation. Shipping errors will be at Contractor's expense. If Contractor ships products or materials that were not ordered, Contractor shall pay for return shipment at the convenience of District. All risk of transportation and all related charges shall be Contractor's responsibility. Contractor shall file all claims for visible or concealed damage. District will notify Contractor promptly of any damaged products and shall assist Contractor in arranging for inspection.

#### 5.15. TAXES

- A. Payment of Taxes. District is responsible for payment of all taxes listed on the invoice. Contractor is responsible for collecting such taxes and forwarding all taxes to the proper revenue office.
- B. Pre-tax Prices. Prices shall not include applicable state and local taxes. All applicable taxes must be listed as a separate item on all invoices and will be paid by District.
- C. Federal Excise Tax. District is exempt from paying federal excise tax.
- D. Property Taxes. District is exempt from state and county property taxes.
- E. State and Local Transaction Privilege (Sales) Taxes. District is subject to applicable state and local transaction privilege taxes. Failure to collect taxes from District does not relieve Contractor from its obligation to remit taxes to the proper revenue office.
- F. Tax and Withholding Indemnification. Contractor and all subcontractors shall pay all federal, state, and local taxes applicable to its operation and any persons employed by Contractor or subcontractor. Contractor shall hold District harmless, and shall require its subcontractors to hold District harmless from any responsibility for taxes and contributions required under federal and/or state and local laws and regulations, including transaction privilege taxes, unemployment compensation insurance, Social Security, and Workers' Compensation.

#### 5.16. TERM OF CONTRACT AND EXTENSIONS

- A. Contract Term. The initial term of the Contract shall be one (1) calendar year from the effective date of Contract Award, unless otherwise specified in the Special Requirements of Solicitation.
- B. Contract Extension. By mutual written agreement between District and Contractor, the Contract may be extended for up to four (4) consecutive additional 12-month periods, beginning immediately after expiration of the prior term. District will determine whether it is in District's best interests to agree to a Contract extension. The factors used to make this determination may include, without limitation, Contractor's satisfactory performance of the Contract, the

likelihood of continued satisfactory performance, including competitive prices for Contract products, materials and services, and the likelihood that District will need to purchase from the Contract. The Contract will expire unless renewed by issuance of written notice by District or a purchase order for the term of the extension.

- C. Month-to-Month Extension. District may offer month-to-month extensions if that is determined to be in the best interests of District.

#### 5.17. WARRANTY/QUALITY GUARANTEES

- A. Fitness. Contractor warrants that all equipment, material and services supplied to District shall fully conform to all requirements of the Contract and all representations of Contractor, and shall be fit for all purposes and uses required by the Contract.
- B. Inspection. Contractor's warranties and certifications set forth in the Solicitation shall not be affected by inspection, testing, or payment for the equipment, materials, or services by District.
- C. Quality. Unless otherwise specified in the Special Requirements of Solicitation, Contractor warrants that for one (1) year after acceptance by District, the equipment, materials, and service shall be:
  - 1. Of a quality to pass without objection in the industry or trade normally associated with them;
  - 2. Fit for the intended purposes for which they are used;
  - 3. Of even kind, quantity and quality within each unit and among all units, within the variations permitted by the Contract;
  - 4. Adequately contained, packaged and marked as the Contract may require; and
  - 5. In conformance with the written promises or affirmations of fact made by Contractor.
- D. Compliance with Applicable Laws. The equipment, materials, and services supplied under the Contract shall comply with all applicable federal, state, and local laws, and the Contract shall maintain all applicable licenses and permits.
- E. Warranty Requirements. Contractor warrants that all equipment, materials, and services delivered under this Contract shall conform to the specifications of the Solicitation. Unless stated otherwise, all equipment shall carry a minimum 24-month manufacturer's warranty, including parts and labor. Contractor agrees to help District reach resolution in a dispute with the manufacturer over warranty coverage. Any extended manufacturer's warranty shall be passed on to District without exception. District reserves the right to cancel the Contract if Contractor charges District for a replacement part that Contractor received at no cost under a warranty.
- F. No Liens. Contractor warrants that the materials supplied under the Contract are free of liens.

G. Survival of Rights and Obligations.

1. Contractor's Representations and Warranties. All representations and warranties made by Contractor under the Contract shall survive the expiration or termination of the Contract
2. Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and comply with all purchase orders received by Contractor prior to the expiration or termination of the Contract, unless otherwise directed in writing by the District Representative.

## 6. SPECIAL REQUIREMENTS OF SOLICITATION

The following special instructions, terms and conditions are in addition to the Uniform Instructions for Offers and General Terms and Conditions of Contract. All defined terms in the Uniform Instructions for Offers shall have the same meanings when used in the Special Requirements of Solicitation.

### 6.1. Instructions for Electronic Bidding

Statement of Qualifications shall be submitted electronically through the District's e-procurement portal, <https://procurement.opengov.com/portal/besd33>. Once an account registration is completed, browse back to this page, click on "Submit Response", and follow the instructions to submit the electronic bid. Your submission must be uploaded, submitted, and finalized prior to the Due Date and Time listed. Your submission will only be visible to the District after the Closing Time. Do not embed any documents within your uploaded files as they will not be accessible or evaluated.

Submittals will be time stamped when received by OpenGov Procurement. Submittals will be accepted up to but no later than the time indicated in the Request for Qualification (RFQ). Submittals received after the time stated in the RFQ will not be considered and will remain unopened. The District strongly recommends that you give yourself sufficient time before Submittal Due Date and Time to begin the uploading process and to finalize your submission. Uploading large documents may take significant time, depending on the size of the file(s) and your Internet connection speed. Offeror assumes the risk of any delay in their submission. You will receive an email confirmation with a date/time stamp once you finalize your submission.

The District will not assume responsibility for any costs related to the preparation or submission of the proposal.

### 6.2. Contract Term

It is the intent of the District to award a multi-term contract, beginning upon award and continuing for a period of one year. If all conditions are met during this period, this contract can be extended, if funding is available, for up to four additional one-year contracts or any portion thereof. However, no contract exists unless and until a purchase order is issued each fiscal year.

It is the intent of the District that any job awarded during the contract term, may be completed under this contract.

### 6.3. Expected Award Timeframe

It is expected that the award for this contract, made under the subsequent RFP, will be made within 90 days of opening. However, no commitment is made to this award date.

### 6.4. Contract Award

Buckeye Elementary School District #33 intends to award up to three (3) Contracts in Category 1) Small projects under \$250,000; and four (4) Contracts under Category 2) projects greater than \$250,000. Contractors awarded contracts under Category 2 may also perform projects in an amount less than \$250,000, at the discretion of the Contractor and District.

The District may authorize the individual job order limited up to the statutory limit per individual project order or a higher or lower amount prescribed by the Governing Board.

### 6.5. [Funding](#)

The District may use a variety of funding sources to complete a job, including SFOB Building Renewal Grant Funds, or Federal Grant Funds.

### 6.6. [Evaluation Overview](#)

- A. This Request for Qualifications is the first of a two-step procurement process.
- B. Representatives of the District will evaluate all responsive SOQ's submitted based on the defined criteria in the Evaluation Criteria Section of this solicitation. The evaluation committee will not request nor consider fees, price, man-hours or any other cost information at this phase of the selection process. The selection committee will use and consider only the criteria and weighting of criteria provided. No other factors or criteria will be used in the evaluation, determinations and other actions. Interviews will not be held.
- C. The selection committee will create a single final list for Category 1 (of not more than eight (8) Contractors) and a single final list for Category 2 (of not more than nine (9) Contractors) and rank each Contractor in order of preference in accordance with A.A.C. R7-2-1108(B)(7)(b), A.R.S. §41-2579(C)(2)(b)(ii), and 34-604(C)(2)(b)(ii).
- D. The District will notify the highest ranking firms as to the status on the final list before or at the same time as issuance of the subsequent Request for Proposal. Additionally, those firms that did not make the final list will be notified.
- E. The District will issue a Request for Proposal to the final lists of responsive and responsible contractors determined to be the most qualified to perform the specified services in accordance with the School District Procurement Rules R7-2-111(C), A.R.S. §34-604(F)(2), and A.R.S. §41-2579(F)(2), .
- F. The committee will remain the same throughout the RFQ and RFP processes. The committee will include up to seven (7) members, one of which will be a senior management employee of a licensed contractor and one will be a registered architect or engineer.
- G. The District makes no guarantee, expressed or implied, that actual jobs will be awarded to all selected Contractors.
- H. The District reserves the right to cancel the RFQ or subsequent RFP, reject in whole or in part any or all SOQ or proposals or determine not to enter into contracts under Category 1 and/or Category 2, if it is advantageous to the District.

### 6.7. [Pricing Methodology](#)

During the RFQ process, contractors shall not submit or communicate any information on fees, coefficients, price, man-hours, or any other cost information. Accordingly, any sealed formal

qualifications that contain any information of this type may, at the sole discretion of the evaluation committee, will be deemed non-responsive and will not be considered. This exclusion of information applies to the contractor's formal sealed qualifications and to all other aspects of the RFQ competition.

Contract pricing under the Request for Proposal following this solicitation will be based upon a coefficient applied to a Unit Price Book, Open Book Pricing, and/or labor, and/or Trade Service price guide for products.

The District shall select the pricing method for a job order prior to requesting a price quote.

#### 6.8. Bonding Capacity

The required minimum single job bonding capacity for this contract shall be \$250,000 for Category 1 and \$1,000,000 for Category 2. Provide a letter from your bonding agency describing your current bonding capacity (single and aggregate levels) and how much bonding capacity will be available for this contract. An agent of your licensed bonding agency shall sign the letter.

#### 6.9. Financial Information

If requested by the District at a later date, the firm shall provide a current letter from your financial institution indicating the range of credit available to your firm, ("credit in the low nine figures" or "credit line exceeding five figures").

#### 6.10. Contractor's License Requirement

Contractors are required to hold an Arizona State Registrar of Contractors B-1 or B-2 License to perform work under this solicitation.

#### 6.11. Performance Evaluation Survey

The objective of this process is to identify the past performance of a firm and key personnel assigned to perform the specified services. The Performance Evaluation Survey should be sent to past and/or present clients. The client will complete and return the form directly to the District. Surveys are due no later than 5:00 p.m., Wednesday, October 5, 2022. The survey form is included with this solicitation.

A reference list of clients provided the Performance Evaluation Survey will be provided to the District in the Questionnaire section.

The maximum number of surveys that will receive credit is five (5). If more than five (5) surveys are received, the District will use the first five (5) received.

#### 6.12. Performance and Payment Bond/Bid Security

Payment and Performance Bonds will be required for each job of \$100,000.00 or more.

- The vendor agrees to furnish a 100% (including sales tax) Statutory Performance/Payment Bond for all jobs that are \$100,000 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. Payment will not be made until required bonds have been received.

- A Bidder must provide acceptable bid security for the full stated in the Offer upon award of Contract. Acceptable bid security is a certified or cashier's check or an annual or one-time bid bond issued by a security company authorized to do business in the State and rated "B+" or higher in Best's Guide in the amount of the full price stated in the Offer. An Offer submitted without acceptable bid security is nonresponsive.
- The required bonds must be provided to District within ten (10) days after District issues the Acceptance of Offer and Award of Contract to Contractor. If acceptable bonds are not provided within the ten (10) day period, District may cancel the award of Contract and enforce the bid security. No purchase order shall be issued, no work shall begin, and no payment will be made until acceptable performance and payment bonds are delivered to District.
- Personal surety bonds will not be accepted.

### 6.13. Subcontractor Selection Plan

Offerors will be required to submit a subcontractor selection plan as part of the SOQ. Subcontractors may be selected based on qualifications alone or on a combination of qualification and price. Subcontractors shall be selected on price alone.

It is the responsibility of the Offeror to insure the District that all Subcontractors hold a valid commercial license, are properly insured, 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.

Concurrent with submittal of job pricing, the Offeror shall provide District with a subcontractors list along with proof of certification for any Subcontractors they will retain. Bidder will verify Subcontractors are properly licensed through the State of Arizona prior to making a recommendation. This shall be a minimum requirement in evaluating the acceptability of a Subcontractor. The District reserves the right to reject proposed Subcontractors. All Subcontractors must be approved by BESD prior to start of work.

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 licensed, insured 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 District retains the right to reject proposed Subcontracts.

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.

#### 6.14. Safety of Students, Staff and Contractors.

To best identify our Contractors and Subcontractors on the job site, all firms will be required to have their employees and Subcontractors wear vests with a large number on it (this number should be at least 6" tall and visible from a distance). Firms will keep a daily log of each employee and Subcontractor on campus, this log will be checked by the District.

#### 6.15. Fingerprint Requirements

Fingerprint requirements will be unique to each job and may be different for each SAVE member utilizing this contract. Contractor will be required to meet the minimum requirements as defined by each job.

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 A.R.S. § 41-4401, A.R.S. § 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. If requested, the Contractor and any proposed Subcontractors shall have five (5) working days from receipt of the request to supply adequate information. Failure to supply the requested information, 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 Contract. All costs associated with verification and any remedies are the sole responsibility of the Contractor/Subcontractor.

When the job site can be fenced and secluded from students or when work is performed when no students will be on campus, at the discretion of the District, BESD may require that only the Project Director, Project Manager, Project Superintendent or others regularly onsite during construction responsible for the management and oversight of a job shall possess a State of Arizona Department of Public Safety Level One Fingerprint Clearance Card. However, if work must occur during times when students may be in attendance (i.e. punch list items), everyone performing work when students may be present (including after-school or weekend activities) must possess a valid Level One Fingerprint Clearance Card. Contractor agrees to submit copies of fingerprint clearance cards at the request of the District prior to the start of any job.

#### 6.16. Partial Bids

The District will consider Partial Bids. A Contractor responding under Category 1 will not perform work under Category 2.

## 7. SPECIAL REQUIREMENTS FEDERAL REQUIREMENTS

### 7.1. Federal Funding Requirements (As Applicable)

- A. Affordable Care Act: The Offeror 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 and Education Reconciliation Act, Public Law 111-152 (collectively the Affordable Care Act “ACA”). The Offeror 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.
- B. Buy American Provision: The Offeror will purchase, to the maximum extent practicable, domestic commodities or products in accordance with 7CFR§210.21(d) and 7CFR§220.16(d). The Offeror shall purchase, to the maximum extent practicable, domestic agricultural commodities or products substantially processed in the United States. “Substantially” means the final processed product contains over 51% domestically grown agricultural commodities. This provision applies to all food purchases paid from the nonprofit school food services account. There are limited exceptions to this provision which allow for the purchase of products not meeting the “domestic” standard as described above (“non-domestic”) in circumstances when use of domestic products is truly not practicable. However, before utilizing an exception, alternatives to purchasing non-domestic food products should be considered.
- C. Disclosure of Lobbying Activities: Pursuant to Byrd Anti-Lobbying Amendment 31 USC 1352, the Offeror must disclose lobbying activities in connection with school nutrition programs. If there are material changes after the initial filing, updated reports must be submitted on a quarterly basis. 7CFR§3018.100 (Only applies to contracts over \$100,000)
- D. Certification Regarding Lobbying: Pursuant to 31 USC 1352, the Offeror must submit a certification regarding lobbying which conforms in substance with the language provided in CFR Part 200.450. No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative Agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions.
- E. Certificate of Independent Price Determination: The Offeror admits that all prices in this Offer have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Offeror or with any competitor certification regarding non-collusion.
- F. Civil Rights Compliance: In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited

from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

1. Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.
  2. To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, AD-3027, found on line at [www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).
- G. Clean Air Act, Clean Water Act, and Environmental Protection Agency Regulation: The Offeror will comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738 and Environmental Protection Agency regulations which prohibit the use, under nonexempt federal contracts, grants or loans to facilities included on the EPA List of Violating Facilities.
- H. Contract Work Hours and Safety Standard Act: The Offeror shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Only applies to contracts over \$100,000)
- I. Debarment, Suspension, Ineligibility and Voluntary Exclusion: By signing the Offer & Acceptance form, the Offeror shall certify that they have not been debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs under executive order 12549 and 12689. The Offeror shall comply with regulations implementing Office of Management and Budget Guidance in Non-procurement Debarment and Suspension codified at 2 CFR Part 180 and 2 CFR Part 417. These regulations restrict transactions with certain parties that are debarred, suspended or otherwise excluded from, or ineligible for, participation in Federal assistance programs or activities. (Only applies to contracts over \$25,000)
- J. Energy Policy and Conservation Act: The Offeror shall meet the mandatory standards and policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act. (Pub. L. 94–163, 89 Stat.871.)
- K. Equal Employment Opportunity: The Offeror shall comply with Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order

11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapters 60).

- L. Record Keeping: The books and records of the Offeror pertaining to operations under this Agreement shall be available to the District at any reasonable time. These records are subject to inspection or audit by representatives of the District, State Agency, the US Department of Agriculture, and the US General Accounting Office at any reasonable time and place. The District shall maintain such records, for a period of not less than five (5) years after the final day of the contract, or longer if required for audit resolution (A.R.S §35-214). 7CFR§210.23 and 2 CFR Part 200.318(i).
- M. Invoicing: The Offeror fully discloses all discounts, rebates, allowances and incentives received by the Offeror from its suppliers. If the Offeror receives a discount, rebate, allowance, or incentive from any supplier, the Offeror must disclose and return to the District the full amount of the discount, rebate, or applicable credit that is received based on the purchases made on behalf of the District. The Offeror must identify the amount of each discount, rebate and other applicable credit on bills and invoices presented to the school food authority for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit. 7CFR§210.21(f)(1)(iv).  
No expenditure may be made from the nonprofit school food service account for any cost resulting from a cost-reimbursable contract that fails to include the requirements of 7CFR§210.21, nor may any expenditure be made from the nonprofit school food service account that permits or results in the Offeror receiving payments in excess of the Offeror's actual, net allowable costs. 7CFR§210.21 (f)(2)  
The return of purchase incentives, discounts, rebates, and credits will be to the Sponsor's non-profit Child Nutrition account.
- N. Termination Clause: The District may terminate for cause and for convenience the contract. Appendix II to 2 CFR Part 200. (Only applies to contracts over \$10,000)
- O. E-Verify Requirement: The Offeror warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with A.R.S. §23-214, Subsection A. (That subsection reads: After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program.)
- P. Description of process for enabling vendors to receive or pick up orders upon contract award: Once the District has made the decision to order from an awarded vendor of an awarded contract, price will be confirmed/verified and purchase orders issued and sent to vendor via automated process, based upon the needs of the District. No volume is implied or guaranteed.
- Q. Positive efforts shall be made to involve minority and small businesses.
- R. For building projects:

1. Copeland “Anti-Kickback” Act - All contracts and sub grants in excess of \$2000 for construction or repair awarded by recipients and sub recipients shall include a provision for compliance with the Copeland “Anti-Kickback” Act.
  2. Davis-Bacon Act - The OFFEROR shall comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5).
- S. Contractor Violation or Breach of Contract Terms: Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Pursuant to Federal Rule (A) above, when Public Entity expends federal funds, Public Entity reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.
- T. Rights to Inventions Made Under a Contract or Agreement: If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

## **8. SPECIAL REQUIREMENTS SFB NOTIFICATION**

Please note that any job awarded utilizing SFOB funding, would be contingent on funding approval from the School Facilities Board and If not approved, project may not be awarded. However, if the School Facilities Board elects not to fund the project, the District reserves the option to fund any or all with alternative funding.

All invoices, pay applications and change orders must be submitted on AIA form or AIA formatted forms for School Facility Board review.

## 9. SCOPE OF WORK

### DISTRICT PROFILE

Buckeye Elementary School District is located in Buckeye, Arizona. It has 8 schools serving about 5,800 students in pre-kindergarten through 8th grade.

#### 9.1. Purpose

The purpose of this RFQ is to develop a long term contract with qualified General Commercial Contractors to perform miscellaneous construction and repair services, including limited pre-construction design services (i.e. professional services), for various projects to be determined such as repairs, maintenance, additions, renovations, remodeling, and tenant improvements to buildings and facilities utilizing Job-Order-Contracting (JOC) project delivery method.

Because any work under this contract will be on a job order basis, exact project details are not available. General information on the project site, scope of work, schedule, project design and construction budget, or life cycle budget information shall be provided by District prior to usage of awarded contracts.

The method used for JOC Task Order pricing will be determined by the District prior to any pricing being completed. Acceptable methods of determining pricing may include Open Book Pricing or Unit Price Book.

#### 9.2. Typical Work

##### Design Services

The scope of work will vary with each Job Order. Minor design services may be required for some job orders, however if needed, most will be designed through registered Architects and Engineers under separate contract. For job orders that require design services, the contractor shall seek the services of Arizona registered Architects and Engineers to prepare plans for permitting.

Construction services by the JOC Contractor may include, but are not limited to:

- Provide construction and repair services for various projects, including required labor (including subcontractors costs), materials, equipment, and related services for remodeling, renovations, tenant improvements, and additions; including site work, installation of water, sewer, or other utility extensions.
- Assist with scoping and constructability issues.
- Provide project scheduling.
- Provide detailed cost estimating and knowledge of marketplace conditions.
- Provide value engineering, as required.
- Provide long-lead procurement studies and possibly initiate procurement of long-lead items.

- Coordinate with various departments and other agencies including utility companies, etc.
- Schedule and manage site operations.
- Bid, award, and manage all subcontracts while meeting the District's project requirements and standards.
- Provide quality controls.
- Address all federal, state, city, and county permitting requirements and assist in the permitting processes.
- Maintain a safe and clean work site for all project participants, staff, and public.
- Coordinate removal of Hazardous Materials with the District.

### 9.3. Permits

Contractor shall be responsible for obtain any and all permits required to perform services under this contract.

### 9.4. Locating and Marking of Underground Utilities

Locatable Utilities. Contractor shall be responsible for contacting the Blue Stake Center for locating and marking of utilities prior to excavating.

Non-Locatable Utilities. Contractor shall obtain any known information about non-locatable utilities in a pre-construction meeting to be conducted a minimum of two (2) days prior to excavating. A District representative or designee shall respond to identify and mark those utilities in a customary manner.

### 9.5. Asbestos

Asbestos QA & Sampling and Abatement is done under a separate contract of the District. Typically all projects will have these vendors perform all Asbestos related work under the supervision of the Facilities Department.

### 9.6. Safety Standards

Contractor shall be familiar with and operate within the guidelines set forth by the Occupational Safety and Health Act.

All items supplied on this contract must comply with the current applicable occupational safety and health standards of the State of Arizona Industrial Commission, the National Electric Code, and the National Fire Protection Association Standards.

Contractor, subcontractor and employees shall observe and exercise all necessary caution and discretion so as to avoid injury to persons, damage to property, and annoyance to or undue interference with the movement of the public and District personnel.

### 9.7. Clean Up

The Contractor, at all times, shall keep the premises free from accumulation of waste materials or rubbish caused by construction operations. Upon completion of the work, remove and legally dispose of all waste materials and rubbish from and about the project, as well as tools, construction equipment, machinery and surplus materials.

Remove all surplus materials and debris of every nature resulting from operations, and put site in a neat, orderly condition.

If Contractor fails to clean up the work, the District may do so and the cost thereof shall be charged to the Contractor.

### 9.8. Spillage

Contractor will be responsible for the clean-up per ADEQ standards of a contamination or spillage resulting from the delivery and unloading at the project.

### 9.9. Inspection

All materials, service, or construction are subject to final inspection and acceptance by the District. Materials failing to meet the requirements of this contract will be held at vendor's/contractor's risk and may be returned to vendor/contractor. If so returned, the cost of transportation, unpacking, inspection, repudiating, reshipping or other like expenses are the responsibility of the Contractor.

### 9.10. Training

Contractor shall be required to give whatever instructions (and written manuals) as necessary in the operation and care of the equipment furnished to the persons employed by the District to operate, use, or maintain this equipment, so as to qualify them thoroughly for the proper operation and/or maintenance of the equipment.

## 10. EVALUATION PHASES

No.	Evaluation Criteria	Scoring Method	Weight (Points)
1.	<p><b>Experience and Expertise of Firm</b></p> <p>Overall experience and expertise of the submitting firm shall be considered; The ability of the firm to demonstrate a level of competence in establishing long term relationships with clients in performing a host of small to mid-range construction, renovation, and tenant improvement work on a repeated basis; Working on multiple projects; Ability of firm to complete projects on a timely basis; Overall expertise of the submitting firm in the area of estimating, pre-construction design services, value engineering, and job site analysis.</p>	Points Based	<p>300 <i>(30% of Total)</i></p>
2.	<p><b>Organizational Strength</b></p> <p>Financial condition of the offeror shall be reviewed to ensure long term viability; Safety record of the offeror; Bonding capacity; Insurance requirements; Number of years in operation; Knowledge of construction market; Reputation to attract quality sub-contractors shall be considered. The ability of the firm to effectively absorb new projects in light of existing work load.</p>	Points Based	<p>250 <i>(25% of Total)</i></p>
3.	<p><b>Contract Management Plan and Subcontractor Management Plan</b></p> <p>The detail and thoroughness of the plan to include contract management, quality management, subcontractor selection plan and subcontractor management; Ability of the offeror to communicate a sense of confidence and competence in operating within a JOC environment; Software solution proposed and the ability of firm to provide a precise mechanism for establishing price estimates; Reputation to attract quality sub-contractors.</p>	Points Based	<p>200 <i>(20% of Total)</i></p>

<p>4.</p>	<p><b>Qualifications and Experience of Personnel</b></p> <p>Overall qualifications and experience profile represented by the key personnel described by the offeror; Education and certification background of personnel; Tenure of the proposed personnel with submitting firm; The specific experience of the proposed team; Knowledge of JOC practices using an established Unit Price Book and Open Book Pricing shall be considered.</p>	<p>Points Based</p>	<p>200 <i>(20% of Total)</i></p>
<p>5.</p>	<p><b>Responsiveness</b></p> <p>Overall responsiveness of the proposal in clearly stating and understanding the scope of work and providing the required information at time of RFP submittal. The ability of the firm to accept the terms and conditions of this solicitation that will become the governing document of this contract will be considered. All forms have been completed, signed, and submitted in the response.</p>	<p>Points Based</p>	<p>50 <i>(5% of Total)</i></p>

## 11. VENDOR QUESTIONNAIRE

### 11.1. Contractor's Profile

In this section, you will tell us about your firm. Please provide complete answers to the questions as presented. Links to outside resources or reference to other materials in response to a question will not be considered.

#### 11.1.1. *Are you submitting under Category 1 or Category 2?\**

Considerations should include the appropriate license, demonstrated experience, insurability and bonding and financial capacity.

Category 1: Jobs up to \$250,000

Category 2: Jobs greater than \$250,000

\*Response required

#### 11.1.2. *Basic Company Information\**

Provide the dba (if applicable), address, telephone number, fax number, and email address for your firm.

\*Response required

#### 11.1.3. *If your firm has more than one office, provide specific information about the parent company and administering branch.\**

\*Response required

#### 11.1.4. *Indicate the type of ownership.\**

(Corporation, joint venture, limited liability company, sole proprietorship, etc.)

\*Response required

#### 11.1.5. *How long has your company been in business?\**

Provide number of years in business, any name changes (and year of change), and years in operation within the Phoenix metropolitan area.

\*Response required

#### 11.1.6. *System Award Management Verification\**

Please enter your company's Legal name and/or dba Name:

\*Response required

#### 11.1.7. *Certification\**

Certify that your organization and any principal of the organization is not prohibited, suspended or otherwise declared ineligible to contract or provide any services required hereunder by any federal, state or local public agency.

Please confirm

\*Response required

**11.1.8. Arizona Corporation Commission\***

Please enter your company's Legal name and/or dba Name:

\*Response required

**11.1.9. Arizona Registrar of Contractors\***

Please enter your ROC License #.

Please note, license must be in force at the time of submittal and remain in good standing throughout completion of the project.

\*Response required

**11.1.10. Additional Contractor's License**

This space is provided to add additional ROC license numbers, if needed.

**11.1.11. Federal Funding Requirements\***

Is your firm able to comply with the federal funding requirements and EDGAR Certifications outlined in this solicitation? If you answer yes, please upload a copy of your completed EDGAR Certifications Addendum below.

Yes

No

\*Response required

**11.1.12. EDGAR Certifications**

If you indicated you are able to comply with the federal requirements listed in this solicitation, please download the attached Addendum, complete and upload here.

- [EDGAR Certification.pdf](#)

**11.1.13. School Support\***

Provide a statement indicating what your firm has done to support the betterment of school districts in Arizona.

\*Response required

**11.1.14. Accounts Receivable Contact Information\***

Please list name, email and phone number.

\*Response required

### *11.1.15. Purchase Order Contact Information\**

What email address should Purchase Orders be sent?

\*Response required

### *11.1.16. Sales/Marketing Contact Information\**

Please list name, email and phone number.

\*Response required

### *11.1.17. SAVE Cooperative\**

If awarded a contract under this solicitation, will the contract be open for use by other members of the SAVE Cooperative?

Yes

No

\*Response required

## 11.2. Organization Strength

### *11.2.1. Bonding Capacity\**

Provide a letter of surety from your bonding company describing the firm's bonding capacity.

\*Response required

### *11.2.2. Certificate of Insurance\**

Please upload a sample Certificate of Insurance.

Within 10 days of award of a job, Contractor must provide the District with a COI meeting the requirements outlined in the Special Requirements section of this solicitation.

\*Response required

### *11.2.3. Safety History\**

Provide a 3-year safety history. Note number of OSHA recordable cases, lost workdays, restricted workdays and fatalities in the last three (3) years. Estimate the approximate number of employee hours worked by your firm in these three (3) years.

\*Response required

### *11.2.4. Experience Modification Letter\**

Provide a letter from your firm's insurance company stating the Workers' Compensation Experience Modification Rate (EMR) for the past three (3) years. The letter shall be on the insurance company's letterhead and shall be signed by an appropriate individual employed by the insurance company.

\*Response required

### *11.2.5. Terminated Contracts\**

Identify any contract or subcontract held by the firm, or officers of the firm, which has been terminated within the last five (5) years.

\*Response required

### *11.2.6. Judgments\**

Identify any judgments against your firm within the past three (3) years.

Indicate N/A, if none.

\*Response required

### *11.2.7. Unresolved Claims\**

Identify any current unresolved claims against the Contractor, or senior management staff.

\*Response required

### *11.2.8. Bankruptcy\**

Identify any filing under the U.S. Bankruptcy Code over the past five (5) years.

Indicate N/A, if none.

\*Response required

### *11.2.9. Liquidated Damages\**

Identify any projects where liquidated damages were assessed by an owner for late completion of a project within the past three (3) years.

Indicate N/A, if none.

\*Response required

## 11.3. Experience and Expertise

*11.3.1. Provide a description of your JOC experience working on education-based projects, working with other public sector agencies (cities, municipalities, etc.), working on multiple projects simultaneously, and working during limited timeframes (summer breaks and during a typical school year).\**

\*Response required

### *11.3.2. Projects\**

In what types of projects do you specialize?

\*Response required

*11.3.3. Describe your experience working on occupied campus.\**

\*Response required

*11.3.4. How many JOC Projects between \$1.00 and \$100,000 has your firm completed within the past 3 years?\**

- A. How many of these projects were quoted and completed using a Unit Price Book?
- B. How many of these projects were quoted and completed using Open Book Pricing?

\*Response required

*11.3.5. How many JOC Projects between \$100,001 and \$250,000 has your firm completed within the last 3 years?\**

- A. How many of these projects were quoted and completed using a Unit Price Book?
- B. How many of these projects were quoted and completed using Open Book Pricing?

\*Response required

*11.3.6. How many JOC Projects between \$250,001 and \$500,000 has your firm completed within the past 3 years?\**

- A. How many of these projects were quoted and completed using a Unit Price Book?
- B. How many of these projects were quoted and completed using Open Book Pricing?

\*Response required

*11.3.7. How many JOC Projects between \$500,001 and \$1,000,000 has your firm completed within the past 3 years?\**

- A. How many of these projects were quoted and completed using a Unit Price Book?
- B. How many of these projects were quoted and completed using Open Book Pricing?

\*Response required

*11.3.8. How many JOC projects over \$1,000,000 has your firm completed within the past 3 years?\**

- A. How many of these projects were quoted and completed using a Unit Price Book?
- B. How many of these projects were quoted and completed using Open Book Pricing?

\*Response required

*11.3.9. Project Portfolios*

You may upload a very short portfolio for any projects listed above. This is OPTIONAL and declining this option will not have a negative impact on your proposal standing.

*11.3.10. Past Performance Evaluation Survey\**

Provide a list of clients you provided a copy of the Performance Evaluation Survey.

\*Response required

#### 11.4. Contract Management Plan

*11.4.1. Explain how you plan to ensure prompt responses to multiple job order requests.\**

\*Response required

*11.4.2. Provide a sample of a typical job estimate using your software program.\**

\*Response required

*11.4.3. How do you set goals and monitor the performance of a job?\**

- Explain how you inspect the work to ensure quality.
- Explain how you stay on schedule.

\*Response required

*11.4.4. Explain any limitations you have geographically or in the number of simultaneous job orders.\**

\*Response required

*11.4.5. Basic Warranty and Warranty Procedure\**

- Provide basic warranty information
- Term
- Coverage
- How does your firm help the District with issues after the warranty period?

\*Response required

*11.4.6. Closeout\**

- A. How long does the Firm maintain project records? (This is for closeout and warranty information).
- B. Are the records maintained in paper or electronic form?
- C. Confirm that the Firm will assist the District by providing cost data, and other information specified by the District, for tracking capital items.

\*Response required

#### 11.5. Subcontractor's Selection Plan

*11.5.1. Subcontractor's Selection Plan\**

Describe your Subcontractor's Selection Plan.

- Subcontractors may be selected based on qualifications alone or on a combination of qualifications and price. Subcontractors shall not be selected based on price alone.
- Subcontractor recruitment.
- Controversies and claims related to work performed by subcontractors.

\*Response required

*11.5.2. How will you engage local trades in jobs?\**

\*Response required

*11.5.3. Self-Performed Work\**

Describe firm's philosophy on self-performing any of the trade work.

\*Response required

11.6. Personnel Resources

*11.6.1. Provide information about the firm's in-house and on-site staff dedicated to JOC services. Specifically, how their experience relates to Job Order Contracting for school districts and other public entities.\**

\*Response required

*11.6.2. Identify the primary contact person who will represent the firm and interface with the District throughout the term of this contract.\**

\*Response required

*11.6.3. Resumes\**

Please upload resumes of key personnel that will be assigned to this contract.

\*Response required

*11.6.4. Identify personnel that will be on the project team assigned to this contract, their training, education, and qualifications.\**

\*Response required

*11.6.5. Staff Turnover\**

What is your average percentage of staff turnover?

\*Response required

*11.6.6. Organization Chart\**

Please upload an organization chart for your firm

\*Response required

## 11.7. Forms

### 11.7.1. *Acknowledgement and Acceptance of Terms and Conditions of the Solicitation\**

The Offeror acknowledges and accepts all terms and conditions of the Solicitation, except as expressly noted below.

As used in this question, "Terms and Conditions of Solicitation" means all terms, conditions, specifications, certifications and warranties set forth in the documents that comprise the Solicitation, including the Uniform Instructions for Offers, Special Rules for Offers (if any), General Terms and Conditions of Contract, Special Requirements of Solicitation (if any), Specifications/Scope of Work, and Solicitation Addendums (if any). All exceptions or modifications to the Solicitation, regardless of whether the District informally approved such items prior to submission of the Offer, must be clearly set forth below.

Offeror takes no exceptions or modifications to the terms and conditions of the Solicitation. (Note: If none are listed below, it is understood that no exceptions/deviations are taken.)

Offeror requests the exceptions or modifications set forth below and attached hereto to the terms and conditions of the Solicitation: (Note: All requested exceptions/deviations must be clearly explained. Reference the specific language that you are taking exceptions/deviations to. Unacceptable exceptions shall remove your proposal from consideration for award. Buckeye Elementary School District #33 shall be the sole judge on the acceptance of exceptions/deviations and their decision shall be final.)

\*Response required

### 11.7.2. *Exception(s) Requested to Terms and Conditions\**

If you requested an exception under the Acknowledgement and Acceptance of Terms and Conditions of the Solicitation, please clearly explain the requested exception/deviation. Reference the specific language that you are taking exceptions/deviations to. Unacceptable exceptions shall remove your proposal from consideration for award. Buckeye Elementary School District #33 shall be the sole judge on the acceptance of exceptions/deviations and their decision shall be final.

Enter N/A if this does not apply.

\*Response required

### 11.7.3. *Confidentiality of Proprietary Information\**

Explanatory Note: The purpose of this question is to request that the District treat as confidential specific information in the Offer that the Bidder believes is a trade secret or other proprietary information. All information that is the subject of the request for confidentiality must be designated on the page or pages of the Offer in which it appears. An explanatory statement for the request must be clearly set forth below. Additional pages may be attached to the form. The District shall review the statement and provide the determination in writing whether the information shall be protected. If the District determines that the information shall be protected from disclosure, the District shall inform the Offeror in writing of such determination.

Requests to protect pricing information or the entire Offer from disclosure will be denied.

Confidential/Proprietary information is not included. (Note: If none are listed below, it is understood that no exceptions/deviations are taken.)

Confidential/Proprietary information is included and is outlined below.

\*Response required

#### *11.7.4. Request for Confidentiality of Proprietary Information\**

The Offeror requests that the specific information, described below and identified on the page or pages of the Offer in which it appears, be treated as confidential information and protected from disclosure to the public.

1. Description of specific information that is the subject of the request.
2. The reason or reasons why the information should be treated as confidential.

Enter N/A if this does not apply.

\*Response required

#### *11.7.5. Asbestos and Hazardous Material Statement\**

Please download the below documents, complete, and upload.

- [Asbestos and Hazardous Mate...](#)

\*Response required

#### *11.7.6. Conflict of Interest\**

This question provides the vendor an opportunity to disclose any existing relationship with an employee or Board Member of the Buckeye Elementary School District. The vendor should also disclose any personal, business, or volunteer affiliations that may give rise to a real or apparent conflict of interest.

To the best of our knowledge, no relationship exists between a member of our firm and any member of the Governing Board of the District, Superintendent of the District, any employee of the District.

We have a familial relation or conflict of interest to report.

\*Response required

#### *11.7.7. Contractor may have a potential conflict of interest to report\**

Please indicate the name of relative or other party and nature of relationship that may create a conflict of interest.

Enter N/A if this does not apply.

\*Response required

#### *11.7.8. Offer and Acceptance Form\**

Please download the below documents, complete, and upload.

- [Offer and Acceptance Form.pdf](#)

\*Response required

#### *11.7.9. Non-Collusion Affidavit\**

You, the Vendor, do confirm that your persons, corporation, or company who submits the accompanying bid, deposes and says:

Offer is genuine and not sham or collusive, nor made in the interest of, or behalf of, any persons not herein named, and that the Bidder has not directly or indirectly induced or solicited any other Bidder to put in a sham Bid, or any other person, firm or corporation to refrain from submitting a Bid, and that the Bidder has not in any manner sought by collusion to secure for itself an advantage over any other Bidder; and

Offeror has taken steps and exercised due diligence to ensure that Bidder has not offered, conferred, or agreed to confer any personal gift or benefit on a person who supervises or participates in contracts, purchases, payments, claims or other financial transactions, or on a person who supervises or participates in planning, recommending, selecting or contracting for materials, services, goods, construction or construction services of the District, in accordance with A.R.S. § 15-213(O), A.A.C. R7-2-1024 (B.1.q), and A.A.C. R7-2-1003(J).

Please confirm

\*Response required

#### *11.7.10. W-9\**

Please upload page 1 of your completed W-9.

- [W-9 Form.pdf](#)

\*Response required