



State of New Mexico Public School Facilities Authority

Agreement No. SA2022-3

THIS Agreement ("Agreement") is made by and between the New Mexico Public Schools Facility Authority hereinafter referred to as "PSFA" and the New Mexico Roof Consultants, hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the PSFA.

WHEREAS, the PSFA issued a Request for Proposals, titled "Roofing Consultant and Observation Services, RFP No. 2022-001" (RFP); and

WHEREAS, the Contractor submitted its Proposal, dated August 26, 2021; and

WHEREAS, the RFP, Addenda, and the Proposal submitted by Contractor are incorporated by reference and made a part of this Agreement by way of this reference; and

WHEREAS, the Contractor has the experience and technical ability to provide the work/services; and

WHEREAS, this Agreement shall be utilized by the PSFA and school districts collectively, on an as-needed basis, when the PSFA and school districts are Co-Owners of a project, or by the school districts acting on their own; and

NOW, THEREFORE, THE FOLLOWING TERMS AND CONDITIONS ARE MUTUALLY AGREED BETWEEN THE PARTIES:

1. Scope of Work

- A. The Contractor shall perform the work as described in **Exhibit A**.
- B. An individual scope of work and purchase order will be assigned for each task assigned pursuant to this Agreement. Each task assigned shall be issued pursuant to a fully executed project proposal submitted by the Contractor, with written acceptance by PSFA.

2. Compensation

- A. The Contractor shall be compensated in full payment for services satisfactorily performed according to the labor rates in the proposal, herein included as **Exhibit B**. Contractor shall be reimbursed per the billable expenses defined in the RFP, as well as for the printing costs for the final reports. Itemized receipts are required for all reimbursements.

- B. Payment shall be made upon acceptance of each deliverable and upon the receipt and acceptance of a detailed, certified Payment Invoice.
- C. Payment will be made to the Contractor's designated mailing address. In accordance with Section 13-1-158 NMSA 1978, payment shall be tendered to the Contractor within thirty (30) days of the date of written certification of acceptance.
- D. All Payment Invoices MUST BE received by PSFA no later than fifteen (15) days after the termination of this Agreement. Payment Invoices received after such date WILL NOT BE PAID.
- E. The Contractor shall be reimbursed by the PSFA for applicable New Mexico gross receipts taxes, excluding interest or penalties assessed on the Contractor by any authority. PLEASE NOTE NO PROPERTY TAX WILL BE PAID TO THE CONTRACTOR BY THE STATE. The payment of taxes for any money received under this Agreement shall be the Contractor's sole responsibility and should be reported under the Contractor's Federal and State tax identification Number. Contractor and all subcontractors shall pay all Federal, state and local taxes Applicable to its operation and any persons employed by the Contractor. Contractor shall require all subcontractors to hold PSFA harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal and/or state and local laws and regulations and any other costs, including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

3. Term

This Agreement shall begin on the date approved by the PSFA and shall end on October 31, 2026 unless terminated pursuant to this Agreement's Termination Clause or Appropriations Clause. The PSFA reserves the right to renew the Agreement through a written amendment signed by all required signatories, but in any case the Agreement shall not exceed the total number of years allowed pursuant to NMSA 1978, § 13-1-150.

4. Termination

- A. Grounds. The PSFA may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the PSFA's uncured, material breach of this Agreement.
- B. Notice: PSFA Opportunity to Cure.
 - i. Except as otherwise provided in sub-paragraph A of this Clause and the Appropriations Clause of this Agreement, PSFA shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.
 - ii. Contractor shall give PSFA written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all PSFA's material breaches of this Agreement upon which the termination is based and (ii) state what PSFA must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if PSFA does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days,

PSFA does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

- iii. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (a.) if the Contractor becomes unable to perform the services contracted for, as determined by the PSFA; (b.) if, during the term of this Agreement, the Contractor is suspended or debarred by the State Purchasing Agent; or (c.) the Agreement is terminated pursuant to the Appropriations Clause of this Agreement.

- C. Liability. Except as otherwise expressly allowed or provided under this Agreement, the PSFA's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE PSFA'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

5. Appropriations

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, this Agreement shall terminate immediately upon written notice being given by the PSFA to the Contractor. The PSFA's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the PSFA proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor

The Contractor and its agents and employees are independent contractors performing professional or general services for the PSFA and are not employees of the State of New Mexico. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the State of New Mexico unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Conflict of Interest; Governmental Conduct Act

- A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.
- C. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

Without in any way limiting the generality of the foregoing, the Contractor specifically represents and warrants that:

- i. in accordance with NMSA 1978, § 10-16-4.3, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any PSFA employee while such employee was or is employed by PSFA and participating directly or indirectly in PSFA's contracting process;
 - ii. this Agreement complies with NMSA 1978, § 10-16-7(A) because (i) the Contractor is not a public officer or employee of the State; (ii) the Contractor is not a member of the family of a public officer or employee of the State; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the State, a member of the family of a public officer or employee of the State, or a business in which a public officer or employee of the State or the family of a public officer or employee of the State has a substantial interest, public notice was given as required by NMSA 1978, § 10-16-7(A) and this Agreement was awarded pursuant to a competitive process;
 - iii. in accordance with NMSA 1978, § 10-16-8(A), (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the State within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the State whose official act, while in State employment, directly resulted in PSFA's making this Agreement;
 - iv. this Agreement complies with NMSA 1978, § 10-16-9(A) because (i) the Contractor is not a legislator; (ii) the Contractor is not a member of a legislator's family; (iii) the Contractor is not a business in which a legislator or a legislator's family has a substantial interest; or (iv) if the Contractor is a legislator, a member of a legislator's family, or a business in which a legislator or a legislator's family has a substantial interest, disclosure has been made as required by NMSA 1978, § 10-16-7(A), this Agreement is not a sole source or small purchase contract, and this Agreement was awarded in accordance with the provisions of the Procurement Code;
 - v. in accordance with NMSA 1978, § 10-16-13, the Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and
 - vi. in accordance with NMSA 1978, § 10-16-3 and § 10-16-13.3, the Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of PSFA.
- C. Contractor's representations and warranties in paragraphs A and B of this Clause are material representations of fact upon which PSFA relied when this Agreement was entered into by the Parties. Contractor shall provide immediate written notice to PSFA if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in paragraphs A and B of this Clause were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in paragraphs A and B of this Clause were erroneous

on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to PSFA and notwithstanding anything in the Agreement to the contrary, PSFA may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Agreement.

8. Amendment

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the Parties hereto and all other required signatories.

B. If PSFA propose an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in the Terminations Clause of this Agreement, or to agree to the reduced funding.

9. Merger

This Agreement incorporates all the Agreements, covenants and understandings between the Parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the Parties or their agents shall be valid or enforceable unless embodied in this Agreement.

10. Penalties for Violation of Law

The Procurement Code, NMSA 1978 §§ 13-1-28 through 13-1-199, imposes civil and criminal penalties for violation of the statute. In addition, the New Mexico criminal statutes impose felony penalties for illegal acts, including bribes, gratuities and kickbacks.

11. Equal Opportunity Compliance

The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

12. Workers Compensation

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by PSFA.

13. Applicable Law

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, § 38-3-1 (G). By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

14. Records and Financial Audit

The Contractor shall maintain detailed time and expenditure records that indicate the date, time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by PSFA, the Department of Finance and Administration and the State Auditor. PSFA shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of PSFA to recover excessive or illegal payments.

15. Invalid Term or Condition

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

16. Enforcement of Agreement

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

17. Non-Collusion

In signing this Agreement, the Contractor certifies the Contractor has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this offer submitted to the PSFA.

18. Notices

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To PSFA:
Marilee Gallacher, SPSM
Contracts Administrator
1312 Baschart Rd., SE Suite 200
Albuquerque, NM 87106-4365

To the Contractor:
Joseph E. Hughes
Technical Director/Owner
105 Madeline Court
Corrales, NM 87048

19. Succession

This Agreement shall extend to and be binding upon the successors and assigns of the parties.

20. Headings

Any and all headings herein are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Agreement. Numbered or lettered provisions, sections and subsections contained herein, refer only to provisions, sections and subsections of this Agreement unless otherwise expressly stated.

21. Default/Breach

In case of Default and/or Breach by the Contractor, for any reason whatsoever, PSFA and the State of New Mexico may procure the goods or Services from another source and hold the Contractor responsible for any resulting excess costs and/or damages, including but not limited to, direct damages, indirect damages, consequential damages, special damages and PSFA and the State of New Mexico may also seek all other remedies under the terms of this Agreement and under law or equity.

22. Equitable Remedies

Contractor acknowledges that its failure to comply with any provision of this Agreement will cause the PSFA irreparable harm and that a remedy at law for such a failure would be an inadequate remedy for the PSFA, and the Contractor consents to the PSFA's obtaining from a court of competent jurisdiction, specific performance, or injunction, or any other equitable relief in order to enforce such compliance. The PSFA's rights to obtain equitable relief pursuant to this Agreement shall be in addition to, and not in lieu of, any other remedy that PSFA may have under applicable law, including, but not limited to, monetary damages.

23. Indemnification

The Contractor shall defend, indemnify and hold harmless PSFA and the State of New Mexico from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors, or agents resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has performed or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel

of PSFA and the Risk Management Division of the New Mexico General Services Department by certified mail.

24. Insurance

Contractor shall maintain in force during the entire term of this Agreement, the following insurance coverage(s), naming the PSFA as an additional insured.

- A. Workers Compensation (including accident and disease coverage) at the statutory limit.
Employer's liability: \$100,000.
- B. Comprehensive general liability (including endorsements providing broad form property damage, personal injury coverage and contractual assumption of liability for all liability the Contractor has assumed under this Agreement). Limits shall not be less than the following:
 - 1. Bodily injury: \$1,000,000 per person /\$1,000,000 per occurrence.
 - 2. Property damage or combined single limit coverage: \$1,000,000.
 - 3. Automobile liability (including non-owned automobile coverage): \$1,000,000.
 - 4. Umbrella: \$1,000,000.
- C. Contractor shall maintain the above insurance for the term of this Agreement and name the PSFA as an additional insured and provide for 30 days cancellation notice on any Certificate of Insurance form furnished by Contractor. Such certificate shall also specifically state the coverage provided under the policy is primary over any other valid and collectible insurance and provide a waiver of subrogation.

25. Assignment

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the PSFA.

26. Subcontracting

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the PSFA. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the PSFA.

27. Release

Final payment of the amounts due under this Agreement shall operate as a release of the PSFA, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

28. Confidentiality

Any Confidential Information provided to the Contractor by the PSFA or, developed by the Contractor based on information provided by the PSFA in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the PSFA. Upon termination of this Agreement,

Contractor shall deliver all Confidential Information in its possession to the PSFA within thirty (30) Business Days of such termination. Contractor acknowledges that failure to deliver such Confidential Information to the PSFA will result in direct, special and incidental damages.

29. Contractor Personnel

- A. Key Personnel. Contractor's key personnel shall not be diverted from those designated in the Matrix Form without the prior written approval of the PSFA. Key personnel are those individuals considered by the PSFA to be mandatory to the work to be performed under this Agreement.
- B. Personnel Changes. Replacement of any personnel shall be made with personnel of equal ability, experience, and qualification and shall be approved by the PSFA. For all personnel, the PSFA reserves the right to require submission of their resumes prior to approval. If the number of Contractor's personnel assigned to the Project is reduced for any reason, Contractor shall, within ten (10) Business Days of the reduction, replace with the same or greater number of personnel with equal ability, experience, and qualifications, subject to PSFA approval. The PSFA, in its sole discretion, may approve additional time beyond the ten (10) Business Days for replacement of personnel. The Contractor shall include status reports of its efforts and progress in finding replacements and the effect of the absence of the personnel on the progress of the Project. The Contractor shall also make interim arrangements to assure that the Project progress is not affected by the loss of personnel. The PSFA reserves the right to require a change in Contractor's personnel if the assigned personnel are not, in the sole opinion of the PSFA, meeting the PSFA's expectations.

30. Communications Facilitating Contract Administration

The Contractor shall create all contractual communications through the NMPSFA-CIMS and load all reports, meeting notes, pay applications, and any other pertinent project information into the NMPSFA-CIMS.

31. Incorporation by Reference and Precedence

- A. If this Agreement has been procured pursuant to a request for proposals, this Agreement is derived from (1) the request for proposal, including any written clarifications to the request for proposals and any PSFA response to questions; (2) the Contractor's response to the request for proposals, and (3) the Contractor's best and final offer, if submitted and accepted by PSFA.
- B. In the event of a dispute under this Agreement, applicable documents will be referred to for the purpose of clarification or for additional detail in the following order of precedence: (1) Matrix; (2) amendments to the Agreement in reverse chronological order; (2) the Agreement, including the scope of work and all terms and conditions thereof; (3) the request for proposals, including attachments thereto and written responses to questions and written clarifications; (4) the Contractor's best and final offer, if such has been made and accepted by the PSFA; and (5) the Contractor's response to the request for proposals.

32. Product of Service – Copyright

All materials developed or acquired by the Consultant under this Agreement shall become the property of the State of New Mexico and shall be delivered to the PSFA no later than the termination

date of this Agreement. Nothing developed or produced, in whole or in part, by the Consultant under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Consultant.

33. Invalid Term or Condition

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

34. Authority

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represent and warrant that they have the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year last executed by either party hereto as indicated below.

CONTRACTOR:

New Mexico Roof Consulta

By:

Signature

9/13/2021

Date

Joseph E Hughes

Print Name

Technical Director

Title

NM TAX ID Number:

OWNER

New Mexico Public School Facilities Authority

By:

Signature

Date

Print Name

Title

1. Standard, Qualifications and Requirements

- 1.1. PSFA requires professional roof consulting and observation services performed by an independent company or individual(s) who are not directly or contractually obligated to any business entity that manufactures or sells a specific type or brand of roofing materials or systems. The stated service provider shall be experienced in the field of forensic evaluation and all aspects of roofing and roof related issues while maintaining an unbiased third party position.
- 1.2. PSFA has developed standard roof guide specifications for various roof systems for projects funded through the PSCOC/PSFA/Deficiencies Correction Program and Standards Based Capital Outlay Program. Prospective Offeror(s) must familiarize themselves with these specifications. Offeror(s) shall also be familiar with the "State of New Mexico Public School Facilities Authority ROOFING PROGRAM HANDBOOK," the "New Mexico Public School Adequacy Planning Guide," and the NMAC 6.27.30 Statewide Adequacy Standards. These documents, as well as the Master Facility Plan guidelines, are available on the PSFA website at <https://www.nmpsfa.org>.
- 1.3. The Contractors shall have knowledge of, and experience/training and applicable required certifications in, but not limited to, the services listed in sections 2.,3. and 4. below.
- 1.4. The minimum qualifications of the Offeror(s), applicable for the services to be provided from this RFP, are generally described as follows:
 - 1.4.1. Contractor shall have an established and proven ability to provide the required services.
 - 1.4.2. All work shall be performed by qualified personnel, qualified by applicable education and experience, and have current and valid professional certifications and/or licenses.
 - 1.4.3. All personnel maintain the applicable, necessary and required certifications/licenses and standard specific to the services provided, in accordance with all applicable industry requirements, Federal, New Mexico State, and local rules, regulations and laws.
 - 1.4.4. All services are provided under the supervision of experienced and qualified professionals.
 - 1.4.5. Furnish documentation of all applicable certifications and licenses.
 - 1.4.6. Ability to provide clear and detailed (per site, per service line item charges) electronic billing statements as well as paper statements.

2. Consulting Services Qualifications

- 2.1. Roof, waterproofing, and/or building enclosure consulting services shall be the consultant's full-time occupation.
- 2.2. The roof consultant must demonstrate a minimum of five (5) years of relevant, specialized experience in the investigation, design, testing, and consulting services related to roofing systems for new and existing structures, and may shall hold a related certification. The roof consultant may be a licensed professional architect or a registered professional engineer.

- 2.3. If testing is required, the roof consultant shall be appropriately trained, licensed, and/or certified in the applicable testing procedures, *such as infrared, nuclear, or electrical capacitance surveys, core sampling, and gravimetric analysis*, required for service.

3. Observation Service Qualifications

- 3.1. The Roof Observers shall have a thorough knowledge of roofing details including but not limited to, flashing, and systems employing single-ply, built-up, metal, shingle, and slate, as the main weatherproof barrier.
- 3.2. The Roof Observers shall have a minimum of five (5) years experience in the roofing industry, directly related to the installation of new roofs, tear-offs, repairs, and installation of a new roof on an existing building.
- 3.3. The Roofing Observation Contractor will provide observers who have a minimum of five (5) years experience, who are capable of providing continuous, full-time roof observation services when required during the construction phase of projects. The Observers may have relevant license(s) and/or certification(s). Observers must be on-site during all roofing activities relating to the project. They must meet with the Design Professional and manufacturer's representatives, and roof repair contractor to determine the correct course of action. Observers must prepare appropriate reports, record progress with digital photography and distribute to key parties, inspect for all code, manufacturer, design professional requirements and standards, participate in project close-out, provide or assist in instruction to District's maintenance staff on the proper maintenance/repairs of roof(s), and participate in 11-month warranty inspection.

4. Roofing Systems Qualifications

- 4.1. The Roof Consultants and Roof Observers shall have knowledge of and experience/training with the following roofing systems.
- 4.1.1. Low-Slope Roofing
- 4.1.1.1. Built-up roof (BUR) membranes
 - 4.1.1.2. Metal panel roof systems for low-slope applications
 - 4.1.1.3. Polymer-modified bitumen sheet membranes
 - 4.1.1.4. Single-ply membranes consisting of (a.) Thermoplastic membranes (e.g. PVC, TPO) and (b.) Thermoset membranes (e.g. EPDM)
 - 4.1.1.5. Spray polyurethane foam-based (SPF) roof systems
- 4.1.2. Steep-Slope Roofing
- 4.1.2.1. Asphalt shingles
 - 4.1.2.2. Clay tile and concrete tile
 - 4.1.2.3. Metal roof systems for steep-slope applications
 - 4.1.2.4. Slate
 - 4.1.2.5. Wood shakes and wood shingles
 - 4.1.2.6. Synthetic

5. Scope of Work to be Performed

- 5.1. Upon award, the Contractor shall perform and provide the following roofing consultant services and products contained in this Scope of Work (SOW) and in the PSFA Roofing

Program Handbook, in accordance with the terms, conditions, requirements, and specifications of this RFP, the Roofing Program Handbook and the executed Agreement.

- 5.2. The Contractor shall provide qualified personnel (qualified by applicable education, knowledge, and/or experience) skilled in performing and completing all required roofing consulting services.
- 5.3. The Roofing Consultants shall perform and participate in:
 - 5.3.1. Evaluations/analysis of existing and new roofs
 - 5.3.2. Recommend roof design solutions in concert with Design Professional
 - 5.3.3. Prepare and review budget requirements
 - 5.3.4. Perform forensic inspections
 - 5.3.5. Provide design documents and materials via review/consultation
 - 5.3.6. Serve as expert witnesses when needed
 - 5.3.7. Shall attend all roof design meetings with Design Professional/Owner where the roofing work is reviewed
 - 5.3.8. Advise in aspects of the design and construction of roofing projects
- 5.4. The Scope of Work may include any or all of the following:
 - 5.4.1. Site visits to assess any and all areas requiring repairs and/or new roofing
 - 5.4.2. Determine enforceable warranty issues
 - 5.4.3. Define scope of work in concert with Design Professional
 - 5.4.4. Provide detailed roof analysis and testing
 - 5.4.5. Recommend solutions
 - 5.4.6. Prepare and review budget requirements
 - 5.4.7. Evaluate roof systems, construction details, and warranties
 - 5.4.8. Attend meetings, participate in design and construction document review process
 - 5.4.9. Attend or conduct pre-bid/site meetings
 - 5.4.10. Participate in Design Professional's submittal reviews
- 5.5. The Contractor shall provide all applicable and appropriate Certificates of Insurance, Licenses, and all other applicable Certification for the work/service before the commencement of the work.

6. Process for procuring and providing services

- 6.1. Request for services shall be initiated by an authorized project Owner, via a written request to a Roofing Consultant for a price proposal based on a proposed Statement of Work.
- 6.2. Upon receipt of the written request for a price proposal based on a Statement of Work, Consultant shall:
 - 6.2.1. Within 7 calendar days, prepare a Not-To- Exceed Cost Proposal for the specified roofing consulting services.
 - 6.2.2. The proposal must include the resume of the proposed consultant for each specific project.
 - 6.2.3. The submitted proposal shall provide all related/applicable cost and pricing information.
 - 6.2.4. Proposals for each individual projects shall be valid for a minimum period of 90 days from the date the Proposal is Due.

6.3. Performance Time and Coordination

- 6.3.1. Performance period associated with any roofing observation services provided shall be proposed in calendar days/weeks/months, which shall coincide with or match the total number of service calendar days/weeks/months proposed by the General/Roofing or Primary Contractor, as applicable.

6.4. Acceptance of and Evaluation of Project Specific Proposals

- 6.4.1. All properly submitted proposals from participating Roofing Consultants will be accepted for review/evaluation.
- 6.4.2. Selection of a Roofing Consultant shall be based on both the price/cost and the project requirements that are established by the Owner for their request for a proposal.
- 6.4.3. Selection may be made based on the "Best Value Procurement" method in which, in addition to an evaluation of cost/price and requirements, the Owner(s) may consider documented and quantifiable factors such as quality, expertise, past performance, reliability, and the ability to meet a required schedule particular to the specific project, to select a Roofing Consultant. However, in order to use the "Best Value Procurement" method, the Owner(s) must include the selection criteria that also included in the Contractor's proposal to this RFP.
- 6.4.4. Additionally, Owners or PSFA reserve the right to request clarifications or corrections to proposals, reject any or all proposals received, cancel or withdraw any request for proposal, according to the documented best interests of the Owner or PSFA. The issuance of a request for project proposal by an Owner, or submission of a proposal by a Consultant, does not obligate, establish rights, interests, or claims of entitlement. A legally binding agreement for a particular project shall be established only after the Consultant's submitted project proposal, in response to an Owner's authorized request, is accepted and signed by an authorized Owner and, if applicable, the PSFA official signatory.
- 6.4.5. All work schedules included in the submitted project proposals for Roofing Consulting and Observation Services, shall be based on and identical to, the start-to-finish construction/work schedule/timeline of the Roofing Contractor who is performing the installation/construction of the roof for the designated project.

6.5. Extension of /or Additional Services

- 6.5.1. Any services exceeding the scope of work and cost of the accepted proposal, and the approved initial Purchase Order, must be mutually agreed to in advance by Owner and the Contractor, and shall be authorized by an approved Amendment to the agreement between the Contractor and the Project Owner, prior to the Contractor proceeding with any additional work.
- 6.5.2. Amendments to the Proposal may form the basis of an additional purchase order to cover additional services, or in an amendment to the existing purchase order, depending on circumstances and approval by the Owner. It is the Contractor's responsibility to inform Owner in advance, and in a timely manner, when it is anticipated that additional services or change in work will require modifications. The Owner is not responsible for work performed without the proper documentation and an approved amended purchase document.

7. Investigation of Site and Project Conditions

- 7.1. The Contractor represents that, prior to submittal of the Project Proposal, it will take all steps reasonably necessary to ascertain the nature and location of the Work; that it will investigate and satisfy itself as to the general, local conditions that can affect the Work or its cost. In the event that the Owner furnishes the Contractor with any information about such matters, the Contractor acknowledges that any reliance on such information will be at its own risk and that the Owner does not warrant the correctness or accuracy of the information. The Contractor represents that it has examined all related Project documents and familiarized itself with the Project, the laws, rules, and regulations relating to the Project, the environmental considerations affecting the Project and the Work, and the character of equipment and facilities needed preliminary to and during work performance.
- 7.2. No allowance will be made to Contractor for not having made such examination and review, or for requirements which a reasonable examination, inquiry, or review would have disclosed; except to the extent equitable adjustments may be made for differing site conditions if:
- 7.2.1. The contractor did not know, or could not have known about the actual condition found at the site.
- 7.2.2. The contractor could not reasonably have anticipated the actual condition at the site from inspection or general experience.
- 7.2.3. The actual condition varied from the norm in similar contracting work.
- 7.2.4. The contract indicated the conditions that the contractor could expect to find at the site.
- 7.2.5. The conditions indicated in the contract differed materially from the actual conditions.
- 7.2.6. The actual conditions were reasonably unforeseeable based upon all the information available to the contractor at the time of the proposal.
- 7.2.7. The contractor acted as a reasonably prudent contractor in interpreting the contract documents.
- 7.2.8. The contractor incurred additional costs as a result of the difference between the expected conditions and the actual conditions. Contractor will complete the work for the compensation stated in this Contract/Agreement and assume complete responsibility for the conditions (including subsurface or otherwise latent conditions) existing at the site and its surroundings.

8. Compliance

- 8.1. The Contractor agrees to be bound by, and at its own cost, comply with all federal, state and local laws, ordinances and regulations (hereinafter collectively referred to as "laws") applicable to the services provided.

9. Cooperation/Coordination

- 9.1. Contractor shall cooperate with other Owner/PSFA Contractors and subcontractors to assure completion of the Project in accordance with the terms and conditions of the agreement with said Owner.
- 9.2. Contractor shall fully cooperate with other Owner/PSFA Contractors who are engaged in work on the Project. The Contractor shall not interfere with the performance of such work, and the Contractor shall coordinate its work with the work of other Owner/PSFA employed Contractors that may be working in the area, so that the work of the entire Project may be performed with the utmost speed consistent with good practice.

10. Contractual & Projects Reporting/Communications: PSFA CIMS

- 10.1. Contract and Project documentation communication utilizing the PSFA Internet/Web based Construction Information Management System (CIMS) system is a requirement of providing Services under an agreement with an Owner/PSFA. The Roofing Consultant shall, if needed, and within seven (7) days of the establishment of an agreement, schedule PSFA training of project personnel on the use of PSFA-CIMS.
- 10.2. The Roofing Consultant shall utilize PSFA-CIMS for project Public School Facilities Authority Services Contract/Agreement PSFA Services management during development of Project Contract Documents and for Project Administration during construction of the Project. Each party shall:
 - 10.2.1. Create all contractual communications through the PSFA-CIMS.
 - 10.2.2. Load all reports and meeting notes and any other pertinent project information into PSFA-CIMS.
 - 10.2.3. Have access to the Internet and an Internet e-mail address of their own choice, and provide to the PSFA the names, positions, and e-mail addresses of the individual (one license per firm) who will have access to the PSFA-CIMS.
 - 10.2.4. Agree that use of the PSFA-CIMS software will not replace or change any contractual responsibilities.
 - 10.2.5. For information or installation and use of the PSFA-CIMS or for scheduling training contact the PSFA-CIMS administrator at (505) 843-6272 or email your questions to techsupport@nmgsfa.org and include PSFA-CIMS support in the subject line.

11. Compensation, Billable Travel Expenses

- 11.1. Allowed, billable travel expenses shall not exceed the State of New Mexico's current allowable travel, per diem, and mileage amount limits. NMAC 2.42.2.8.A-B current rates are listed below. **Note to Contractor: Itemized, detailed receipts are required as expense documentation for ALL billable, travel expenses. No lump sum receipts will be accepted as expense documentation. If the itemized receipt is not submitted as expense documentation, reimbursement for that purchase will not be given.**

11.2. Proposals, Purchase Orders, Invoices

- 11.2.1. The Contractor shall not be issued a purchase order authorizing work to commence until the Contractor's related proposal has been submitted and approved by the District and/or PSFA.
- 11.2.2. No invoice shall be approved for payment until the required reports and documentation have been submitted to the appropriate parties for approval.
- 11.2.3. Invoicing shall reflect only the actual services provided, hours used, and documented expenses for the line items have been provided.
- 11.2.4. Contractor shall be reimbursed for NM Gross Receipts Tax, subject to the current tax rate at the time of the issuance of the work order/purchase order.

11.3. Meals:

- 11.3.1. For less than 2 hours of travel beyond normal work day: none
- 11.3.2. For 2 hours, but less than 6 hours beyond the normal work day: \$18.00
- 11.3.3. For 6 hours, but less than 12 hours beyond the normal work day: \$40.00
- 11.3.4. For 12 hours or more beyond the normal work day: \$55.00

11.4. Lodging, Overnight Travel:

11.4.1. In state areas: \$151.00

11.4.2. In state special areas: \$194.00

11.5. Meals, Returning from overnight travel:

11.5.1. For less than 2 hours: none

11.5.2. For 2 hours but less than 6 hours: \$18.00

11.5.3. For 6 hours or more, but less than 12 hours: \$40.00

11.5.4. For 12 hours or more: \$55.00

11.6. Mileage, Private Conveyance Rate:

11.6.1. For the year beginning January 1, 2021, the New Mexico mileage rate is \$0.46 per mile.

This amount is subject to change by the State of New Mexico.

Exhibit B Pricing

Hourly rates on submitted quotes per project can be less than, but cannot exceed the hourly rates listed below.

	PERSONNEL TITLE/CLASSIFICATION	PAY RATE	
1.	Consultant – Senior, or equivalent* [Required]	\$90.00	Per hour
2.	Consultant – Project Engineer, or equivalent*	\$90.00	Per hour
3.	Consultant – Project Manager, or equivalent*	\$75.00	Per hour
4.	Consultant – Staff Observation, or equivalent*	\$55.00	Per hour
5.	Consultant – Field Specialist, or equivalent* [Required]	\$45.00	Per hour