


## REQUEST FOR BOARD ACTION

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**To:** ESD Board of Education  
**From:** ESD Finance Director, Ron Patera   
**Date:** October 18, 2016  
**Business Date:** October 24, 2016  
**Subject:** EHS Roof Consultant Contract

**RECOMMENDATION:**

Approve roof consultant contract as presented.

**BACKGROUND AND FINDINGS:**

The District put the roof consultant contract out to bid August 26, 2016. The notice was advertised on CDE's Capital Construction Listserve and on the Elizabeth School District's website. Including district representatives, there were 7 individuals at an optional pre-bid site visit on September 6, 2016.

Six responses to the RFQ/P were submitted by the September 21, 2016 deadline. After reviewing the responses and interviewing three candidates, staff awarded the contract to CSHQA.

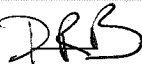
The contract attached to this memo has been meticulously reviewed for form and substance by Coulter Bump of Caplan and Earnest.

**FISCAL IMPACT:**

The Fee Proposal submitted with the response was \$59,955, which is \$15,795 under the budget that was submitted with the BEST Grant.

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**Superintendent's Review:**



# **INDEPENDENT CONSULTING AGREEMENT**

**between  
Elizabeth School District C-1  
and**

**Consultant Name ("Consultant"):** CSHQA Inc., a California Corporation

**Consultant Address:** 1777 S. Bellaire Street, Ste. 100, Denver, CO 80222

**THIS INDEPENDENT CONSULTING AGREEMENT** ("Agreement") is made and entered into as of the date set forth below by and between Elizabeth School District C-1 ("District" or "Owner"), located at 634 S. Elbert Street, P.O. Box 610, Elizabeth, Colorado 80107, and Consultant, located at the address listed above, for the provision of services to the District in connection with the project to remove existing materials and replace the current roofing at Elizabeth High School ("Project")

**WHEREAS**, the District has determined that there is a need for the Consultant's services specified below in this Agreement; and

**WHEREAS**, the goal of the Agreement is to secure services from a person or entity with a high degree of professional skill for the benefit of the District; and

**WHEREAS**, Consultant was selected in accordance with the District's issuance of RFQ/P, dated August 26, 2016 a copy of which is attached hereto as Exhibit A and incorporated herein by reference; and

**WHEREAS**, the District has determined that the Consultant is qualified to provide services to the District, and will agree to perform and carry out the services in a good and professional manner as outlined in this Agreement.

**THEREFORE**, in consideration of the foregoing recitals, incorporated by this reference, and their mutual promises, the parties agree as follows:

**1. Term:** Subject to earlier termination by the District as provided herein, the Term of this Agreement shall commence as of October 25, 2016 or the date the parties execute this Agreement, whichever is later, and continue through the successful completion of the Services and any warranty periods, which Consultant acknowledges and agrees should occur on or before November 1, 2017. The Consultant understands and agrees that the District shall not be liable for payment of work or services nor for costs or expenses incurred by the Consultant prior to the proper execution and District approval of this Agreement.

**2. Scope of Services:** The Consultant shall perform the services set forth on the attached Exhibit B, which is attached hereto and incorporated herein by this reference ("Services").

**3. Standards:** Consultant shall perform all Services in a diligent, safe, and workmanlike manner, using its best skill and judgment pursuant to the highest standards of care expected of the profession for the Services. Consultant represents that the work performed will be in conformance with all applicable laws, statutes, rules, regulations, ordinances, codes and orders of any governmental bodies, agencies, authorities and courts. If Consultant's performance does not conform to such standards and District notifies Consultant of same, Consultant agrees to immediately take all action necessary to remedy the nonconformance. Any costs incurred by Consultant to correct such nonconformance shall be at the Consultant's sole expense.

**4. Contract Price and Payment Provisions:** The Consultant shall perform the Services for the total contract price of \$ 59,955.00 ("Contract Price") pursuant to the fee schedule set forth in Exhibit C. Unless otherwise expressly stated in this Agreement, all necessary labor, licenses, materials, supplies, equipment, reimbursables, and other items necessary to complete the Services shall be part of and not in addition to the Contract Price. Consultant shall submit each invoice to the District for review and approval prior to the District submitting the invoice and BEST Grant CC-06 form to CDE. Consultant acknowledges that CDE will pay undisputed sums within forty-five (45) days of receiving a valid BEST Grant CC-06 form. The invoice shall include: (i) the date(s) Services were rendered; (ii) a detailed description of the Services performed; (iii) names of the individuals providing Services; (iv) hours worked; (v) billing or compensation rate for the Services; (vi) all other direct expenditures allowable within the Contract Price; and (vii) if a "fixed price" contract, applicable milestones achieved and related progress payments earned. Unless otherwise agreed by District, payments shall be made in the full value of the Services performed.

**Consultant shall send the invoice to:**

**Elizabeth School District C-1**

**Attention: Ron Patera**

**634 S. Elbert Street, PO Box 610**

**Elizabeth, Colorado 80107**

**5. Independent Contractor:** The Consultant understands and acknowledges that this Agreement is a contract for services and that an employee-employer relationship does not exist between the Consultant and the District. The Consultant shall perform all Services using its judgment and expertise as an independent Consultant and not as an employee of the District. Neither the Consultant nor any agent or employee of the Consultant shall be an agent or employee of the District nor shall any of them have any authority, express or implied, to bind the District to any agreement or incur any liability or obligation attributable to the District. **The Consultant acknowledges that it is not entitled to workers' compensation or other benefits from the District and that the Consultant is obligated to pay federal and state income tax on any moneys earned from the District pursuant to this Agreement.**

**6. Use of Work Product and Infringement Claims:** To the extent Consultant creates any work product, including without limitation, Consultant's notes, memoranda, photographs, spreadsheets, drawings, reports, data, submittals, and designs or plans or similar materials relating to the Services (collectively "Work Product"), said Work Product shall be delivered to the District upon the earlier to occur of the completion of the Services, termination

of this Agreement by either party or material breach of this Agreement by Consultant. Work Product shall become the property of the District, and may be used by the District for any purpose related to the Project, including any additions or modifications thereto. If the Work Product is altered by a third party at the District's direction, then the District will, to the extent allowed by applicable law, indemnify Consultant from and against all causes of action that arise as a direct and proximate cause of the use of the altered Work Product. If the District terminates this Agreement prior to the completion of the Services, then the District will hold Consultant harmless from and against all suits, causes of action or claims related to District's use of the Work Product. The Consultant shall defend and indemnify District from and against all suits, causes of action, or claims for infringement of any alleged patent rights, copyright, or trade secrets arising out of District's ownership or use of Consultant's Work Product and shall indemnify the District from loss or liability on account thereof and shall pay any judgments or fees resulting therefrom, including, but not limited to, royalties, license fees, and attorneys' fees.

7. **Special Provisions:** Items checked in this Section are hereby incorporated into this Agreement as terms thereof:

☒ **Workers Compensation Insurance** shall be maintained to comply with Colorado statutory provisions, including any required flow down, occupational disease provisions for all employees to comply with Colorado statutory requirements, and employer's liability, which must have limits of at least: \$100,000 per accident, \$100,000 disease, each employee and \$500,000 accident/disease policy limit. Such policy shall contain a waiver of subrogation in favor of the District. The Consultant shall also require each subcontractor to furnish workers' compensation insurance, including occupational disease provisions for all of the latter's employees, and to the extent not furnished, the Consultant accepts full liability and responsibility for subcontractors' employees.

☒ **Professional Liability Insurance** shall be maintained with coverage limits for each occurrence or claim of \$2,000,000, if professional services are provided under this Agreement.

☒ **Comprehensive General Liability Insurance** shall be maintained to protect the Consultant from all claims for bodily injury, including death and all claims for destruction of or damage to property, including loss of use therefrom, arising out of or in connection with any operations under this Agreement, whether such operations be by the Consultant or by any subcontractor under it or anyone directly or indirectly employed by the Consultant or by a subcontractor. All such insurance shall be written with limits and coverages as specified below and shall be written on an occurrence form:

General Aggregate	\$2,000,000
Products - Completed Operations Aggregate	\$2,000,000
Each Occurrence	\$1,000,000
Personal Injury	\$1,000,000

This policy shall be primary insurance, and any insurance carried by the District, its officers, or its employees, or carried by or provided through any insurance pool of the District, shall be excess and not contributory insurance to that provided by the Consultant.

☒ **Comprehensive Automobile Liability Insurance** shall be maintained including coverage for liability arising out of any auto (including consultant, hired, and non-owned autos), and including coverage for all power mobile equipment used by the Consultant on District property, with a combined single limit of \$1,000,000/person, \$1,000,000/accident, and \$1,000,000/property damage. Such insurance shall include a waiver of subrogation in favor of the District. This policy shall be primary insurance, and any insurance carried by the District, its officers, or its employees, or carried by or provided through any insurance pool of the District, shall be excess and not contributory insurance to that provided by the Consultant.

☒ **Certificates of Insurance** must be submitted to the District before starting work. Insurance certificates must show coverage of all checked insurance requirements, must contain (excluding professional liability) an endorsement naming the District, the District's officers, board members and employees as additional insureds. All coverages required herein shall be continuously maintained through the Term of this Agreement, and for a period of two years from the date of Substantial Completion of the Project, to cover all liability, claims, demands, and other obligations assumed by Consultant pursuant to Section 8(b) of this Agreement. If the expiration date of the insurance certificate is prior to final completion, the Consultant shall provide a new certificate of insurance prior to thirty (30) days from the expiration of the current policy. In case of any claims made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Such coverages shall be procured and maintained with forms and insurers acceptable to the District. Receipt, review or acceptance by the District of any insurance policies or certificates of insurance required by this Agreement shall not be construed as a waiver or relieve the Consultant from its obligation to meet the insurance requirements. Consultant shall require that all of its agents and subcontractor also comply with these insurance requirements. Any and all deductibles or self-insured retentions contained in any insurance policy shall be assumed by and at the sole risk of Consultant.

☒ **Warranties.** The Consultant warrants that the Services shall be performed in a good and workmanlike manner and shall be suitable and fit for the purposes for which they are intended.

## **8. General Provisions:**

a. **Insurance Requirements.** Notwithstanding any other provision of this Agreement, failure on the part of Consultant to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of this Agreement for which the District may immediately terminate this Agreement or, at its discretion, the District may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all money so paid by the District shall be repaid by the Consultant to the District upon demand, or the District may offset the cost of the premiums against any money due to the Consultant from the District. Any and all

deductibles or self-insured retentions contained in any insurance policy shall be assumed by and at the sole risk of Consultant.

b. **Indemnity and Hold Harmless.** The Consultant shall indemnify, hold harmless the District, including but not limited to its employees, agents, board members, officers, and representatives, from and against any and all claims, damages, losses, demands, actions, debts, liabilities, and expenses, including attorney's fees incurred, arising out of, claimed on account of, or in any manner predicated on the performance of the Services provided that any such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, including the work performed and including the loss of use resulting therefrom, and only to the extent that it is proximately caused in whole or in part by any negligent or intentional act or omission or breach of contract of Consultant, any sub-consultant, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable.

c. **Licenses, Taxes and Fees.** The Consultant shall obtain, at its own expense, all licenses and pay all applicable taxes and fees, in the execution of the terms of this Agreement, including but not limited to excise tax, federal and state and local income taxes, payroll and withholding taxes, unemployment taxes, and worker's compensation payments for its employees, and shall indemnify and hold the District harmless for all claims arising under such taxes and fees.

d. **Nondisclosure of Confidential Information.** The Consultant will not disclose to any third person or entity any records or writings of the District, its employees or students, regardless of the form, that are protected by state or federal law and that may come into the Consultant's possession.

e. **Changes/Amendments.** At any time, by written order, the District may make changes in or additions to the Services to be performed under this Agreement, issue additional instructions, require modified or additional work or services within the general scope of the Agreement, or vary the amount of District-furnished property. If the Consultant believes that any changes cause any increase or decrease in the cost of, or in the time required for, performance of Services under this Agreement, an equitable adjustment may be made in the Agreement price or term of performance, or both, and the Agreement will be modified in writing accordingly. Any claim by the Consultant for adjustment under this clause must be asserted within fifteen (15) calendar days from the date of receipt by the Consultant of the notification of changes; provided, however, that the District, if it decides that the facts justify such action, may receive and act on any such claim asserted at any time prior to final payment under this Agreement. Failure to agree to any adjustment will be a dispute concerning a question of fact within the meaning of the clause of this Agreement titled "Disputes." However, nothing in this clause excuses the Consultant from proceeding with Agreement as changed, and it is limited to proceeding with its appeal pursuant to the Section titled "Disputes," below. Other than written change directives or orders issued pursuant to this Section, no amendment, change or modification to this Agreement shall be effective or enforceable unless it is in writing and executed by each party.

f. **Disputes.** In the event that any dispute between the parties arises out of this Agreement, the parties shall meet and confer in good faith to resolve such dispute. In the event such efforts do not resolve the dispute within fifteen (15) days from the date the dispute arises, the District may elect to submit the dispute to the mediation before the Judicial Arbitrator Group or other independent mediation service. This provision shall survive termination of this Agreement. This provision shall not be considered an election of remedies. The District may elect to pursue litigation for any dispute arising under this Agreement at any time.

g. **Immunities.** The District retains all of its rights, immunities, and protections provided under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 *et seq.*

h. **Termination for Convenience.** Upon written notice, the District may terminate this Agreement in whole or in part if it determines, in its sole discretion that a termination is in the District's best interests. After notice of termination has been given, the Consultant shall stop work on the cancellation date specified in the notice. The District will conduct an audit to determine Consultant's reasonable costs expended to the date of cancellation, or the District may determine the Consultant's cost based on a schedule of values or exact cost of any work performed.

i. **Termination for Cause.** This Agreement may be terminated by the District upon not less than five (5) days' written notice should the Consultant fail to perform in accordance with the terms of this Agreement through no fault of the District. The Consultant shall not terminate this Agreement, without the written consent of the District, other than for nonpayment as provided below in this Subsection. In the event of termination for convenience or cause, the Consultant shall deliver to the District all Work Product. If the District fails to make payment when due, the Consultant may, upon ten (10) days' written notice to the District, suspend performance of Services. Unless payment is received by the Consultant within (10) days of the date of the notice, the suspension shall take effect without further notice.

j. **Force Majeure.** The District may delay delivery, performance or acceptance occasioned by causes beyond its control. The Consultant shall hold goods or delay performance at the direction of the District and shall deliver goods or perform Services when the cause affecting the delay has been removed. The District shall be responsible only for Consultant's direct additional costs in holding the goods or delaying performance of this agreement at District's request. Causes beyond District's control shall include government action or failure of the government to act where such action is required, strike or labor disputes, fire or unusually severe weather.

k. **Nondiscrimination.** The Consultant shall comply with all applicable state and federal laws, rules and regulations involving non-discrimination on the basis of race, color, religion, national origin, age, sex, sexual orientation, disability, or other protected status.

l. **Illegal Aliens.** The Consultant certifies that it shall comply with the provisions of C.R.S. § 8-17.5-101 *et seq.* The Consultant shall not knowingly (i) employ or contract with an illegal alien to perform work under this Agreement, (ii) enter into a contract

with a subcontractor that knowingly employs or contracts with an illegal alien to perform work under this Agreement, or (iii) enter into a contract with a subcontractor that fails to contain a certification to the Consultant that the subcontractor shall not knowingly employ or contract with a subcontractor that fails to contain a certification to the Consultant that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

m. **Claims.** Consultant shall pay, satisfy, and discharge all claims, charges, or other impositions imposed on Consultant arising out of or in connection with the Services performed or provided hereunder and shall hold harmless and indemnify the District from any such claims.

n. **Compliance with Law and District Policy.** Consultant shall abide by all scope applicable laws, ordinances, rules, regulations, and orders of all governmental agencies or authorities having jurisdiction over the Services Consultant shall abide by all applicable District policies and procedures, including without limitation, those related to the prohibited use and/or possession of alcohol, tobacco or firearms on District grounds. Consultant shall at all times strictly enforce this prohibition among its own employees, agents or subcontractors and their employees, agents or subcontractors.

o. **Safety, Health and Accident Reports.** The safety and health of Consultant, Consultant's employees and agents brought on District property, will be the sole responsibility of Consultant. The Consultant shall take all necessary precautions to ensure the safety of all employees and other persons who may be affected by the Consultant's Services. Consultant will report all accidents, injury-inducing occurrences or property damage arising from the performance of Services as soon as reasonably practical. District will have the right to receive, at its request, copies of any reports filed with Consultant's insurer or others. Consultant's employees and agents on District property will comply with all plant rules and regulations.

p. **Sales and Use Taxes.** The District is exempt from the payment of any state, and most municipal, sales and use taxes for materials, supplies, and equipment used in the performance of Services. The Consultant shall not include any of these taxes in any charges or invoices to the District.

q. **Records and Audits.** Consultant will maintain complete and accurate records of all charges incurred by District under this Agreement, in accordance with generally accepted accounting principles, for a period of twenty-four (24) months from the date of termination of the Agreement. District will have the right to inspect Consultant's records upon reasonable notice and to retain copies thereof.

r. **Governing Law/Venue.** The laws of the State of Colorado shall govern the performance and interpretation of the Agreement. Venue for any dispute concerning the Agreement shall be exclusively in the federal court located in Colorado or the state court located in Elbert County, Colorado.



s. **No Assignment.** This Agreement may not be assigned by the Consultant without the District's prior written consent.

t. **Notices.** All notices, requests, consents and other communications required or permitted under this Agreement shall be (as elected by the person giving such notice) hand delivered by messenger or courier service, or pre-paid first-class certified mail, return receipt requested, addressed to the respective party at the address set forth in the first paragraph of this Agreement or to such other addresses as any party may designate by notice complying with the terms of this Section. Each such notice shall be deemed delivered (i) on the date delivered if by personal delivery, or (ii) three (3) days after postmark if mailed as provided in this Section.

u. **Waiver.** A failure to assert any rights or remedies available to a party under the terms of this Agreement, or a waiver of the right to remedies available to a party by a course of dealing or otherwise shall not be deemed to be a waiver of any other right or remedy under this Agreement, unless such waiver of such right or remedy is contained in a writing signed by the party alleged to have waived his other rights or remedies.

v. **Execution of Agreement.** This Agreement contains the entire understanding of the parties and supersedes all prior understandings, agreements, or representations by or between the parties, whether oral or written, that in any way relate to the subject matter of this Agreement. Execution of this Agreement constitutes a representation by the Consultant that to the best of the Consultant's knowledge no conflict of interest exists between the District representative and the Consultant or its employees and agents. Consultant represents that it has full authority under applicable law to execute and deliver this Agreement.

w. **Amendments to Agreement.** No changes, alterations or modifications to any of the provisions hereof shall be effective unless contained in a written agreement signed by both parties.

x. **Interpretation.** This Agreement shall control with respect to the Services described herein. This Agreement shall not affect the interpretation or validity of the parties' prior agreement or any other agreements referred to therein.

y. **No Third-Party Beneficiaries.** Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the District.

z. **Counterparts.** This Agreement and any amendments may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

aa. **Binding Agreement.** This Agreement shall be binding upon and for the benefit of the parties hereto, their successors and assigns. The Consultant represents that it has full authority under applicable law to execute and deliver this Agreement and to perform obligations under this Agreement.

**bb. Severability.** If any provision of this Agreement is ruled to be invalid or illegal, such ruling shall have no effect upon the remaining provisions, which shall be considered legally binding and given full effect.

**IN WITNESS WHEREOF,** the undersigned agree to be bound by the terms and conditions of this Agreement:

**Board of Education**  
**Elizabeth School District C-1**

**CONSULTANT:**  
**CSHQA, Inc.**

By: \_\_\_\_\_  
President, Board of Education  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Officer, CSHQA, Inc.  
Date: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
Secretary, Board of Education  
Date: \_\_\_\_\_

**Superintendent Approval**

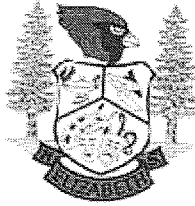
By: \_\_\_\_\_  
Date: \_\_\_\_\_

☐ Superintendent's Approval

☐ BOE Approval

**EXHIBIT A**

**RFQ/P**



# ELIZABETH HIGH SCHOOL

## REQUEST FOR QUALIFICATIONS/PROPOSAL (RFQ/P) FOR A ROOF CONSULTANT

Elizabeth School District C-1  
634 S. Elbert Street  
Elizabeth, CO 80107  
Phone (303) 646-4441

**PROPOSAL DUE DATE/DELIVERY REQUIREMENTS- 4:00 p.m. September 21, 2016**  
**Deliver 1 electronic copy via email + 1 Original Copies to:**

**Ron Patera**  
633 Dale Ct., P.O. Box 610  
Elizabeth, CO 80107  
Phone (303) 646-4441  
[rpatera@esdk12.org](mailto:rpatera@esdk12.org)

All official communication with Candidates and questions regarding this RFQ/P will be via email to the Owner Contact listed above. **No inquiries will be accepted after the clarification deadline as indicated in the project schedule.**

All Candidate inquiries will be responded to at the same time which will be after the "Clarification Deadline". Responses to clarification will be made available by email by email to all Candidates who requested the RFQ/P. Candidates should not rely on any other statements, either written or oral, that alter any specification or other term or condition of the RFQ/P during the open solicitation period. **Candidates should not contact any team members or any individual associated with the Owner or the Colorado Department of Education (CDE) regarding this RFQ/P or this project.**

### **I.PROJECT SCHEDULE**

RFQ/P Available	08/26/2016
OPTIONAL Site Visit (11:30 AM to 1 PM)	09/06/2016
RFQ/P Clarification Deadline	09/08/2016
RFQ/P Clarification Responses	09/13/2016
<b>RFQ/P Responses due</b>	<b>09/21/2016</b>
Interview Invitations sent to Short-Listed Candidates (optional)	09/23/2016

<b>Interviews (optional)</b>	<b>09/27/2016</b>
Candidates Notified of Selection	10/04/2016
Contract Negotiations	10/07/2016
<b>Notice to Proceed Given to Successful Firm</b>	<b>10/14/2016</b>
<b>Project Estimated Substantial Completion</b>	<b>08/01/2017</b>

## II. BACKGROUND

### Owner Background

Elizabeth School District is a high performing school district located in Elbert County. Its two pre-schools, two elementary schools, one middle school, two high schools and one k-8 charter school serve approximately 2,550 students.

### Project Description

The BEST-funded proposal scope as defined in the approval includes: Replace 101,890 square feet of affected roofing on the 16-year-old Elizabeth High School, including but not limited to replacing all of the stone ballast and perform a tear off of the EPDM membrane. With the EPDM membrane removal, the existing thermal insulation will be inspected and any damaged or degraded material will be replaced of equal composition. Some of the roof areas are less than ¼ percent slope; allowing water to pond within the voids of the ballast. Some of the mechanical curbs and wall flashings are not tall enough to protect the sometimes heavy, drifting snow accumulation. Those areas will also be addressed with this project.

The new roofing assembly will consist of multilayer modified bitumen asphalt felts increasing our membrane protection from 45 mils to 330 mils; increase from one layer of protection to four layers. In addition, all of our flashing materials will be replaced; drains and scuppers re-established. Our intended roofing warranty terms will go from the original 10-year warranty the school received in 2000, to a 30-year warranty with the replacement roof. Please refer to the district's application for the BEST grant it was awarded for more information on the scope of work.

The project will be partially funded through the Colorado Department of Education (CDE) Building Excellent Schools Today (BEST) program.

## III. RFQ/P OBJECTIVE

The purpose of this RFQ/P is to solicit a Qualified Roof Consultant (Candidate) to contract with the Owner and also work closely with CDE to provide customary roof consulting services for the evaluation of existing conditions and preparation of recommendations, as well as overseeing the design, bidding, construction, and post-occupancy phases of the project.

The Owner reserves the right to cancel this RFQ/P at any time, without penalty.

## IV. SUBMITTAL REQUIREMENTS

Organize your RFQ/P response using the following outline. Please separate each section with dividers or tabs using the appropriate section labels. Provide a fee proposal as outlined below to be opened only once a consultant has been selected either thru scoring of the RFQ/P process or if the district decides to interview the top 3-5 applicants.

### **SECTION 1 – LETTER OF INTEREST**

A maximum two-page letter of interest that includes a synopsis of the firm, business principals, distinguishing characteristics, approach to completing this project, primary contact information, and signed by the principal-in-charge.

### **SECTION 2 – EXPERIENCE AND QUALIFICATIONS**

Please address each criterion listed below as it relates to your firm's relevant experience and qualifications.

1. Identify the individual who will be the main point of contact and the team responsible for providing services for the duration of the project. Consultant shall not change or substitute these individuals without prior approval. The Owner reserves the right to determine the acceptability of these individuals.
2. Provide all team members' experience and responsibilities, including resumes. Provide background information including relevant education, professional titles, related qualifications, specific roles in past projects.
3. Describe your firm's past experience with providing Roof Consulting services, highlighting any projects with similar size and scope to the proposed project.
4. Describe your firm's process for evaluating and recommending multiple roof solutions for Owner consideration.
5. The Owner expects the selected roof consultant to offer unbiased, independent recommendations and services in the selection and specification of roofing materials. Please disclose any ties, financial or otherwise, to any person, project, manufacturer, or the consultant's own interests, that could affect your professional judgment, or state in writing the absence of such influences or conflicts of interest.
6. The Owner requests that specifications be based on industry standards, without prejudice toward preferred manufacturers, and open to multiple products and installers. Describe how you intend to accommodate open, competitive specification of products while ensuring quality installation and materials.
7. Describe your ability or approach to verifying structural conditions in roofing projects.
8. Describe your approach to roof contractor procurement in order to optimize bid coverage, transparency, quality, and value for the Owner.
9. Demonstrate your ability and experience providing district-wide roof maintenance/replacement plans.
10. Show your ability/approach to organize, develop and maintain project schedules, and describe how your firm handles contractor schedule delays.
11. This project requires the Candidate to carry, at a minimum, general liability insurance and workers' compensation according to State laws. There are insurance requirements in the contract with the BEST program.
12. Demonstrate ability to manage and develop a master budget and maintain it throughout the project to ensure a quality project is delivered within budget.
13. Provide description of any lawsuits or claims including status and resolutions.
14. Identify any other unique challenges/ approaches that you have experienced that will assist the Owner

with a successful project.

15. Describe your firm's process for minimizing Owner's risk through a project.

### **SECTION 3 – SCOPE OF SERVICES**

The Roof Consultant is expected to act on the Owner's behalf in overseeing the project through completion and into occupancy. The Candidate's proposed scope of services should include, but is not limited to, each item listed below. Please provide a narrative of your approach to providing the services below, and explicitly identify any additions or exclusions. When appropriate include the number of meetings, site visits, etc., and any other pertinent descriptions that clearly identify services included in the proposal.

#### **1. Roof Design, Project Management, and Construction Administration Services**

These services may include but are not limited to:

- a. Complete preparation of plans and specifications to be used to bid this project.
  - i. Specifications must be clear and require an enforceable material and labor warranty from the manufacturer and installer.
  - ii. Specifications should allow competitive bidding between multiple installers and multiple equivalent products/manufacturers.
- b. Applicant will act as the owner's representative for the roofing project and attend all meetings pertinent to the project.
- c. Applicant will assist the Owner with bidding the project, reviewing the proposals, qualifying and recommending a roofing contractor, and negotiating the contract between the roofing contractor and the owner.
- d. Assist the Owner in obtaining all of the required permits.
- e. Observe the project installation and answer any questions that the Owner, roofing contractor, or CDE may have.
- f. During roofing installation, ensure that all plans and specification are being followed and that requirements are met to obtain warranty, including manufacturer's inspections and manufacturer's notifications as applicable.
- g. Ensure manufacturer is adequately notified, and coordinate manufacturer site visits during construction, requesting final and progress manufacturer's reports as needed.
- h. Provide regular roofing progress and final reports, including detailed observations and labeled photographs throughout construction. All reports should be provided to the Owner and copied to CDE.
- i. Review and approve the contractor's pay requests and forward them to the Owner.
- j. Provide oversight and record-keeping for construction change management, potentially including requests for additional funding to cover unforeseeable conditions through grant reserve requests.
- k. Close out the project and follow-up with all pertinent documents. At project completion, provide a detailed final report with labeled photos and clear notation that all punchlist items have been completed to the consultant's satisfaction per the design drawings.
- l. Assist the Owner with any disputes, discrepancies regarding schedule, scope, delays, and/or events that cause damage to district facilities.

- m. Ensure that warranty information for the roof is clearly noted, and ensure that the Owner obtains all necessary documentation including certificate of warranty and contact information for any required follow-up. Warranty information to include the length of warranty for both the roofing contractor and the roofing manufacturer.
- n. Complete annual inspections for the first three (3) years after roofing has been installed, provide detailed reports of each inspection, and make any required follow-up coordination with contractor to address deficiencies.

Please provide a narrative expressing your firm's interest, ability and capacity to complete this scope as presented.

#### **SECTION 4 – SCHEDULE**

It is expected that your firm has the current capabilities and capacity to complete the project by the date listed in the project schedule. Provide a detailed schedule, including milestones, from the notice to proceed date through post-occupancy services. Provide reasoning, in this section, for any modifications or alterations your firm wishes to make to the recommended project schedule

#### **SECTION 5 – REFERENCES**

Provide a comprehensive list of **ALL** school projects completed or begun within the last 5 years, with contact information, along with a project description. Identify in the reference list which projects this team has performed collectively. The Owner reserves the right to check additional references beyond those provided in the submittal

#### **SECTION 6 – STANDARD CONTRACT**

The Owner's Consultant Agreement is issued with this RFQ/P. ***If a Candidate has any suggested modifications to this agreement, the Candidate must include and CLEARLY INDICATE such modifications in its response to the RFQ/P.*** Candidates please note, if you do offer suggested modifications, the decision to reject, accept, or further negotiate requested changes will be at the Owner's discretion. ***IF YOUR FIRM NORMALLY SEEKS COUNSEL ON CONTRACT TERMS, PLEASE DO SO BEFORE SUBMITTING A RESPONSE TO THIS RFQ/P.***

The Candidate's signature on its response to the RFQ/P is confirmation that the Candidate understands and acknowledges that any award will require that the Candidate enter into the Consultant Agreement attached to this RFQ/P.

### **V. SUBMITTAL REVIEW & SELECTION PROCESS**

The selection process may consist of two phases, followed by negotiations with the apparent winner. The Owner has not determined if an interview process will be necessary. If the Owner selects to forgo the interview process the Candidate will be selected from the scoring criteria below. The fee will only be opened once the preferred Candidate is selected. The fee has been predetermined at the submission of the BEST grant which is available on line. If your fee is lower or higher than the identified fee please explain in the sealed envelope why.



### **Phase 1 – RFQ Review**

The Owner's Selection Committee will evaluate and score the RFQ/P submittals based on the selection criteria listed below:

<b>Selection Criteria</b>	<b>Max Points Possible</b>
Section 1: <b>Letter of Interest.</b> How complete and concise was the letter of interest and RFQ/P response? Was the RFQ/P well organized, with complete information responding to all of the submittal criteria?	10 points
Section 2: <b>Experience and Qualifications</b> Provided a comprehensive and insightful experience and qualifications package which highlighted key personnel in addition to other items as stated.	30 points
Section 3: <b>Scope of Services.</b> Candidate has affirmed each of the Owner's requirements for this project and demonstrates a clear understanding of Owner's needs and clear direction toward completing scope of work.	30 points
Section 4: <b>Schedule.</b> Ability to complete the tasks within the timeframe needed. Submitted complete & understandable schedule.	25 points
Section 5: <b>References.</b> Candidate has provided a comprehensive project list with contact information for projects completed over the last five years.	5 points
<b>Total Points</b>	<b>100 points</b>

### **Phase 2 – Interview (OPTIONAL)**

An interview invitation MAY be sent out to the three Candidates with the highest RFQ/P submittal scores on the date noted in the project schedule. The invitation will explain the interview requirements and provide the time and location. The purpose of the interview is to ensure a full understanding of the RFQ/P responses and to introduce key members of the consulting team.

The interviews will consist of a short presentation followed by a longer period for questions and answers. During the short presentation, the lead consultant for the project should be identified along with any additional members of the team. Please note team members that will not be directly working on the project are not invited to the oral interviews.

The apparent winner will be determined based on their interview score, which is separate from their RFQ/P submittal score.

The Owner reserves the right to reject any or all responses and to waive informalities and minor irregularities in responses received and to accept any portion of a response or all items in a response if deemed in the best interest of the Owner.

## VI. FEE PROPOSAL

Interested consultants shall prepare a detailed fee proposal as outlined below. The fee proposal is to be submitted in a sealed envelope with the original proposal. Failure to provide a fee proposal which addresses each of the items listed below may result in disqualification from consideration by the district. Detailed fee proposals shall include the following:

- ✓ Lump sum fee;
- ✓ Detailed statement of work;
- ✓ Confirmation that all scope items from the original RFQ/P will be addressed;
- ✓ Any exclusions with explanations;
- ✓ # of hours;
- ✓ # of people;
- ✓ Other resources;
- ✓ How the resources are to be used;
- ✓ Breakout of anticipated reimbursables included in the lump sum fee proposal;
- ✓ Hourly rates for all personnel involved in the project;
- ✓ Number of site visits anticipated to complete the work;
- ✓ Breakout of fees for any non-required scope proposed;

The negotiated fee is anticipated to include all costs including reimbursables for the project resulting in a lump sum or format contract.

If the apparent winner's fee exceeds the Owner's budget and if subsequent negotiations with the apparent winner are unsuccessful, the Owner reserves the right to negotiate with the next highest-scoring Candidate.

## VII. Acceptance and Rejection

After the final selection has been made, the Owner will provide a summary of scores and a decision memorandum to each of the RFQ/P Candidates.

The Owner reserves the right to select any or reject any and all proposals in their best interest. The Owner also reserves the right to pre-qualify any or all Candidates or reject any or all Candidates as unqualified, including without limitation the right to reject any or all nonconforming, nonresponsive, unbalanced, or conditional, qualifications. The Owner also reserves the right to re-solicit, waive all informalities not involving price, time, or changes in the work, and to negotiate contract terms with the apparent successful proposer.

The Owner is not responsible for cost incurred in preparation of this proposal. Proposals will not be returned and become the property of the Owner once submitted, which could be publically shared. By submitting a proposal all Candidates agree to the terms and conditions of this RFQ/P and the RFQ/P will become part of the awarded Candidates contract. The apparent winner will be responsible for submitting a draft agreement to be used for this project. The Owner and the Owner's legal counsel will review the agreement and negotiate terms prior to commencement of work.

## VIII. RFQ/P Supporting Material

The following are provided for informational purposes in regard to the project:

1. BEST Grant Application

**ATTACHMENT A**  
**SIGNATURE PAGE**

***NOTE: THIS PAGE MUST BE COMPLETED AND INCLUDED WITH THE CANDIDATE'S RESPONSE***

\_\_\_\_\_  
(COMPANY NAME)

\_\_\_\_\_  
(COMPANY STREET ADDRESS)

\_\_\_\_\_  
(COMPANY CITY, STATE AND ZIP CODE)

\_\_\_\_\_  
(COMPANY PHONE NUMBER)

\_\_\_\_\_  
(EMAIL ADDRESS)

\_\_\_\_\_  
(TYPED NAME OF AUTHORIZED AGENT)

\_\_\_\_\_  
(SIGNATURE OF AUTHORIZED AGENT)

\_\_\_\_\_  
(TITLE OF AUTHORIZED AGENT)

\_\_\_\_\_  
(DATE)

\_\_\_\_\_  
(FEDERAL EMPLOYEE IDENTIFICATION NUMBER)

**ATTACHMENT B**

**STANDARD CONTRACT**

**Independent Consulting/Contractor Agreement  
between  
Elizabeth School District C-1  
and**

**Provider Name ("Provider"):** \_\_\_\_\_

**Provider Number:** \_\_\_\_\_ **W-9 on file** \_\_\_\_\_

**THIS INDEPENDENT CONSULTING/CONTRACTOR AGREEMENT** ("Agreement") is made and entered into as of the date set forth below by and between Elizabeth School District C-1 ("District"), located at 634 S. Elbert Street, PO Box 610, Elizabeth, Colorado 80107, and Provider for the provision of services to the District.

**WHEREAS**, the District has determined that there is a need for the Provider's services specified below in this Agreement; and

**WHEREAS**, the goal of the Agreement is to secure services from a person or entity with a high degree of professional skill for the benefit of the District; and

**WHEREAS**, Consultant was selected in accordance with the District's issuance of RFP No. [Number], dated [Date] a copy of which is attached hereto as Exhibit A and incorporated by reference herein; and

**WHEREAS**, the District has determined that the Provider is qualified to provide services to the District, and will agree to perform and carry out the services in a good and professional manner as outlined in this Agreement.

**THEREFORE**, in consideration of the foregoing recitals, incorporated by this reference, and their mutual promises, the parties agree as follows:

**1. Term:** Subject to earlier termination by the District as provided herein, the Term of this Agreement shall commence as of [Date] or the date the parties execute this Agreement, whichever is later, and continue through the successful completion of the Services, which Provider acknowledges and agrees should occur on or before [Date]. The Consultant understands and agrees that the District shall not be liable for payment of work or services nor for costs or expenses incurred by the Consultant prior to the proper execution and District approval of this Agreement.

**2. Scope of Services:** The Provider shall perform the following services, which hereinafter shall collectively be referred to as the "Services:"

a) Description of the Services to be provided:

If Provider attaches a separate proposal to this Agreement, it shall be incorporated herein as Exhibit B; provided however, that if any terms set forth therein are ambiguous or conflict with this Agreement or

any other addenda attached to and incorporated into this Agreement, then this Agreement and Addenda C, D and E shall have priority of interpretation and the terms set forth within the Agreement and Addenda C, D, and E shall control.

3. **Addenda:** Items checked below are incorporated herein by this reference and, by initialing below, Provider acknowledges receipt of the applicable Addendum/Addenda:

☐ If this Agreement is a contract for the provision of construction services, then **Addendum C** is hereby attached to and incorporated herein by this reference.

\_\_\_\_\_  
Initials

☐ If the Provider will have access to student and personnel data, then **Addendum D** is hereby attached to and incorporated herein by this reference.

\_\_\_\_\_  
Initials

☐ If the Provider will be creating intellectual property on the District's behalf, then **Addendum E** is hereby attached to and incorporated herein by this reference.

\_\_\_\_\_  
Initials

4. **Standards:** Provider shall perform all Services in a diligent, safe, and workmanlike manner, using its best skill and judgment pursuant to the highest standards of the profession for the Services. Provider represents that the work performed will be in conformance with all applicable laws, statutes, rules, regulations, ordinances, codes and orders of any governmental bodies, agencies, authorities and courts. If Provider's performance does not conform to such standards and District notifies Provider of same, Provider agrees to immediately take all action necessary to remedy the nonconformance. Any costs incurred by Provider to correct such nonconformance shall be at the Provider's sole expense.

5. **Contract Price and Payment Provisions:** The Provider shall perform the Services for the total contract price of \$ \_\_\_\_\_ ("Contract Price"). Unless otherwise expressly stated in this Agreement, all necessary labor, licenses, materials, supplies, equipment, reimbursables, and other items necessary to complete the Services shall be part of and not in addition to the Contract Price. The District will process the Provider's payment within forty-five (45) days from the receipt of a valid invoice. The invoice shall include: (i) the date(s) Services were rendered; (ii) a detailed description of the Services performed; (iii) names of the individuals providing Services; (iv) hours worked; (v) billing or compensation rate for the Services; (vi) all other direct expenditures allowable within the Contract Price; and (vii) if a "fixed price" contract, applicable milestones achieved and related progress payments earned. Unless otherwise agreed by District, payments shall be made in the full value of the Services performed, less five percent (5%) of such value and less the aggregate of any previous payments, which amount shall be retained until completion and acceptance of all Services. Final payment to Provider will be made after publication of notice of final settlement in accordance with the provisions of C.R.S. §38-26-107. Provider warrants and guarantees that upon final payment, title to all work, materials, and equipment shall pass to District.

**Purchase Order Number:** \_\_\_\_\_

**Account Code:** \_\_\_\_\_

**Provider shall send the invoice to:**  
**Elizabeth School District C-1**

Attention: Ron Patera  
634 S. Elbert Street, PO Box 610  
Elizabeth, Colorado 80107

6. **Independent Contractor:** The Provider understands and acknowledges that this Agreement is a contract for services and that an employee-employer relationship does not exist between the Provider and the District. The Provider shall perform all Services using its judgment and expertise as an independent contractor and not as an employee of the District. Neither the Provider nor any agent or employee of the Provider shall be an agent or employee of the District nor shall any of them have any authority, express or implied, to bind the District to any agreement or incur any liability or obligation attributable to the District. **The Provider acknowledges that it is not entitled to workers' compensation or other benefits from the District and that the Provider is obligated to pay federal and state income tax on any moneys earned from the District pursuant to this Agreement.**

7. **Use of Work Product and Infringement Claims:** To the extent Provider creates any work product, including without limitation, Provider's notes, memoranda, photographs, spreadsheets, drawings, reports, data, submittals, and designs or plans or similar materials relating to the Services (collectively "Work Product"), said Work Product shall be delivered to the District upon the earlier to occur of the completion of the Services, termination of this Agreement by either party or material breach of this Agreement by Provider. Work Product shall become the property of the District, and may be used by the District for any purpose. The Provider shall defend and indemnify District from and against all suits, causes of action, or claims for infringement of any alleged patent rights, copyright, or trade secrets arising out of District's ownership or use of Provider's Work Product and shall indemnify the District from loss or liability on account thereof and shall pay any judgments or fees resulting therefrom, including, but not limited to, royalties, license fees, and attorneys' fees.

8. **Special Provisions:** Items checked in this Section are hereby incorporated into this Agreement as terms thereof:

☒ **Workers Compensation Insurance** shall be maintained to comply with Colorado statutory provisions, including any required flow down, occupational disease provisions for all employees to comply with Colorado statutory requirements, and employer's liability, which must have limits of at least: \$100,000 per accident, \$100,000 disease, each employee and \$500,000 accident/disease policy limit. Such policy shall contain a waiver of subrogation in favor of the District. The Provider shall also require each subcontractor to furnish workers' compensation insurance, including occupational disease provisions for all of the latter's employees, and to the extent not furnished, the Provider accepts full liability and responsibility for subcontractors' employees.

☒ **Professional Liability Insurance** shall be maintained with coverage limits for each occurrence or claim of \$2,000,000, if professional services are provided under this Agreement.

☒ **Comprehensive General Liability Insurance** shall be maintained to protect the Provider from all claims for bodily injury, including death and all claims for destruction of or damage to property, including loss of use therefrom, arising out of or in connection with any operations under this Agreement, whether such operations be by the Provider or by any subcontractor under it or anyone directly or indirectly employed by the Provider or by a subcontractor. All such insurance shall be written with limits and coverages as specified below and shall be written on an occurrence form:

General Aggregate

\$2,000,000

Products - Completed Operations Aggregate	\$2,000,000
Each Occurrence	\$1,000,000
Personal Injury	\$1,000,000

This policy shall be primary insurance, and any insurance carried by the District, its officers, or its employees, or carried by or provided through any insurance pool of the District, shall be excess and not contributory insurance to that provided by the Provider.

☒ **Comprehensive Automobile Liability Insurance** shall be maintained including coverage for liability arising out of any auto (including owner, hired, and non-owned autos), and including coverage for all power mobile equipment used by the Provider on District property, with a combined single limit of \$1,000,000/person, \$1,000,000/accident, and \$1,000,000/property damage. Such insurance shall include a waiver of subrogation in favor of the District. This policy shall be primary insurance, and any insurance carried by the District, its officers, or its employees, or carried by or provided through any insurance pool of the District, shall be excess and not contributory insurance to that provided by the Provider.

☒ **Certificates of Insurance** must be submitted to the District before starting work. Insurance certificates must show coverage of all checked insurance requirements, must contain an endorsement naming the District, the District's officers, board members and employees as additional insureds. All coverages required herein shall be continuously maintained through the Term of this Agreement, including any warranty periods, to cover all liability, claims, demands, and other obligations assumed by Provider pursuant to Section 9(b) of this Agreement. If the expiration date of the insurance certificate is prior to final completion, the Provider shall provide a new certificate of insurance prior to thirty (30) days from the expiration of the current policy. In case of any claims made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Such coverages shall be procured and maintained with forms and insurers acceptable to the District. Receipt, review or acceptance by the District of any insurance policies or certificates of insurance required by this Agreement shall not be construed as a waiver or relieve the Consultant from its obligation to meet the insurance requirements. Provider shall require that all of its agents and subcontractor also comply with these insurance requirements. Any and all deductibles or self-insured retentions contained in any insurance policy shall be assumed by and at the sole risk of Provider.

☒ **Warranties.** The Provider warrants that the Services shall be performed in a good and workmanlike manner and shall be suitable and fit for the purposes for which they are intended. All materials and workmanship are guaranteed to be free of defects for two (2) years from the date of beneficial use or eighteen (18) months after materials are delivered and/or workmanship has been completed, whichever comes first, unless otherwise specified herein. Neither the final estimate or payment, nor any provision in this Agreement shall relieve Provider of responsibility for faulty materials or workmanship and, unless otherwise specified, Provider shall remedy any defects due thereto and pay for any damage to other property resulting therefrom, which appear within the periods specified herein. Complete maintenance/warranty data are to be submitted to the District for review at the completion of the Services and prior to final settlement. These warranties shall be in addition to and not in lieu of all other remedies available to the District.

☐ **Internet Use.** It has been determined that the Provider will have access to the District's Internet resources in the performance of Services. Provider and every employee, contractor or agent working for Provider who will have access to the District Network must sign and return a "Provider's Internet Use Agreement."

Misuse or inappropriate use of the District Network will constitute a material breach and will be grounds for immediate termination of the Agreement.

☐ **Background Investigations and Finger Printing.** Provider and any employee, contractor, agent or other representative of Provider whether or not in paid status must agree to be finger printed and submit for a background investigation if that Provider and/or employee, contractor, agent or other representative of Provider will provide direct services to District students or will have unsupervised access to any District student while performing the Services under this Agreement. The background check shall be required only for those persons who have regular, but not incidental, contact with students at least once a month.

☐ **Colorado PERA Retiree.** In accordance with C.R.S. § 24-51-1101, the District will notify the Colorado Public Employees' Retirement Association ("PERA") of any PERA retiree working as a consultant to the District in an individual capacity or of any entity owned or operated by a PERA retiree or affiliated party. PERA Rules define affiliated party to include: (i) any person who is a named beneficiary or co-beneficiary on the PERA account of the retiree, (ii) any person who is a relative of the retiree by blood or adoption to and including parents, siblings, half-siblings, children and grandchildren, (iii) any person who is a relative of the retiree by marriage to and including spouse, spouse's parents, stepparents, stepchildren, step siblings, and spouse's siblings, and (iv) any person or entity with whom the retiree has an agreement to share or otherwise profit from the performance of services for PERA employer by the retiree other than the retiree's regular salary or compensation. If, as a result of PERA evaluation, it is determined by PERA that PERA withholding is required, the employer contribution rate will be paid by the District directly to PERA. The Provider shall also be responsible for submitting information directly to PERA. The required disclosure, "Disclosure of Compensation for Service provided through an Affiliated Party," and additional information for PERA retirees working after retirement can be found at [www.copera.org](http://www.copera.org).

Provider represents and warrants that he/she/it (*select one*) is \_\_\_\_\_ is not \_\_\_\_\_ a PERA retiree working as a consultant to the District in an individual capacity or of any entity owned or operated by a PERA retiree or affiliated party. Provider agrees to indemnify the District for all liability incurred in any errors in reporting under this Section.

## 9. General Provisions:

a. **Insurance Requirements.** Notwithstanding any other provision of this Agreement, failure on the part of Provider to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of this Agreement for which the District may immediately terminate this Agreement or, at its discretion, the District may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all money so paid by the District shall be repaid by the Provider to the District upon demand, or the District may offset the cost of the premiums against any money due to the Provider from the District. Any and all deductibles or self-insured retentions contained in any insurance policy shall be assumed by and at the sole risk of Provider.

b. **Indemnity and Hold Harmless.** The Provider shall indemnify, hold harmless, and defend the District, including but not limited to its employees, agents, board members, officers, and representatives, from and against any and all claims, damages, losses, demands, actions, debts, liabilities, and expenses, including attorney's fees incurred, arising out of, claimed on account of, or in any manner predicated on the performance of the Services provided that any such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property,



including the work performed and including the loss of use resulting therefrom, and only to the extent that it is proximately caused in whole or in part by any negligent or intentional act or omission or breach of contract of Provider, any sub-consultant, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable.

c. **Licenses, Taxes, Permits, and Fees.** The Provider shall obtain, at its own expense, all licenses and permits and pay all applicable taxes and fees, in the execution of the terms of this Agreement, including but not limited to excise tax, federal and state and local income taxes, payroll and withholding taxes, unemployment taxes, and worker's compensation payments for its employees, and shall indemnify and hold the District harmless for all claims arising under such taxes and fees.

d. **Nondisclosure of Confidential Information.** The Provider will not disclose to any third person or entity any records or writings of the District, its employees or students, regardless of the form, that are protected by state or federal law and that may come into the Provider's possession.

e. **Changes/Amendments.** At any time, by written order, the District may make changes in or additions to the Services to be performed under this Agreement, issue additional instructions, require modified or additional work or services within the general scope of the Agreement, or vary the amount of District-furnished property. If the Provider believes that any changes cause any increase or decrease in the cost of, or in the time required for, performance of Services under this Agreement, an equitable adjustment may be made in the Agreement price or term of performance, or both, and the Agreement will be modified in writing accordingly. Any claim by the Provider for adjustment under this clause must be asserted within ten (10) calendar days from the date of receipt by the Provider of the notification of changes; provided, however, that the District, if it decides that the facts justify such action, may receive and act on any such claim asserted at any time prior to final payment under this Agreement. Failure to agree to any adjustment will be a dispute concerning a question of fact within the meaning of the clause of this Agreement titled "Disputes." However, nothing in this clause excuses the Provider from proceeding with Agreement as changed, and it is limited to proceeding with its appeal pursuant to the Section titled "Disputes," below. Other than written change directives or orders issued pursuant to this Section, no amendment, change or modification to this Agreement shall be effective or enforceable unless it is in writing and executed by each party.

f. **Disputes.** In the event that any dispute between the parties arises out of this Agreement, the parties shall meet and confer in good faith to resolve such dispute. In the event such efforts do not resolve the dispute within fifteen (15) days from the date the dispute arises, the District may elect to submit the dispute to the mediation before the Judicial Arbitrator Group or other independent mediation service. This provision shall survive termination of this Agreement. This provision shall not be considered an election of remedies. The District may elect to pursue litigation for any dispute arising under this Agreement at any time.

g. **Immunities.** The District retains all of its rights, immunities, and protections provided under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 *et seq.*

h. **Termination for Convenience.** Upon written notice, the District may terminate this Agreement in whole or in part if it determines, in its sole discretion that a termination is in the District's best interests. After notice of termination has been given, the Provider shall stop work on the cancellation date specified in the notice. The District will conduct an audit to determine Provider's reasonable costs expended to the date of cancellation, or the District may determine the Provider's cost based on a schedule of values or exact cost of any work performed. The Provider will not be reimbursed for any anticipated profit.

i. **Termination for Cause.** This Agreement may be terminated by the District upon not less than five (5) days' written notice should the Provider fail to perform in accordance with the terms of this Agreement through no fault of the District. The Provider shall not terminate this Agreement, without the written consent of the District, other than for nonpayment as provided below in this Subsection. In the event of termination for convenience or cause, the Provider shall deliver to the District all Work Product. If the District fails to make payment when due, the Provider may, upon ten (10) days' written notice to the District, suspend performance of Services. Unless payment is received by the Provider within (10) days of the date of the notice, the suspension shall take effect without further notice.

j. **Force Majeure.** The District may delay delivery, performance or acceptance occasioned by causes beyond its control. The Provider shall hold goods or delay performance at the direction of the District and shall deliver goods or perform Services when the cause affecting the delay has been removed. The District shall be responsible only for Provider's direct additional costs in holding the goods or delaying performance of this agreement at District's request. Causes beyond District's control shall include government action or failure of the government to act where such action is required, strike or labor disputes, fire or unusually severe weather.

k. **Nondiscrimination.** The Consultant shall comply with all applicable state and federal laws, rules and regulations involving non-discrimination on the basis of race, color, religion, national origin, age, sex, sexual orientation, disability, or other protected status.

l. **Illegal Aliens.** The Provider certifies that it shall comply with the provisions of C.R.S. § 8-17.5-101 *et seq.* The Provider shall not knowingly (i) employ or contract with an illegal alien to perform work under this Agreement, (ii) enter into a contract with a subcontractor that knowingly employs or contracts with an illegal alien to perform work under this Agreement, or (iii) enter into a contract with a subcontractor that fails to contain a certification to the Provider that the subcontractor shall not knowingly employ or contract with a subcontractor that fails to contain a certification to the Provider that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

m. **Claims.** Provider shall pay, satisfy, and discharge all claims, charges, or other impositions of any nature or kind imposed on Provider arising out of or in connection with the Services performed or provided hereunder and shall hold harmless and indemnify the District from any such claims.

n. **Compliance with Law and District Policy.** Provider shall abide by all laws, ordinances, rules, regulations, and orders of all governmental agencies or authorities having jurisdiction over the Services, including without limitation those applicable provisions of the Occupational Safety and Health Administration ("OSHA"). Provider shall abide by all District policies and procedures, including without limitation, those related to the prohibited use and/or possession of alcohol, tobacco or firearms on District grounds. Provider shall at all times strictly enforce this prohibition among its own employees, agents or subcontractors and their employees, agents or subcontractors.

o. **Safety, Health and Accident Reports.** The safety and health of Provider, Provider's employees and agents brought on District property, will be the sole responsibility of Provider. The Provider shall take all necessary precautions to ensure the safety of all employees and other persons who may be affected by the Provider's Services. Provider will report all accidents, injury-inducing occurrences or property damage arising from the performance of Services as soon as reasonably practical. District will have the right to receive, at its request, copies of any reports filed with Provider's insurer or others. Provider's employees and agents on District property will comply with all plant rules and regulations.

p. **Sales and Use Taxes.** The District is exempt from the payment of any state, and most municipal, sales and use taxes for materials, supplies, and equipment used in the performance of Services. The Provider shall not include any of these taxes in any charges or invoices to the District.

q. **Records and Audits.** Provider will maintain complete and accurate records of all charges incurred by District under this Agreement, in accordance with generally accepted accounting principles, for a period of twenty-four (24) months from the date of termination of the Agreement. District will have the right to inspect Provider's records upon reasonable notice and to retain copies thereof.

r. **Governing Law/Venue.** The laws of the State of Colorado shall govern the performance and interpretation of the Agreement. Venue for any dispute concerning the Agreement shall be exclusively in the federal court located in Colorado or the state court located in Elbert County, Colorado.

s. **No Assignment.** This Agreement may not be assigned by the Provider without the District's prior written consent.

t. **Notices.** All notices, requests, consents and other communications required or permitted under this Agreement shall be (as elected by the person giving such notice) hand delivered by messenger or courier service, or pre-paid first-class certified mail, return receipt requested, addressed to the respective party at the address set forth in the first paragraph of this Agreement or to such other addresses as any party may designate by notice complying with the terms of this Section. Each such notice shall be deemed delivered (i) on the date delivered if by personal delivery, or (ii) three (3) days after postmark if mailed as provided in this Section.

u. **Waiver.** A failure to assert any rights or remedies available to a party under the terms of this Agreement, or a waiver of the right to remedies available to a party by a course of dealing or otherwise shall not be deemed to be a waiver of any other right or remedy under this Agreement, unless such waiver of such right or remedy is contained in a writing signed by the party alleged to have waived his other rights or remedies.

v. **Execution of Agreement.** This Agreement contains the entire understanding of the parties and supersedes all prior understandings, agreements, or representations by or between the parties, whether oral or written, that in any way relate to the subject matter of this Agreement. Execution of this Agreement constitutes a representation by the Provider that to the best of the Provider's knowledge no conflict of interest exists between the District representative and the Provider or its employees and agents. Provider represents that it has full authority under applicable law to execute and deliver this Agreement.

w. **Amendments to Agreement.** No changes, alterations or modifications to any of the provisions hereof shall be effective unless contained in a written agreement signed by both parties.

x. **Interpretation.** This Agreement shall control with respect to the Services described herein. This Agreement shall not affect the interpretation or validity of the parties' prior agreement or any other agreements referred to therein.

y. **No Third-Party Beneficiaries.** Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the District.

z. **Counterparts.** This Agreement and any amendments may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

aa. **Binding Agreement.** This Agreement shall be binding upon and for the benefit of the parties hereto, their successors and assigns. The Provider represents that it has full authority under applicable law to execute and deliver this Agreement and to perform obligations under this Agreement.

bb. **Severability.** If any provision of this Agreement is ruled to be invalid or illegal, such ruling shall have no effect upon the remaining provisions, which shall be considered legally binding and given full effect.

IN WITNESS WHEREOF, the undersigned agree to be bound by the terms and conditions of this Agreement:

Board of Education  
Elizabeth School District C-1

Vendor name

By: \_\_\_\_\_  
President, Board of Education

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Secretary, Board of Education

Date: \_\_\_\_\_

Principal or Central Administrator/Requestor

Requestor Supervisory Approval

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Superintendent Approval

By: \_\_\_\_\_

☐ Superintendent's Approval

Date: \_\_\_\_\_

☐ BOE Approval

4845-2613-2003, v. 1

4835-0148-7927, v. 1

## **EXHIBIT B**

### **SCOPE OF SERVICES**

These services may include but are not limited to:

- a. Complete preparation of plans and specifications to be used to bid this Project.
  - i. Specifications must be clear and require an enforceable material and labor warranty from the manufacturer and installer.
  - ii. Specifications should allow competitive bidding between multiple installers and multiple equivalent products/manufacturers.
- b. Act as the owner's representative for the roofing Project and attend all meetings pertinent to the Project.
- c. Assist the Owner with bidding the Project, reviewing the proposals, qualifying and recommending a roofing contractor, and negotiating the contract between the roofing contractor and the owner.
- d. Assist the owner in obtaining all of the required permits. All fees shall be paid for by the District.
- e. Observe the Project installation progress at a frequency not less than 3X per month and answer any questions that the Owner, roofing contractor, or CDE may have when provided in writing.
- f. During roofing installation, observe and report that the plans and specification are being followed. Coordinate attendance/frequency of manufacturer's inspections per the requirements of the Project specifications that will result in the issuance of intended warranties.
- g. Notify manufacturer of required site visits during construction, requesting final and progress manufacturer's reports be prepared and distributed.
- h. Provide regular roofing progress and final reports, including detailed observations and labeled photographs throughout construction. Said reports should be provided to the Owner and copied to CDE.
- i. Review and approve the contractor's pay requests and forward them to the Owner.
- j. Provide oversight and record-keeping for construction change management, potentially including requests for additional funding to cover unforeseeable conditions.

- k. Close out the Project and follow-up with all pertinent documents. At Project Substantial Completion, provide a detailed report with labeled photos and identify punch list items that must be completed to the consultant's satisfaction per the design drawings.
- l. Assist the Owner with any disputes, discrepancies regarding schedule, scope, delays, and/or events that cause damage to district facility associated with this Project.
- m. Document that warranty information for the roof is clearly noted, and assist the Owner to obtain required warranties and contact information for any required follow-up.

Warranty information to include the length of warranty for both the roofing contractor and the roofing manufacturer.



**EXHIBIT C**

**FEE SCHEDULE**

Elizabeth School District C-1  
Elizabeth, Colorado  
Fee Budget for post interview of RFQ/P Submittal \_ October 10, 2016

## FEE SUMMARY EXHIBIT 'C'



1777 South Bellaire Street, Suite 100  
Denver, Colorado 80222  
(303) 962.9164

### Re-Roofing RFP/Q for Elizabeth High School

Task 0001 - Survey/Schematic Design		Survey Efforts		Principal Architect (hrs.)	AIT (hrs.)	Admin. (hrs.)	Expense (Part of Contract Price)
Task 0001 - Survey/Schematic Design	Survey Efforts	Principal Architect (hrs.)	AIT (hrs.)				
	Survey Site Travel	16	20	2			
	Schematic Design Options	0	0				\$ 3,660.00
	SD Site Travel	12	20	0			\$ 3,010.00
	Expenses Survey and Design Phase (Note 'A')	0					\$ -
	Travel_CSHQA - Elizabeth	2	Trip to Site				\$ 150.00
							Expense (Part of Contract Price)

### Task 0002 and 0003 - DESIGN / AGENCY SUBMITTAL / B&N

Design / CD's for Bidding

Task 0002 and 0003 - DESIGN / AGENCY SUBMITTAL / B&N		Principal Architect (hrs.)	AIT (hrs.)	Admin. (hrs.)	Expense (Part of Contract Price)
Task 0002 and 0003 - DESIGN / AGENCY SUBMITTAL / B&N	Survey Efforts				
	CD Site Travel	48	140	24	\$ 17,950.00
	QA/QC/Code/Agency/B&N				
	Bidding Site Travel	12	16	4	\$ 2,980.00
	Misc. Printing/Shipping				
	Travel_CSHQA - Elizabeth	3	Trips to Site		\$ 150.00
					\$ 225.00
					Expense (Part of Contract Price)

### Task 0004 - CONSTRUCTION ADMINISTRATION

Construction Admin.

Costs based on early winter 2016 Design and Summer 2017 Construction

Task 0004 - CONSTRUCTION ADMINISTRATION		Principal Architect (hrs.)	AIT (hrs.)	Admin. (hrs.)	Expense (Part of Contract Price)
Task 0004 - CONSTRUCTION ADMINISTRATION	Survey Efforts				
	CA (office)	24	32	12	\$ 6,220.00
	CA (field)	96	156	8	\$ 24,310.00
	CA Site Travel	0	0		
	Travel_CSHQA - Elizabeth	14	Trips to Site (Pre-Construction/Progress/Punch)		\$ 1,050.00
	Printing/shipping for CA				\$ 250.00
					Expense (Part of Contract Price)

FEE TOTAL (LABOR)	\$ 58,130.00	FEE TOTAL (LABOR)
FEE TOTAL (EXPENSES)	\$ 1,825.00	FEE TOTAL (EXPENSES)
FEE TOTAL (PROJECT)	\$ 59,955.00	FEE TOTAL (PROJECT)
		approx. \$0.59/sf Total Fee

Note 'A': As requested by RFQ/P, "Out-of-Pocket" expenses are identified in this schedule but are considered part of Fee Summary Totals. They are not considered "as demonstrated/justified" by Consultant.

Note 'B': Fees for State Issued Permits and Bidding Expenses for legal publications are to be paid for by District, directly.

Note 'C': Fees for fieldwork are based on 12-progress observations (one per 7-8 working days) offering a higher level of field connection between CSHQA and Roofing Contractor.