



REQUEST FOR PROPOSALS

**VENTURE CAPITAL PROGRAM
INVESTMENT CONSULTANT**

Issued April 25, 2023

The New Mexico Finance Authority (“NMFA”) is requesting proposals (the “Request”) from experienced Investment Consultants (“Contractor” or “Investment Consultant”) to provide consultancy services related to the NMFA’s Venture Capital Program (“Program”).

I. Background

The Venture Capital Program Act authorizes the NMFA to make investments in venture private equity funds or early-stage investments in New Mexico businesses to enhance economic development objectives, create new job opportunities and support new, emerging or expanding businesses. The Venture Capital Program Fund administered by NMFA has been capitalized by appropriations from the New Mexico Legislature totaling Fifty Million Dollars (\$50,000,000).

The NMFA expects to allocate Program dollars to venture private equity funds and may consider an allocation to direct investments in New Mexico businesses. A venture private equity fund must be an entity that makes, manages, or sources potential investments in New Mexico businesses and that:

- Has as its primary business activity the investment of funds in return for equity in or debt of businesses for the purposes of providing capital for start-up, expansion, product or market development, recapitalization or business purposes in early stages of development;
- Holds out prospects for capital appreciation from such investments;
- Has at least one full-time manager with at least three years of professional experience in assessing the growth prospects of businesses or evaluating business plans;
- Accepts investments only from accredited investors as defined by the federal Securities Act of 1993 or federally recognized Indian nations, tribes and pueblos with at least Five Million Dollars (\$5,000,000) in overall investments.

II. Services

The potential Contractor, as requested by the NMFA shall perform the following services:

A. Investment Consulting Services

- i. Assist in periodic (at least annual) review of Program policy parameters including program goals and objectives, targeted risk/return, time horizon, asset allocation, risk parameters and economic impact metrics.
- ii. Review and evaluation of potential investment managers, performing as needed due diligence including, but not limited to meetings with potential fund managers and performing impact assessment, industry analysis, competitive landscape analysis and financial modeling. Upon request, review and evaluate specific potential investment opportunities pre-screened by NMFA staff.

- iii. With staff provide investment recommendations to the Venture Capital Investment Committee, Economic Development Committee and the NMFA Board of Directors.

B. Reporting/Monitoring/Training

- i. Monitor the Program including compiling monthly, quarterly and annual reports on Program activities including financial performance, benchmarking, best practice impact measurement and compliance metrics.
- ii. As requested, meet remotely with NMFA staff supporting program implementation, participate remotely at monthly meetings of the Venture Capital Investment Committee, and attend additional Committee or Board meetings as needed and make presentations to executive and/or legislative oversight committees in both written and oral form and in non-technical terms.
- iii. Support to NMFA Board of Directors to include educational sessions for the NMFA Board of Directors and NM staff and Venture Capital Investment Committee regarding market and landscape analysis trends.

III. Minimum Qualifications

To be considered, each potential Investment Consultant must provide evidence of the following:

- A. Minimum of twenty (20) years of experience consulting institutional investors on alternative investment programs including venture capital and private equity investments with a minimum asset under advisement of \$500 million.
- B. Dedicated expertise in environmental, social and governance (ESG), sustainable investing and impact investing.
- C. Professional services capability in developing portfolio asset allocation and investment policy, manager research and due diligence, performance benchmarking, measurement and reporting.
- D. Be familiar with all statutes and regulations applicable to the management of funds for New Mexico governmental entities.
- E. Be financially solvent and appropriately capitalized.
- F. Maintain insurance coverage in at least the following amounts: Professional Liability Insurance of Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) in total coverage, and General Liability Insurance in

at least the amount of Two Million dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) total coverage.

IV. Proposal

In addition to providing evidence of meeting the minimum qualifications outlined above, each potential Advisor should address the following:

- A. Organization. Description of the organization, its services, size, location (including primary location for these services), structure, registration status and provide an acknowledgement that no finder's fee will be paid in connection with any engagement with NMFA. Please also provide a form ADV.
- B. Team. Names and resumes of key personnel to be assigned to the performance of the responsibilities contemplated by the Request.
- C. Relevant Experience, Track Record. A detailed description of the Investment Consultant's knowledge and experience with respect to the services to be provided, with specific details/examples of advisory services provided to similar entities.
- D. References. A list of three (3) references.
- E. Compliance. Provide a description of the firm's compliance procedures, legal oversight structure, back-office, and any key related or unrelated third-party organizations.
- F. Capacity. A detailed description of availability and accessibility to the NMFA in providing the services outlined herein.
- G. Legal Actions and Complaints. A list and description of any legal action, administrative proceeding or disciplinary action or complaint, whether formal or informal in the prior five years, including any state or federal regulatory organizations, disciplinary board or commission or other regulatory body. The list and description shall include the current status or final disposition of each such action. Please also state whether, during the last five years, any regulatory agency has conducted an audit or review of the firm, including SEC, FINRA, etc., and summarize any findings.
- H. Potential Conflicts. A statement disclosing (i) any current or proposed business transaction between the Investment Consultant and any member, officer or employee of the NMFA; and (ii) any other conflict or potential conflict which may reasonably give rise to a claim of conflict of interest.
- I. Fee and Cost Schedule

- a. Fees. A specific fee for the services not to exceed the Investment Consultant's standard fee schedule. The fee, if appropriate, shall either be properly detailed and broken down by hourly rates for each potential individual to provide services or provide sufficient detail in the case of a flat fee proposal so that the services to be provided can be properly analyzed.
 - b. Costs. Provide detailed information concerning any reimbursable expenses.
- J. Contract. Any objections to the NMFA's standard form of contract attached hereto as Exhibit A. The NMFA reserves the right to modify the terms of the contract.

V. Process/Evaluation

Please note there is no guarantee that your firm or any other firm will receive a contract award. NMFA reserves the right, in its sole discretion, to cancel this Request and/or award a contract to one or more Contractors that, in the sole discretion of the NMFA, are most advantageous to carrying out the needs of the NMFA. Any protest to an award must be made in conformance with the NMFA's Procurement Policy available at www.nmfa.net.

VI. Submission of Proposal

The deadline to submit proposals is Tuesday May 9, 2023, at 4:00 PM Mountain Time. Your proposal must be e-mailed to mdalton@nmfa.net. After the review of proposals, the NMFA reserves the right to request interviews of any or all potential Contractors. The NMFA expects to make a recommendation for contract award on May 17, 2023. If you have any other questions please contact Mark Dalton, RFP Procurement Manager, at mdalton@nmfa.net.

EXHIBIT A

**NEW MEXICO FINANCE AUTHORITY
PROFESSIONAL SERVICES AGREEMENT**

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is made and entered into by and between the New Mexico Finance Authority (“NMFA”) and **[INSERT- Contractor Name]** (“Contractor”), collectively referred to as the “Parties”.

The Parties agree as follows:

1. Scope of Work.

The Contractor, as requested by the NMFA, shall perform the following services:

[INSERT SOW DESCRIPTION]

2. Compensation.

a. Services: The NMFA shall pay to the Contractor as compensation for services rendered upon full and satisfactory completion, in the sole discretion of the NMFA, of the services, reports and deliverables outlined in the Scope of Work, plus applicable New Mexico Gross Receipts Tax, as follows:

[INSERT PAYMENT PROVISIONS]

b. Payment: Payment shall be made to Contractor monthly, after receipt and review of a detailed statement from the Contractor, for services rendered to the NMFA. If requested by the NMFA, a detailed estimate of all items for which the Contractor will request reimbursement will be provided to the NMFA in advance of actual expenditures. Contractor shall submit all invoices and billing-related correspondence to NMFA Accounts Payable ap@nmfa.net.

c. Gross Receipts Taxes and Expenses. The Contractor shall bill the NMFA for reimbursement of gross-receipts taxes levied on fees paid and disbursements reimbursed to

Contractor under this Agreement including reimbursement of reasonable and necessary out-of-pocket expenses as approved by the NMFA. The Contractor shall not bill the NMFA for overhead expenses. The Contractor is responsible for paying to the New Mexico Taxation and Revenue Department all gross receipts taxes levied on amounts paid under this Agreement.

d. Not to Exceed. The total compensation paid under this Agreement shall not exceed \$ _____, including reimbursement of expenses and gross receipts taxes.

3. Term.

This Agreement is effective on **[INSERT MONTH DAY YEAR]** and shall continue in effect until **[INSERT MONTH DAY YEAR]**, unless it is terminated earlier pursuant to Paragraph 4 of this Agreement or at the time Contractor has received the maximum compensation permitted under this Agreement. Under no circumstances may the term of this Agreement exceed four years, including any extensions.

4. Termination.

a. Termination for Cause: In addition to the NMFA's legal and equitable rights and remedies, the NMFA may terminate this Agreement at any time: (i) for Contractor's negligence, misconduct or breach of a term or condition of this Agreement, including but not limited to, failing to meet the Standard of Care outlined in Paragraph 5 below; (ii) failure to perform the Scope of Work as provided herein for any reason; or (iii) if the NMFA determines that, as the result of any occurrence or change of circumstances involving Contractor, the continued association with Contractor as provided hereunder would have an adverse impact on the name, image, reputation, goodwill or proprietary rights of the NMFA.

b. Termination for No Cause: The NMFA may terminate this Agreement at any time for no cause, subject only to the NMFA's obligation to pay Contractor the unpaid compensation for services already performed as set forth in Paragraph 2 above.

5. Standard of Care.

Contractor hereby represents that it is an expert in providing the services contemplated by this Agreement. Therefore, over and above, and in addition to, any fiduciary or other obligations under applicable law, Contractor agrees that it shall at all times exercise at least the degree of care and competence as would a professional expert with superior skills in providing the services outlined in the Scope of Work.

6. Key Person

Following the effective date of this Agreement, the Key People (as defined below) shall be the principal individuals responsible for the performance of the Scope of Work. The Contractor shall not substitute any other professionals in lieu of any of the Key People for the performance of the Scope of Work without first receiving written consent of the NMFA. Should the Contractor release any of the Key People from the employment of the Contractor during the term of this Agreement or for any reason one of the Key People terminates his or her responsibilities for the Contractor or becomes unable to maintain his or her responsibilities for the Contractor under this Agreement, the NMFA shall (a) be notified by the Contractor seven (7) calendar days prior to such event and (b) be provided the right to terminate this Agreement. The Key People shall be:

[INSERT KEY PEOPLE]

7. Insurance

The Contractor shall, at all times during the pendency of this agreement, maintain adequate liability insurance in the amounts proscribed by the NMFA namely, Professional Liability Insurance of Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) in total coverage, and General Liability Insurance in at least the amount of Two Million dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) total coverage.

8. Status of Contractor.

The Contractor is an independent contractor performing professional services for the NMFA as described above, and nothing herein contained shall be deemed to create an agency relationship between Contractor and the NMFA and Contractor is not an employee of the NMFA. In no event shall Contractor be entitled to participate in, or be entitled to receive any benefits from, the NMFA's employee benefit plan, nor shall Contractor be entitled to accrue leave, retirement, insurance, bonding authority, use of NMFA vehicles, or any other benefits, except as specifically set forth in this Paragraph 8, accorded to employees of the NMFA as a result of this Agreement. The Contractor acknowledges that it is responsible for any and all reporting required to be made to any taxing authority for income tax purposes. The provisions of this Paragraph 8 shall survive the expiration or earlier termination of this Agreement.

9. Litigation/Regulatory Action.

As of the effective date of this Agreement, the Contractor is not aware of any regulatory or self-regulatory investigation or legal or arbitration proceeding against the Contractor or any notice of a regulator in respect of the Contractor that has not been disclosed to the NMFA and, if after the date hereof, the Contractor should become aware of any regulatory or self-regulatory investigation or notice (other than routine information requests that the Contractor

reasonably believes are not targeted at the Contractor but is instead an industry-wide request) or any legal or arbitration proceeding filed against the Contractor, the Contractor shall inform the NMFA of such investigation or lawsuit promptly, and in any event within five (5) calendar days after learning of such investigation or lawsuit.

10. 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 NMFA.

11. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without prior approval of the NMFA. All fees and expenses of any approved subcontractor shall be billable by the subcontractor directly to the Contractor and paid by the Contractor to the subcontractor. The NMFA is not responsible to any subcontractor for any fees, expenses, or payment of any kind. The Contractor assumes full and complete responsibility and liability for each subcontractor's performance of services under the Agreement and such performance shall be judged in accordance with the Standard of Care set out in Paragraph 6 herein.

12. Products and Services/Copyright.

All materials developed or acquired by the Contractor under this Agreement are the property of the NMFA and shall be delivered to the NMFA no later than the termination date of this Agreement. Nothing produced, in whole or in part, by the contractor under this Agreement shall be the subject of an application for copyright by or on behalf of the Contractor. Contractor shall acquire no right under this Agreement to use, and shall not use, the name "NMFA" or designs of the NMFA.

13. Records and Audits.

The Contractor shall maintain detailed records of all fees and expenses for three years from the expiration or termination of the Agreement. Those records shall be subject to inspections and audit by the NMFA and its authorized representatives. The NMFA shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the NMFA to recover excessive or illegal payments.

14. Release.

The Contractor shall, upon final payment of the amount due under this Agreement, release the NMFA, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. The Contractor agrees not to purport to bind the NMFA to any obligations not assumed herein by the NMFA, unless the Contractor has express written authorization to do so and then only within the strict limits of that authorization.

15. Confidentiality.

Any confidential information provided to or developed by Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by Contractor without written approval of the NMFA.

Contractor shall wholly and fully indemnify the NMFA against any and all losses, damages, costs, expenses, legal fees and liability resulting or arising from the release of information in violation of this Paragraph 15 by Contractor, its officers, employees, subcontractors, affiliates or anyone under the control of Contractor.

16. Conflict of Interest.

The Contractor warrants that the Contractor currently has no interest and shall not acquire any interest, direct or indirect, that does or would conflict in any manner or degree with the performance of services required under this Agreement.

17. Amendment.

This Agreement shall not be altered, changed, or amended except by an instrument in writing that is executed by both Parties.

18. Merger.

This Agreement shall incorporate all the agreements, covenants, and understandings between the Parties hereto concerning the subject matter thereof, and all such covenants, agreements and understandings, oral or otherwise, of the parties shall not be valid or enforceable unless embodied in this Agreement.

19. Waiver.

No waiver of any breach of this Agreement or any of the terms or conditions thereof shall be held to be a waiver of any other or subsequent breach, nor shall any waiver be valid unless the same shall be in writing and signed by the party alleged to have granted the waiver.

20. Notices.

All notices, or other communications regarding the implementation of this Agreement shall be in writing and shall be deemed to have been given when delivered by registered or certified mail or overnight carrier. The NMFA may, in its sole discretion, call for a notice to be effective if sent by facsimile communication upon telephonic confirmation to the sender of receipt of the facsimile. Notices shall be addressed to:

NMFA:	Name:	Daniel C. Opperman
	Title:	Chief Legal Officer

Address: New Mexico Finance Authority
207 Shelby Street
Santa Fe, NM 87501

Contractor: Name: [INSERT]
Address: [INSERT]

21. Scope of Agreement.

This Agreement incorporates all the agreements and understandings between the parties concerning its subject matter, and all agreements and understandings have been merged into this Agreement. No prior or contemporaneous agreement or understanding, verbal or otherwise, of the parties or their agents concerning the subject matter of this Agreement is valid or enforceable unless included in this Agreement.

22. Indemnification.

Contractor shall indemnify and hold the NMFA, its officers, directors, agents, employees and assigns, harmless from and against any and all claims, demands, suits judgments, losses or expenses of any nature whatsoever (including attorneys' fees) arising out of any material breach of Contractor's representations and warranties as set forth herein, any third party claim of infringement regarding the Services, or any other failure of Contractor to comply with the obligations to be performed hereunder. Notwithstanding anything to the contrary above, Contractor shall have no indemnification obligations under this Paragraph 22 with respect to any claims that the NMFA (in its reasonable and good faith business judgment) determines are so-called "frivolous" or "nuisance" claims. The provisions of this Paragraph 22 shall survive the expiration or sooner termination of this Agreement.

23. Penalties for Violation of Law.

The New Mexico criminal statutes impose felony penalties for bribes, illegal gratuities and kickbacks.

24. 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.

25. Applicable Law.

This Agreement shall be governed by the laws of the State of New Mexico.

26. No Guaranty.

Contractor acknowledges and agrees that by providing the Services, the NMFA is not obligated to offer Contractor any further employment opportunities with the NMFA and that Contractor is performing such Services only for the duration of the Term of this Agreement, unless the NMFA, in its sole discretion, determines to do otherwise.

27. Full Authority.

Contractor and the NMFA represent that (i) each has all rights, power and authority necessary to enter into and perform this Agreement, (ii) that neither Contractor nor the NMFA has granted any third-party rights inconsistent with the rights and obligations of the other party, and (iii) both Contractor and the NMFA shall reasonably cooperate with the other party in connection with their respective rights and obligations.

28. Facsimile/Counterparts.

This Agreement may be executed in counterparts and may be returned signed by electronic e-mail or facsimile.

IN WITNESS WHEREOF, the parties have executed this Agreement as of this ___ day of _____, 20_____.

NEW MEXICO FINANCE AUTHORITY

By: _____
Marquita D. Russel
Chief Executive Officer

Reviewed and approved by the New Mexico
Finance Authority Legal and Compliance Department.

By: _____
Daniel C. Opperman, Chief Legal Officer

(CONTRACTOR)

By: _____

N.M. Tax ID # _____