

TULAROSA COMMUNITY DITCH

REQUEST FOR PROPOSAL

FOR

ON -CALL WATER GENERAL COUNSEL

PROPOSALS DUE:

December 15, 2022



SECTION I
INTRODUCTION

SUMMARY AND BACKGROUND

The Tularosa Community Ditch (TCD) is an acequia system covering more than 16 miles of ditches. It gets its water from the Rio Tularosa originating from the Sacramento Mountains. Our eastern boundary of those waters begins source of Head Spring in the middle of the Mescalero Apache Reservation where it continues westward through the Tularosa Canyon down the valley. The Tularosa Acequia system has been in existence since the 1870s and serves more than 1,500 farmers and families in and around the Historic 49 Blocks of the Village of Tularosa established in 1865.

Crops raised in the farmlands surrounding Tularosa depend on the irrigation provided by the TCD. The Irrigated lands in and around the area Tularosa are over 1,800 acres. Some of the crops include grains, and grasses for cattle, horses, goats, sheep and chickens. The people living in the watershed of this area are proud of the extensive chile production and produce for sales for both local consumption and many other parts of the state. Pecan production in this area contribute to the national statistics keeping the US as a top world producer. Apples, quince, pomegranates, plums and pears are abundant. Water for the farmers is provided throughout the year by way of the Acequia Madre (Mother Ditch) and laterals. The Historic 49 Blocks within the Village of Tularosa receive water for their home gardens and fruit trees six months of the year starting April and ending in September also delivered by the Acequia Madre and laterals. Those laterals are maintained by the property owners and farmers.

The Tularosa Community Ditch falls under the category of a Special District and has on-going contracts with the Interstate Stream Commission (ISC) and the Department of Financial Administration. Capital Outlay from the legislature as well as funding from the grant/loan part of the ISC are instrumental in reconstruction and rehabilitation of the acquisition areas from the river, storage facility (reservoir) and switch gates and weirs which control many miles of pipeline into the Acequia Madre (Mother Ditch).

The Tularosa Community Ditch is an adjudicated acequia and is protected under the District Court. Our Mayordomo or Water Boss is elected by the Board and Membership and is also an officer of the District Court.

Three Board members are elected on odd numbered years and must be shareholders and/or members of the Historic 49 Block owners. Committees are organized by the Board and cover where needs are most apparent in the administration of the ditch.

A. Purpose for the Request for Proposal

The TCD Board is requesting qualification based competitive sealed proposals for On-Chief Water General Counsel. It is the intent of TCD to select from individuals, (offerors) to submit proposals in accordance with the outlines and specifications contained in the Request for Proposal (RFP). In responding to this RFP, offerors are encouraged to provide any additional information they believe is relevant. The purpose of the RFP is to select a law firm(s) or individual(s) to provide legal services as Chief Water and General Counsel as well as other duties requested by the Board of Commissioners of TCD and the Chief Engineer . This contract shall be for a term of 12 months commencing December 15,

2022 and may be extended in increments of one year, but shall not exceed a total of four (4) years. The TCD Board of Commissioners reserves the right to renew the contract annually or may at any time elect to not extend this agreement and advertise to procure these services. TCD also reserves the right to procure similar services from another source to be used simultaneously with this Contract or any extension thereof.

- B. Envelope shall be clearly marked "Chief Water and General Counsel Proposal" in the lower lefthand corner. The date and time or stamped on the sealed proposal envelope by TCD shall be conclusive evidence of the date and time the proposal was received.
- C. Proposal may be mailed, but to be considered, must be received on or before close of business 4:00 PM December 15, 2022 at the TCD Office:

Karen Lerner, Secretary/Commissioner
Tularosa Community Ditch
PO Box 1094,
Tularosa NM 88532-1094
575 921-2057
tularosacommunityditch2022@gmail.com

- D. This procurement shall encompass this RFP and Scope of Work. Should any amendment to this RFP be deemed necessary, it will be distributed in writing to all recipients of the original RFP and posted on the TCD website tularosacommunityditch.com. If an amendment requires a time extension, the proposal submission date will be changed as part of the written amendments.

E. DEFINITION OF TERMINOLOGY

This paragraph contains definitions that are used throughout this RFP including appropriate abbreviations.

"Amendment/Addendum" shall mean that a change, addition or supplement to the information provided in this RFP document.

"Agreement" shall mean a duly executed and legally binding contract'

"Board" means the Tularosa Community Ditch (TCD Board of Commissioners).

"Close of Business" (COB) means 4 PM Mountain Standard Time.

"Contract" means a written agreement for the procurement of items of tangible personal property or services.

"Contractor" means a successful offeror who enters into a binding contract.

"Determination" means the written documentation of a decision of a procurement manager including findings of fact required supporting a decision. A determination becomes part of the procurement file to which it pertains.

“Desirable” means the terms “may”, “can”, “should”, “prefers” identifies a desirable or a discretionary item or factor for the Board to determine.

“Determination” means the written documentation of a decision of a procurement manager including findings of fact required supporting a decision. A determination becomes part of the procurement file to which it pertains.

“Evaluation Committee” means a term established to evaluate proposals, conduct interviews, and assist with negotiation during proposal evaluation for a specific product or services. The procurement Manager shall provide the technical assistance requested by the committee.

“Finalist” is defined as an Offeror who meets all mandatory specifications of the RFP and whose evaluation is sufficiently high to qualify that Offeror for further consideration by the Evaluation Committee.

“Offeror” is a person, corporation, or partnership who chooses to submit a proposal.

“Owner” is synonymous with TCD.

“Procuring Agency” means, TCD is a Special District of the state and local public bodies allowed by law to entertain procurements.

“Procurement Manager” means the person or designee authorized to manage or administer procurements requiring the evaluation of competitive sealed bids.

“Project Manager” has the responsibility of the planning and execution of a project on any undertaking that has a defined scope of work and a defined finish.

“Request for Proposals” or “RFP” means all documents, including those attached or incorporated by reference, used for soliciting proposals.

“Responsible Offeror” means an Offeror who submits a responsive proposal and who has furnished, when required information and data to prove that his or her financial resources, production or service facilities personnel, service reputation and experience are adequate to make satisfactory delivery of the services or items of tangible personal property described in the proposal.

“Responsive Offer” or “Responsive Proposal” means an offer or proposal which conforms in all material respects to the requirements set forth in the request for proposals include, but are not limited to, price, quality, quantity, or delivery requirements.

“TCD” shall refer to the Tularosa Community Ditch.

**SECTION II
CONDITIONS GOVERNING THIS PROJECT**

This section of the RFP contains the schedule for the procurement, describes the major procurement events and the conditions governing the procurement.

A. SEQUENCE OF EVENTS

ACTION	RESPONSIBILITY	DATE
Issue of Proposal	TCD	November 27, 2022
Submit Acknowledgement of Receipt Form	Offeror	December 5, 2022
Deadline to Submit Questions	Offeror	December 9, 2022
Responses to Questions	TCD	December 12, 2022
Submission of Proposal	Offeror	December 15, 2022 4 PM
Proposal Evaluation	TCD	December 16 & 17, 2022
Notice to Finalist(s) & Non-Finalists	TCD	December 19, 2022
Recommendation/Approval	TCD	December 22, 2022
Notice of Award	TCD	December 23, 2022
Protest	Offeror	15 days after award

B. EXPANATION OF EVENTS

The following paragraphs describe the activities listed in the sequence of events.

1. Distribution of RFP Document

This RFP is being issued on behalf of the TCD in accordance with the provisions of Sections 13-1-120 and 13-1-121 NMSA 1978. The TCD Purchasing Department is the only organization who is authorized to make copies and/or distribute this RFP in any format. A distribution list of those who receive the RFP will be maintained throughout the procurement process and will become part of the procurement file.

2. Acknowledgement of Receipt Form

Potential Offerors should hand deliver, return by e-mail or registered or certified mail the "Acknowledgement of Receipt Form" that accompanies this document as Appendix 4 to have their organization placed on the procurement distribution list. The form should be signed by an authorized representative of the organization, dated, and returned by close of business December 5, 2022.

3. Deadline to Submit Written Questions

Any proposal questions must be submitted in writing by December 9, 2022, to the Procurement Manager.

4. Responses to Written Questions/RFP Amendments

Written Responses to submitted questions will be emailed to all potential offerors who have returned their Acknowledgement of Receipt Form as per Section II.B.2.

5. Submission of Proposal

ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OF DESIGNEEM NO LATER THAN 4 PM LOCAL TIME December 15, 2022. Proposals received after this deadline will not be accepted. The date and time of receipt will be recorded on each proposal. Proposals must be sealed and labeled on the outside of the package to clearly indicate response to the **CHIEF WATER GENERAL COUNSEL PROPOSAL**. PLEASE NOTE: Proposals submitted, e-mail or any other electronic method will not be accepted.

A public log will be kept of the names of all Offeror organizations that submitted proposals. Pursuant to Section 13-1-116 NMSA 1978, the contents of any proposal shall not be disclosed to competing offerors prior to contract award.

6. Proposal Evaluation

The evaluation of proposals will be performed by the Evaluation Committee. This process will take place from December 16 & 17, 2022. During this time, the Evaluation Committee may initiate discussions with offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals, but proposals may be evaluated without such discussion. Discussions SHALL NOT be initiated by offerors.

7. Selection of Finalists

The evaluating committee shall select Finalist by December 19, 2022, and those Offerors selected will be invited to participate in the subsequent steps of the procurement.

8. Best and Final Offers from Finalist

Finalist MAY be asked to submit revisions to their proposals for their proposals for the purpose of obtaining best and final offers by a date TBD. Offers received after this deadline will not be accepted and the offeror's proposal without amendments shall constitute the final offer for the evaluation. Best and final offers may be clarified and amended at the finalist offeror's presentation.

9. Oral Presentation by Finalist-TBD

Finalist offerors may be required to present their proposals to the Evaluation Committee. The Procurement Manager will schedule the time for each offeror presentation. All offeror presentations will be held at the TCD office in Tularosa, NM and Oral presentations will be limited to one (1) hour in duration.

10. Board Approval

TCD Board will take actions for approval and award of the Chief Water and General Counsel on December 22, 2022. This contract shall be awarded to the offeror whose proposal is most advantageous to the Ditch Administration, taking into considerations the evaluation factors set forth in the RFTP. TCD reserves the right to make multiple awards under this procurement and to designate the lead law firm to serve as general counsel.

11. Notice of Award

The Procurement Officer will notify all finalist in writing of the final award on December 23, 2022.

12. Protest Deadline

Any protest by an offeror must be timely and in conformance with Section 13-1-172 NMSA 1978 and applicable procurement regulations, The fifteen (15) day protest period for responsive offeror's shall begin on the day following the contract award and will end as of 4:30 PM MST on December 30, 2022. Protests must be written and must contain the name and address of the protestant, the name of this solicitation, and a statement of grounds for protest, including appropriate supporting exhibits.

The protest must be addressed and delivered to as follows:

Ms. Karen Lerner
Tularosa Community Ditch
PO Box 1094
Tularosa, NM 88352-1094
575 921-2057

tularosacommunitydtich2022@gmail.com

Protests received after the deadline will not be accepted.

C. GENERAL REQUIREMENTS:

This procurement is being conducted in accordance with the by-laws of TCD, and State procurement regulations.

1. Acceptance of Conditions Governing the Procurement:

Offerors must indicate their acceptance of the Conditions Governing this procurement and all amendments to the RFP (if any) in their letter of transmittal of the proposal.

2. Incurring Cost:

Any cost incurred by the Offeror in preparation, transmittal, presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Offeror. Any cost incurred by the Offeror for set up and demonstration of the proposed equipment and/or system if applicable shall be borne solely by the Offeror.

3. Amended Proposals:

An Offeror may submit an amended proposal before the deadline for receipt of proposals. Such amended proposals must be complete replacements for a previously submitted proposal and must be clearly identified as such in a transmittal letter that accompanies the amended proposal materials.

4. Offeror's Rights to Withdraw Proposal:

Offeror will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. Such amended proposals must be complete replacements for a previously submitted proposal and must be clearly identified as such in a transmittal letter that accompanies the amended proposal. TCD personnel will not merge, collate or assemble proposal materials.

5. Proposal Offer Firm:

Responses to this RFP, including proposal prices, will be considered firm for ninety (90) days after the due date for receipt of proposals or sixty (60) days after receipt of a best and final offer if one is submitted,

6. Disclosure of Proposal Contents:

The proposals will be kept confidential until a contract is awarded. At that time, all proposals and document pertaining to the proposals will be open to the public, except for the material that is labeled as proprietary or confidential. The Procurement Manager will not disclose or make public any pages of a proposal on which the offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements. Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal. Confidential data is normally restricted to confidential financial information concerning the Offeror's organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, 57-3A-1 to 57-3A-7 NMSA 1978. The price of products offered or the cost of services proposed shall not be designated as proprietary or confidential information. If a request is received for disclosure of data for which an Offeror has made a written request for confidentiality the Board shall examine the Offeror's request and make a written determination that specifies which portions of the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition of the disclosure of confidential data.

7. No Obligation:

This procurement in no manner obligates the Board to the use of any proposed professional services until a valid written contract is awarded and approved by the appropriate authorities.

8. RFP Termination:

This RFP may be terminated at any time and any and all proposals may be rejected in whole or in part when the Board determines such action to be in the best interest of the Acequia.

9. Sufficient Appropriation:

Any contract awarded as a result of this RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such terminations will be effective by sending written notice to the offeror. The Board's decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.

10. Legal Review:

The Board requires that all Offerors agree to be bound by the General Requirements contained in the RFP. Any Offeror's concerns must be promptly brought to the attention of the Procurement Manager.

11. Governing Law:

This procurement and any agreement that may result of this RFP process shall be governed by the laws of the State of New Mexico.

12. Basis for Proposal:

Only information supplied by the Procurement Manager or her designee should be used as the basis for the preparation of Offeror proposals.

13. Terms and Conditions:

The contract between the TCD Board of Commissioners and the offeror will follow the format specified by the Board and the terms and conditions set forth in the New Mexico State Procurement Code, (Section 13-1-28 through Section 13-1-199 NMSA 1978). However, the Board reserves the right to negotiate with a successful offeror for provisions in addition to those contained in this RFP. The contents of this RFP, as revised and/or supplemented, and the successful Offeror's proposal will be incorporated into and become part of the contract.

Should an offeror object to any of the Board's terms and conditions as contained in this Section, that Offeror must provide in written details his/her objection and proposed alternate language. The Board may or may not accept the alternative language. General references to the offeror's term and conditions or attempts at complete substitutions are not acceptable to the Board and will result in disqualification of the offeror's proposal. Offeror must provide a brief discussion of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording.

All contracts for professional services may be subject to the review and approval of the Board of Commissioners of TCD.

14. Offeror's Terms and Conditions:

Offeror's must submit with the proposal a complete set of any additional terms and conditions which they expect to have included in a contract negotiated with the Board.

15. Contract Deviations:

Any additional terms and conditions, which may be the subject of negotiation, will be discussed only between the Board of TCD and the selected offeror and shall not be deemed an opportunity to amend the offeror's proposal.

16. Offeror Qualifications:

The Board of TCD may make such investigations as necessary to determine the ability of the Offeror to adhere to the requirements specified within this RFP. The Board will reject the proposal of any offeror who is not a responsible Offeror or fails to submit a responsive offer as defined by the conditions of this RFP.

17. Right to Waive Minor Irregularities:

The Board reserves the right to waive minor irregularities. The Board also reserves the right to waive mandatory requirements provided that all of the otherwise responsive proposals failed to meet the mandatory requirements and/or doing so does not otherwise materially affect the procurement. The right is al the sole discretion of the Board.

18. Notice:

The Procurement Code, Sections 13-1-199 NMSA 1978, imposes civil and misdemeanor criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

19. Agency Rights:

The Board of TCD reserves the right to accept or reject all or a portion of an Offeror's proposal.

20. Right to Publish:

Throughout the duration of this procurement process and contract term, potential offerors, and actual offerors must secure from the Board a written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement or the subsequent contractor.

21. Ownership of Proposals:

All documents developed and submitted in response to this RFP shall become the property of the Board.

22. Electronic Mail address required:

A large part of the communication regarding this procurement will be conducted by conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive this correspondence.

23. Use of Electronic Versions of this RFP:

This RFP is available by electronic means. If accepted by such means, the Offeror acknowledges and accepts full responsibility to insure that no changes are made to the RFP. In the event of conflict between a version of the RFP in the Offeror's possession and the version maintained by the Board, the version maintained by the Board shall govern.

24. Records and Audit:

If awarded a contract, Offeror shall maintain details time records, which indicate the date, time and nature of services rendered. These records shall be subject to inspection by the Board, the Department of Finance and Administration and the State Auditor. The Board shall have the right to audit the billing both before and after payment; payment under this contract shall not foreclose the right of the Board to recover excessive payment.

25. New Mexico Employees Health Coverage:

- A. If Offeror has, or grows to, six (6) or more employees who work, or who are expected to work, and average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this agreement, to have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.
- B. Offeror agrees to maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.
- C. Offeror agrees to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following website link to additional information: <http://insurenemexico.state.nm.us/> .
- D. For Indefinite Quantity, Indefinite Delivery contract (state price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); Contractor agrees these requirements shall apply the first day of the second month after the Contractor reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of \$250,000.

**SECTION III
EVALUATION**

The following is a summary of evaluation factors with point value assigned to each. These, along with the general requirements, will be used in the evaluation of Offeror proposals.

ITEM	FACTORS	POINTS
1.	General Information	5
2.	Proposed Approach to Providing Cost Effective Representation	15
3.	Experience in NM Water Law and Administration	30
4.	Experience in Matters Applicable to a Local Body	10
5.	Experience in Inter-Governmental Affairs	10
6.	Experience in Contracts and Agreements	10
7.	Proposed Costs	10
8.	Supplementary Information	0
9.	Current Clients and Conflict of Interest, Campaign Contribution, Debarment & Suspension and Acknowledgment of Receipt Form	MANDATORY
	TOTAL	100

Describe how the services will be provided or what tasks will be performed in response to the Evaluation Criteria and the Scope of Work. The Scope of work indicates “what” the offeror is supposed to do; the description of services should allow “how” the offeror intends to perform the services.

Discuss prior experience and qualifications related to accomplishing the scope of work contained in Section V.

A. General Information: (5 points, limited to two (2) pages

1. Must have at minimum 5 years’ experience in Water Law and Environmental Law and Administration.
2. Name and Address of your organization of office and nature of organization (individual or partnership or corporation, private or public, profit or non-profit).
3. Size of Organization
4. General description of your organization, history capabilities, experience, expertise, and philosophy.

B. Proposed approach to providing cost-effective representation: 15 points, limited to 2 (two) pages.

1. Provide a narrative description of the steps routinely taken and procedures routinely used to ensure that legal representation is provided on a cost-effective basis. Discuss matters such as settlement strategy.
2. Discuss how you would propose to manage a case which might be unusual or beyond the scope of this contract, especially with regard to controlling costs.

C though F: Experience in areas of Law: (30 Points limited to ten (10) pages

Describe how the services will be provided or what tasks will be performed in response to the Evaluation Criteria and the Scope of Work. The scope of work indicates “what” the offeror is supposed to do; the

description of services should allow to “how’ the offeror intends to perform the services. Discuss prior experience and qualification related to accomplishing the scope of work contained in Section V. This portion of the proposal should demonstrate the extent to which the offeror is qualified to perform both the scope of work outlined in this RFP and the specific services contained in the description of services portion of the offeror’s proposal. Indicate those lawyers and legal assistants with your firm who would be assigned to work in these areas, with the following information.

1. Name:
2. Number of years of practicing in the area of law, specializations, if any;
3. Date licensed in New Mexico, if applicable;
4. A summary of his/her educational background, special training, award;
5. A summary of his/her general litigation experience;
6. A summary of his/her experience in the selected area of law;
7. A summary of his/ her experience with governmental entity issues;
8. A listing of his/her CLE classes for the 2 calendar years; and
9. For three (3) significant cases mentioned in the experience summaries, a reference person who can be contacted regarding the work performed.

D. Cost Proposal: 10 points – fill in form as required.

For each category of personnel, indicate the hourly rate to be charged. Also, indicate the type and amount of any expenses in accordance with Sate of New Mexico Department of Finance and Administration guidelines.

Include the following items in the cost proposal:

1. Proposed rate per hour for each category of personnel assigned to the project
2. The types and amounts of any additional cost, such as out-of-pocket expenses.
3. Applicable gross receipts tax.

E. Supplementary Information (Zero points, limited to four (4) pages.

Related Experience and Qualifications

This information may be provided in addition to the required information contained in the Proposal (Section C above). Although no evaluation points are assigned for supplementary information, it may be considered, and may contribute points awarded in each category of the proposal. Supplemental information may include, but is not limited to, the following:

1. The names of all attorneys who are associated wit the organization or office and the nature of their association (partner, shareholder, associate, etc.)
2. Detailed resumes
3. Regular – client references, preferably government entities.

F. Current Clients and Conflict of Interest, Campaign Contribution Debarment & Suspension and Acknowledgement of Receipt Form - MANDATORY:

1. Please list all current or former clients (include pro bono) pertaining to water issues, within the State of New Mexico within the past five (5) years.
2. Detailed resumes
3. Regular – client references, preferably government entities.

SECTION IV
RESPONSE FORMAT AND ORGANIZATION

1. Number of Responses

Offerors shall submit only one proposal for the Chief Water General Counsel Services.

2. Number of copies

Each Offeror must submit one (1) original and seven (7) copies of their proposal to the Procurement Manager. Electronic Submittals are not accepted.

3. Proposal Format

The proposal must be organized and indexed in the following format and must contain as minimum, all listed items in the sequence indicated:

4. Letter of Transmittal (limited to two pages) - Include at least the following information:

- a. Name and address and telephone number of offeror:
- b. Signature of the offeror or of an officer or employee who certifies that he/she has the authority to bind offeror;
- c. Date of proposal
- d. A statement that offeror, if awarded the contract, will comply with contract terms and conditions,
- e. A statement that offeror's proposal is valid for ninety (90) days after the deadline for submission of proposals.

SECTION V
SCOPE OF WORK

Offeror will handle water related legal business of the TCD, and perform those duties prescribed by the Board of Commissioners and the Chief Engineer/CEO. These services may include, but not limited to the following areas:

- a) Shall represent the TCD in all judicial and administrative water related legal matters including water related lawsuits.
- b) Shall demonstrate special expertise in the as areas where TCD has rights to the water as well as State Water Statutes and Federal Statutes.
- c) Shall be responsible for drafting intergovernmental agreements for water related issues, including but not limited to the State Engineer, NM Interstate Stream Commission, BLM, and matters as may be directed by the Board of Commissioners.
- d) Shall advise the Board and Chief Engineer regarding the adoption of regulations and/or policies relating to irrigation efficiency, water conservations, water allocation, water share sales within the TCD irrigation system and operation.
- e) Shall be responsible for drafting water-related contracts, agreements, resolutions, leases, and others as requested. Shall assist in responding to IPRA requests as requested by staff.
- f) Shall provide legal assistance in drafting responses, providing advice and direction to the Board and staff for all issues related to water rights administration and water allocation as needed.
- g) Shall assist in drafting State and Federal legislation and attend hearings of legislative committee and testify as requested by the Board and Chief Engineer.
- h) Shall assist as General Counsel with responses and defense with lawsuits pertaining to flooding, drowning and other tort matters, and quiet title and condemnation suits, as directed by the Board or Chief Engineer.
- i) Shall attend Board and informational meetings at the discretion of the Board at regularly scheduled board meetings. Oral opinions may be requested during meetings.
- j) Shall be responsible for providing written legal opinions upon request.
- k) Shall cooperate fully and in good faith with other counsel retained by TCD, and as appropriate, make point or independent recommendations and reports to the Board of Commissioners and Chief Engineer.
- l) May retain/hire subconsultants to assist on other matters as deemed necessary with Board approval.
- m) Shall provide other services as requested.

SECTION VI
COST RESPONSE FORM

All line items must be answered with either the offer amount or “no offer” to be accepted. The Board of TCD will be accepting the proposal in whole and not in part.

PLEASE NOTE: All Travel and Per Diem shall be in conformance with the New Mexico Department of Finance Administration regulations governing the Per Diem Mileage Act.

FEE STRUCTURE		
DESCRIPTION (List lead attorney and all others)	NAME	Hourly*
1.		\$
2.		\$
3.		\$
4.		\$
5.		\$
Paralegal(s)		\$
1.		\$
2.		\$
Law Clerk(s)		\$
Other		\$
		\$
DESCRIPTION	UNIT	UNIT PRICE
Courier		\$
Photocopies		\$
Transmission & Receipts		\$
Long Distance Calls		\$
Other		\$

**FIRM OR
INDIVIDUAL:** _____

ADDRESS: _____

TELEPHONE NO.: _____

**E-MAIL
ADDRESS:** _____

SUBMITTED BY: _____
NAME and SIGNATURE

TITLE: _____

DATE: _____

***(For the hourly rate shown provide a description of the offeror's definition of a billable hour and the offeror's policy with respect to billing for such items as interoffice consultation among lawyers, research, travel, unsuccessful attempts to reach people by telephone.)**

**NOTICE
TO ALL BIDDERS / OFFERORS**

THIS IS A REMINDER THAT THE TULAROSA COMMUNITY DITCH IS NOT RESPONSIBLE FOR RECEIPT OF UNTIMELY BIDS OR PROPOSALS WHETHER THE DELAYS ARE DUE TO UNTIMELY DELIVERY BY PUBLIC OR PRIVATE (POSTAL OR PERSONAL) DELIVERY SERVICE. THEREFORE, WE ASK YOU TO PLEASE MAKE APPROPRIATE ARRANGEMENTS TO HAVE YOUR BIDS OR PROPOSALS IN BY THE DEADLINE DATE AND TIME AS DESIGNATED ON THE BID OR PROPOSAL.

APPENDIX 1

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to NMSA 197, § 13-1-191.1 (2006), any person seeking to enter into a contract with any state agency or local public body for professional services, a design and build project delivery system, or the design and installations of measure the primary purpose of which is to conserve natural resources must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

Furthermore, the state agency or local public body shall void an executed contract or cancel a solicitation or proposed award for a proposed contract if: 1) a prospective contractor , a family member of the prospective contractor, or a representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

THIS FORM MUST BE FILED BY ANY PROPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

“Applicable public official” means a person elected to an office or a person appointed to complete a term of an elected office, which has the authority to award or influence the award or influence the award of the contract for which the prospective contractor is submitting competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

“Campaign Contribution” means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official, or any person authorized to raise, collect or expend contributions on that official’s behalf for the purpose of electing the official to either statewide or local office. “Campaign Contribution” includes the payment of a debt incurred in an election campaign but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individual who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

“Family member” means spouse, father, mother, child, father-in-law, daughter-in-law, or son-in-law.

“Pendency of the procurement process” means the time period, commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

“Person” means any corporation, partnership, individual, joint venture, associations or any other private legal entity.

“Prospective contractor” means a person who is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person qualifies for a sole source or a small purchase contract.

“Representative of a prospective contractor” means an officer or director of a corporation, a member or manager of a limited corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

“Name(s) of Applicable TCD Public Officials”

Maurice Hobson, Chairman
600 Alamo Street
Tularosa, NM 88352

Benny House, Mayordomo
PO Box 1327
Alamogordo, NM 88311

Norval Bookout, Vice President
PO Box 234
Tularosa, NM 88352-0234

Tim Carrell, Advisory Committee
1011 Clayton Lane
Tularosa, NM 88352

Karen Lerner, Commissioner/Secretary
600 8th Street
Tularosa, NM 88352

DISCLOSURE OF CONTRIBUTIONS:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Name of Applicable TCD Public Official: _____

Date of Contribution(s) Made: _____

Amount(s) of Contribution(s): _____

Nature of Contributions(s): _____

Purpose of Contribution(s): _____

(Attach extra pages if necessary)

Signature

Date

Title (position)

--OR--

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE TO AN APPLICABLE PUBLIC OFFICIAL BY ME, A FAMILY MEMBER OR REPRESENTATIVE.

Signature

Date

Title (position)

APPENDIX 2

SUSPENSION AND DEBARMENT REQUIREMENT

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT AND OTHER RESPONSIBILITIES

The entering of a contract between TCD and the successful Offeror pursuant to this RFP is a “covered transaction”, as defined by 45 C.F.R. Part 76. TCD’s contract with the successor Offeror shall contain a provision relating to debarment, suspension, and responsibility substantially in the form contained in Article 39 of Attachment D. All Offeror must provide as a part of their bids a certification to TCD in the form provided below. Failure of an Offeror to furnish a certification or provide such additional information as requested by the shall provide immediate written notice to the Procurement Manager for this RFP if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

Although TCD may review the veracity of the certification through the use of the federal Excluded Parties Listing System or by other means, the certification provided by the Offeror in paragraph (a), below, is a material representation of fact upon which TCD will rely when making a contract award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to TCD may terminate the contract resulting from this request for bids for default.

The certification provided by the Offeror in paragraph (a), below, will be considered in connection with a determination of the Offeror's responsibility. A certification that any of the items in paragraph (a), below, exists may result in rejection of the Offeror's bid for non-responsibility and the withholding of an award under this RFP. If the Offeror's certification indicates that any of the items in paragraph (a) below, exists, the Offeror shall provide with its bid a full written explanation of the specific basis for, and circumstances connected to, the item; the Offeror's failure to provide such explanation will result in rejection of the Offeror's bid. If the Offeror's certification indicates that any of the items in paragraph (a), below, exists, TCD, in its sole discretion, may request, that the U.S. Department of Health and Human Services grant an exception under 45 C.F.R. §§ 76.120 and 76.305 if TCD believes that the procurement schedule so permits and an exception is applicable and warranted under the circumstances. In no event will TCD award a contract to an Offeror if the requested exception is not granted for the Offeror.

(a)(1) By signing and submitting a bid, the Offeror certifies, to the best of his/her knowledge and belief that:

(i) The Offeror and/or any of its Principals -

(A) Are not presently debarred, suspended proposed for debarment, or declared ineligible for the award of the award of contracts by any Federal department or agency;

(B) Have not within a three-year period preceding the date of the Offeror’s bid, been convicted of or had a civil judgement rendered against them for commission of a fraud or a criminal offense I connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements tax evasion, or receiving stolen property;

(C) Are not presently indicated for, or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this certification;

(D) Have not within a three-year period preceding the date of Offeror's bid, had one or more public agreements or transactions (Federal, State, or local) terminated for cause or default; and

(E) Have not been excluded from participation from Medicare, Medicaid or other federal health care programs pursuant to Title XI of the Social Security Act, 42 U.S.C. § 1300a-7.

(ii) "Principal", for the purposes of this certification, shall have the meaning set forth in 45 C.F.R. §76.995 and shall include an officer, director, owner, partner, principal investigator, or other person having management or supervisory responsibilities related to a converted transaction. "Principal" also includes a consultant or other person, whether or not employed by the participant or paid with Federal funds, who: who is in a position to handle Federal funds; is in a position to influence or control the use of those funds; or occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction.

(C) Are not presently indicated for, or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this certification;

(D) Have not within a three-year period preceding the date of Offeror's bid, had one or more public agreements or transactions (Federal, State, or local) terminated for cause or default; and

(E) Have not been excluded from participation from Medicare, Medicaid or other federal health care programs pursuant to Title XI of the Social Security Act, 42 U.S.C. § 1300a-7.

(ii) "Principal", for the purposes of this certification, shall have the meaning set forth in 45 C.F.R. §76.995 and shall include an officer, director, owner, partner, principal investigator, or other person having management or supervisory responsibilities related to a converted transaction. "Principal" also includes a consultant or other person, whether or not employed by the participant or paid with Federal funds, who: who is in a position to handle Federal funds; is in a position to influence or control the use of those funds; or occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction.

(iii) For the purposes of this certification, the terms used in the certification, such as *covered transaction, debarred, excluded, exclusion, ineligible, ineligibility, participant, and person* have the meaning set forth in the definitions and coverage rules of 45 C.F.R. Part 76.

(iv) Nothing contained in the foregoing certification shall be construed to require establishment of a system of records in order to render in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings

OFFEROR: _____

SIGNED BY: _____

TITLE: _____ DATE: _____

APPENDIX 3

RESIDENT BUSINESS AND /OR RESIDENT VETERANS BUSINESS CERTIFICATION

To ensure adequate consideration and application of 13-1-21 NMSA (as amended), Consultant must include a copy of their preference certificate in this section. In addition, for resident Veterans Preference, the attached certification form in this appendix must accompany any accompanying any offer and any business wishing to receive the preference must complete and sign the form.

Resident Business Certificate

Resident Veterans Certificate

RESIDENT VETERAN'S BUSINESS CERTIFICATION

Consultant's Company Name: _____

Resident Veteran's Business Certificate Number: _____

Consultant must include copy of Resident Veteran's Business Certificate with their proposal.

RESIDENT VETERAN'S BUSINESS CERTIFICATION

Consultant's Company Name: _____

Resident Veteran's Business Certificate Number: _____

Consultant must include copy of Resident Veteran's Business Certificate with their proposal.

Consultant's submitting a Resident Veteran's Business Certificate must also complete the following certification of prior year's revenue.

RESIDENT VETERAN'S PREFERENCE CERTIFICATION

_____ (NAME OF CONSULTANT) hereby certifies the following in regard to application of the resident veteran's preference to this procurement.

Please check one box only.

I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is less than \$1M allowing me the 10% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$1M, but less than \$5M allowing me the 8% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$5M allowing me the 7% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

"I agree to submit a report, or reports, to the State purchasing Division of the NM General Services Department declaring under penalty of perjury that during the last calendar year starting January 1 and ending December 31 the following to be true and accurate."

"In conjunction with this procurement and the requirements of this business application for a Resident Veteran Business Preference/Resident Veteran Consultant Preference under Section 13-1-21 or 12-1-22 NMSA 1978, when awarded a contract which was on the basis of having such veterans' preference, I agree to report to the State Purchasing Division of the General Services Department the awarded amount involved. I will indicate in the report the award as a purchase from a public body or as a public works contract from a public body as the case may be."

" I understand that knowingly giving false or misleading information on this report constitutes a crime."

I declare under penalty of perjury that this statement is true to the best of my knowledge. I understand that giving false or misleading statement about material fact regarding this matter constitutes a crime.

(Signature of Business Representative)*

Date

***Must be an authorized signatory for the Business.**

The representations made in checking the boxes constitutes a material representation by the business that is subject to protest and may result in denial of an award or termination of award of the procurement involved if the statements are proven to be incorrect.

**APPENDIX 4
ACKNOWLEDGEMENT OF RECEIPT FORM
I ACKNOWLEDGE RECEIPT OF
CHIEF GENERAL WATER COUNSEL
REQUEST FOR PROPOSAL**

The undersigned agrees that he/she has received:

1. Complete RFP copy beginning with Title page and ending with Appendix 4.

2. Addendum No. _____

3. Amendment No. _____

Please complete the Acknowledgement of Receipt Form and return it back to the TCD by *****

FIRM: _____

REPRESENTATIVE: _____

TITLE: _____ PHONE NO.: _____

E-MAIL: _____ FAX NO.: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

SIGNATURE: _____ DATE: _____

This name and address will be used for all correspondence related to the Request for Bid/Proposal.

Firm Does / Does Not (circle one) intend to respond to this Request for Proposal