

Lea Soil and Water Conservation District

401 Tatum Highway Lovington, NM 88260
Ph.: (575)-396-0707 Fax: (866)-645-1807



Project:
New Mexico Healthy Grasslands Initiative Reclamation of Oil and Gas
Activities

Experienced Bookkeeper

The Lea Soil and Water Conservation District reserves the right to delete or remove items necessary to comply with the budget set for this project.

The Lea Soil and Water Conservation District reserves the right to reject any and all proposals.

All proposals must be submitted no later than

July 11, 2019 3 p.m. MST

Proposals will be awarded

July 11, 2019

Offerors need not be present.

E-mailed or faxed proposals are not accepted.

Send proposals to:

**Lea Soil and Water Conservation District
Attn: Shay Hager, District Manager
401 Tatum Highway
Lovington, NM 88260
Telephone: 575-396-0707**



TABLE OF CONTENTS

I. INTRODUCTION1
 A. Purpose of this Request for Proposals.....1
 B. Summary Scope of Work.....1
 C. Scope of Procurement.....1
 D. Procurement Manager.....2
 E. Definition of Terminology.....2
II. CONDITIONS GOVERNING THE PROCUREMENT4
 A. Sequence of Events.....4
 B. Explanation of Events.....4
 C. General Requirements.....5
III. RESPONSE FORMAT AND ORGANIZATION9
 A. Number of Responses.....9
 B. Number of Copies.....9
 C. Proposal Format.....9
IV. SPECIFICATIONS11
 A. Mandatory Specifications.....11
V. EVALUATION11
 A. Evaluation Point Summary.....11
 B. Evaluation Factors.....12
 C. Evaluation Process.....12
APPENDIX A1
APPENDIX B1
APPENDIX C1
APPENDIX D2

I. INTRODUCTION

A. Purpose of this Request for Proposals

The Lea Soil and Water Conservation District (SWCD) is requesting proposals for reclamation activities in Lea County to assist in the restoration of abandoned oil and gas well pads, caliche pits, and access roads. Map of proposed areas is in Appendix D. This initiative includes the removal of caliche from roads, oil, and gas pads; forming and shaping topsoil of these sites; and seeding the areas back into native vegetation. This will be a multi-contractor project to assure expedition in the completion of all work required. There may be additional funding available for the extension of contracts to successful offerors.

B. Summary Scope of Work

The initial scope of work shall consist of:

Reclamation

Caliche removal

- Oil/gas pad, road, pit caliche removal will be around six inches average depth
- After removal, sites will also require shaping and smoothing to conform to surrounding native landscape
- Caliche will be removed from roads and barricaded prior to seeding

Caliche disposal

- Caliche to be disposed of by any of the following:
 - On-site burial
 - Hauled to new site construction
 - Used to repair existing road infrastructure
 - Other method(s) as deemed approved by Lea SWCD and/or Bureau of Land Management (BLM)

Topsoil cover (seedbed preparation)

- Smoothing and shaping

Seeding

- Planting shall be done using a multi-hopper type range drill with seed buried in accordance with the recommended planting depth (BLM recommendations) for the species selected.
- Seed mix shall be BLM Sand Country Mix unless otherwise stipulated.

The initial contract(s) shall begin on June 1, 2019 or as soon as possible thereafter and end on June 1, 2020.

C. Scope of Procurement

The Lea SWCD reserves the option of renewing the initial contract(s) on an annual basis for 3 (three) additional years or any portion thereof for the purpose of removal of caliche

from roads, oil and gas pads; forming and shaping topsoil of these sites; and seeding the areas back into native vegetation. In no case will the contract(s), including all renewals thereof, exceed a total of 4 (four) years in duration.

D. Procurement Manager

The Lea SWCD has designated a Procurement Manager who is responsible for the conduct of this procurement whose name, address and telephone number is listed below.

Shay Hager, District Manager
Lea Soil and Water Conservation District
401 Tatum Highway
Lovington, NM 88260
Ph. 575-396-0707
Email: leaswcd@leaco.net
Website: www.leaswcd.org

All deliveries via express carrier should be addressed as follows:

Shay Hager, District Manager
Lea Soil and Water Conservation District
401 Tatum Highway
Lovington, NM 88260

Any inquiries or requests regarding this procurement should be submitted to the Procurement Manager in writing. Offerors may contact ONLY the Procurement Manager regarding the procurement. Other state employees do not have the authority to respond on behalf of the Lea SWCD.

E. Definition of Terminology

This section contains definitions and abbreviations that are used throughout this procurement document.

"Lea SWCD" means the Lea Soil and Water Conservation District.

"Close of Business" means 3:30 PM Mountain Standard or Mountain Daylight Time, whichever is in effect on the date given.

"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.

“DFA” means the Department of Finance and Administration for the State of New Mexico.

"Determination" means the written documentation of a decision by the Procurement Manager including findings of fact supporting a decision. A determination becomes part of the procurement file.

"Desirable" The terms "may", "can", "should", "preferably", or "prefers" identify a desirable or discretionary item or factor (as opposed to "mandatory").

"Evaluation Committee" means a body appointed by the Lea SWCD board of supervisors to perform the evaluation of offeror proposals.

"Evaluation Committee Report" means a document prepared by the Procurement Manager and the Evaluation Committee for submission to the Lea SWCD board of supervisors for contract award. It contains all written determinations resulting from the procurement.

"Finalist" is defined as an offeror(s) who meets all the mandatory specifications of this Request for Proposals and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.

"Mandatory" The terms "must", "shall", "will", "is required", or "are required", identify a mandatory item or factor (as opposed to “desirable”). Failure to meet a mandatory item or factor will result in the rejection of the offeror's proposal.

"Offeror" is any person, corporation, or partnership who chooses to submit a proposal.

"Procurement Manager" means the person or designee authorized by the Lea SWCD to manage or administer a procurement requiring the evaluation of competitive sealed proposals.

"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 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. Material respects of a request for proposals include, but are not limited to, price, quality, quantity or delivery requirements.

II. CONDITIONS GOVERNING THE PROCUREMENT

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

The Procurement Manager will make every effort to adhere the following schedule:

<u>Action</u>	<u>Responsibility</u>	<u>Date</u>
1. Issue of RFP	Lea SWCD	7/11/2019
2. Submission of Proposal	Offeror	7/11/2019
3. Proposal Evaluation	Lea SWCD Board of Supervisors	7/11/2019
4. Selection of Finalists	Lea SWCD Board of Supervisors	7/11/2019
5. Award & Finalize Contract	Procurement Manger and Offeror	7/13 thru 7/17/2019
6. Protest Deadline	Offeror	7/30/2019

B. Explanation of Events

The following paragraphs describe the activities listed in the sequence of events shown in Section II, Paragraph A.

1. Issue of RFP - This RFP is being issued by the Lea SWCD.
2. Submission of Proposal - **ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN 3:00 PM MOUNTAIN STANDARD TIME ON May 9, 2019.** Proposals received after this deadline will not be accepted. The date and time will be recorded on each proposal. Proposals must be addressed and delivered to the Procurement Manager at the address listed in Section I, Paragraph D. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to New Mexico Healthy Grasslands Initiative Reclamation of Oil and Gas Activities Request for Proposals. Proposals submitted by facsimile or email will not be accepted.

A public log will be kept of the names of all offeror organizations that submitted proposals. Pursuant to Section 131116 NMSA 1978, the contents of any proposal

shall not be disclosed to competing offerors prior to contract award.

3. Proposal Evaluation - The evaluation of proposals will be performed by the Lea SWCD board of supervisors. This process will take place on May 9, 2019. During this time, the Procurement Manager 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 accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the offerors.
4. Selection of Finalists - The Lea SWCD Board of Supervisors will select and Procurement Manager will notify the finalist offerors on May 10, 2019. Only finalists will be invited to participate in the subsequent steps of the procurement.
5. Award & Finalize Contract(s) - After selection is made by Lea SWCD Board of Supervisors, contract(s) will be awarded on May 10, 2019. This date is subject to change at the discretion of the Lea SWCD. The contract(s) shall be awarded to the offeror or offerors whose proposal is most advantageous, taking into consideration the evaluation factors set forth in the RFP. The most advantageous proposal(s) may or may not have received the most points. The contract(s) will be finalized with the most advantageous offeror(s) between May 13, 2019 and May 15, 2019. In the event that mutually agreeable terms cannot be reached within the time specified, the Lea SWCD reserves the right to finalize a contract with the next most advantageous offeror(s) without undertaking a new procurement process.
6. Protest Deadline - Any protest by an offeror must be timely and in conformance with Section 131172 NMSA 1978 and applicable procurement regulations. The fifteen (15) day protest period for responsive offerors shall begin on the day following the contract award and will end as of close of business on June 15, 2019. Protests must be written and must include the name and address of the protestor and the request for proposals project name. It must also contain a statement of grounds for protest including appropriate supporting exhibits, and it must specify the ruling requested from the Lea SWCD. The protest must be delivered to the Lea SWCD board of supervisors.

Lea Soil and Water Conservation District
401 Tatum Highway
Lovington, NM 88260

Protests received after the deadline will not be accepted.

C. General Requirements

1. Acceptance of Conditions Governing the Procurement - Offerors must indicate their acceptance of the Conditions Governing the Procurement section in the letter of transmittal. Submission of a proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.
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.
3. Prime Contractor Responsibility - The Lea SWCD will consider a proposal from multiple contractors in the form of a joint venture response to the RFP. If accepted, the Lea SWCD will enter into separate contracts with each of the multiple prime contractors. The specific responsibilities of each of the multiple prime contractors must be clearly described in the joint venture proposal. The Lea SWCD will accept no more than five (5) multiple prime contractors in a single joint venture proposal.
4. Subcontractors - Use of subcontractors must be clearly explained in the proposal, and major subcontractors must be identified by name. The prime contractor shall be wholly responsible for the entire performance whether or not subcontractors are used.
5. 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 the transmittal letter. The Lea SWCD personnel will not merge, collate, or assemble proposal materials.
6. Offerors' Rights to Withdraw Proposal - Offerors will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The offeror must submit a written withdrawal request signed by the offeror's duly authorized representative addressed to the Procurement Manager.

The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations.

7. 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.
8. Disclosure of Proposal Contents - The proposals will be kept confidential until a contract is awarded. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for the material that is 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 nonconfidential 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 Lea SWCD shall examine the offeror's request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

9. No Obligation - This procurement in no manner obligates the Lea SWCD or any of its agencies to the use of any proposed professional services until a valid written contract is awarded and approved by the appropriate authorities.
10. Termination - This RFP may be canceled at any time and any and all proposals may be rejected in whole or in part when the Lea SWCD determines such action to be in the best interest of the District.
11. Sufficient Appropriation - Any contract awarded as a result of this RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such termination will be effected by sending written notice to the contractor. The Lea SWCD's decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.
12. Legal Review
The Lea SWCD requires that all offerors agree to be bound by the General Requirements contained in this RFP. Any offeror concerns must be promptly brought to the attention of the Procurement Manager.
13. Governing Law - This procurement and any agreement with offerors that may result shall be governed by the laws of the State of New Mexico.
14. Basis for Proposal - Only information supplied by the Lea SWCD in writing through the Procurement Manager or in this RFP should be used as the basis for the

preparation of offeror proposals.

15. Contract Terms and Conditions - The contract between the Lea SWCD and a contractor(s) will follow the format specified by the Lea SWCD and contain the terms and conditions set forth in Appendix B, "Contract Terms and Conditions". However, the Lea SWCD reserves the right to negotiate with a successful offeror 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 Lea SWCD's terms and conditions, as contained in this Section or in Appendix B, that offeror must propose specific alternative language. The Lea SWCD may or may not accept the alternative language. General references to the offeror's terms and conditions or attempts at complete substitutions are not acceptable to the Lea SWCD and will result in disqualification of the offeror's proposal.

Offerors must provide a brief discussion of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording.

16. Offeror's Terms and Conditions - Offerors 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 Lea SWCD.
17. Contract Deviations - Any additional terms and conditions, which may be the subject of negotiation, will be discussed only between the Lea SWCD and the selected offeror and shall not be deemed an opportunity to amend the offeror's proposal.
18. Offeror Qualifications – The Lea SWCD Board may make such investigations as necessary to determine the ability of the offeror to adhere to the requirements specified within this RFP. The Evaluation Committee will reject the proposal of any offeror who is not a responsible offeror or fails to submit a responsive offer as defined in Sections 13183 and 13-1-85 NMSA 1978.
19. Right to Waive Minor Irregularities - The Lea SWCD Board reserves the right to waive minor irregularities. The Lea SWCD 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. This right is at the sole discretion of the Evaluation Committee.
20. Change in Contractor Representatives - The Lea SWCD reserves the right to request

a change in contractor representatives if the assigned representatives are not, in the opinion of the Lea SWCD, meeting its needs adequately.

21. Notice - The Procurement Code, Sections 13128 through 131199 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.
22. Lea SWCD Rights - The Lea SWCD reserves the right to accept all or a portion of an offeror's proposal.
23. Right to Publish - Throughout the duration of this procurement process and contract term, potential offerors, offerors and contractors must secure from the Lea SWCD written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement or the subsequent contract. Failure to adhere to this requirement may result in disqualification of the offeror's proposal or termination of the contract.
24. Ownership of Proposals - All documents submitted in response to this Request for Proposals shall become the property of the Lea SWCD and the State of New Mexico. However, any technical or user documentation submitted with the proposals of non-selected offerors shall be returned after the expiration of the protest period.

III. RESPONSE FORMAT AND ORGANIZATION

A. Number of Responses

Offerors may submit two (2) separate proposals, if desired. The Lea SWCD is not recommending or suggesting that offerors submit multiple proposals. The Lea SWCD is merely stating an available option. In no case will more than two (2) proposals from a single offeror be accepted.

If an offeror chooses to submit two (2) proposals, each must be entirely separate from the other. The Lea SWCD Board will not collate, merge, or otherwise manipulate the offeror's proposals.

B. Number of Copies

Offerors shall deliver one (1) copy of their proposal to the location specified in Section I, Paragraph D on or before the closing date and time for receipt of proposals.

C. Proposal Format

All proposals must be typewritten on standard 8 1/2 x 11 paper (larger paper is permissible

for charts, spreadsheets, etc.)

1. Proposal Organization - The proposal must be organized and indexed in the following format and must contain, as a minimum, all listed items in the sequence indicated.
 - a) Letter of Transmittal
 - b) Proposal Summary
 - c) Response to Mandatory Specifications (Sec. IV, Paragraph A)
 - d) Completed Cost Response Form (Appendix C)
 - e) Response to Lea SWCD Terms and Conditions (Sec. II, Paragraph C)
 - f) Offeror's Additional Terms and Conditions
 - g) Other Supporting Material

Within each section of their proposal, offerors should address the items in the order in which they appear in this RFP. All forms provided in the RFP must be thoroughly completed and included in the appropriate section of the proposal. All discussion of proposed costs, rates or expenses must occur with the cost response form.

Any proposal that does not adhere to these requirements may be deemed nonresponsive and rejected on that basis.

The proposal summary may be included by offerors to provide the Evaluation Committee with an overview of the technical and business features of the proposal; however, this material will not be used in the evaluation process unless specifically referenced from other portions of the offeror's proposal.

Offerors may attach other materials that they feel may improve the quality of their responses. However, these materials should be included as items in a separate appendix.

2. Letter of Transmittal - Each proposal must be accompanied by a letter of transmittal. The letter of transmittal MUST:
 - a) identify the submitting organization;
 - b) identify the name and title of the person authorized by the organization to contractually obligate the organization;
 - c) identify the name, title and telephone number of the person authorized to negotiate the contract on behalf of the organization;
 - d) identify the names, titles and telephone numbers of persons to be contacted for clarification;
 - e) explicitly indicate acceptance of the Conditions Governing the Procurement stated in Section II, Paragraph C.1;
 - f) be signed by the person authorized to contractually obligate the organization;
 - g) acknowledge receipt of any and all amendments to this RFP.

IV. SPECIFICATIONS

Offerors should respond in the form of a thorough narrative to each mandatory specification. The narratives along with required supporting materials will be evaluated and awarded points accordingly.

A. Mandatory Specifications

1. Experience - Offerors must submit a statement of relevant experience, including experience of subcontractors. The documentation must thoroughly describe how the offeror has supplied expertise for similar contracts and work related to oil and gas reclamation and seeding.
2. Capacity and Capability - Offerors must submit the following as proof of their capacity and capability to perform the duties described in Scope of Work.
 - a) Copies of current contractor license
 - b) Provide proof of tax identification (for New Mexico Gross Receipts taxing ability)
 - c) Proof of insurance (liability and workers' compensation if applicable)
 - d) List of subcontractors and qualifications
 - e) Proof of DUNs registration (if available)
 - f) List of equipment and personnel to be utilized in this contract
3. Past Record Performance - Offerors must provide documentation of past record performance as it pertains to oil and gas reclamation and/or seeding.
4. Familiarity with Project Area - Offeror must be familiar with the area in which this project will be located.
5. Cost - Offerors must propose one firm, fixed, fully-loaded rate per acre for reclamation or seeding on the proposal cost form in Appendix C. The firm, fixed; fully-loaded rate will include travel to and from the off-site workplace to the on-site workplace. The proposed fully-loaded rates must include travel, per diem, fringe benefits and any overhead costs for contractor personnel, as well as subcontractor personnel if appropriate. New Mexico gross receipts taxes are to be excluded from the proposed maximum rate per acre. They shall be shown separately on the invoice.

V. EVALUATION

A. Evaluation Point Summary

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.

Experience	Thirty (30) points
Capacity and Capability	Thirty (30) points
Past Record Performance	Fifteen (15) points
Familiarity with Project Area	Fifteen (15) points
Cost	Ten (10) points

B. Evaluation Factors

Proposals must address each of the following criteria. Each proposal may be awarded points up to the amount listed. Points will be awarded on the basis of the following evaluation factors:

1. Experience - Experience working in the field of oil and gas reclamation and/or seeding.
2. Capacity and Capability - Capacity and capability of the business to perform the work, including any specialized services, within the time limitations.
3. Past Record of Performance - Past record of performance on contracts with government agencies or private industry with respect to such factors as control of costs, quality of work and ability to meet schedules.
4. Familiarity with Project Area - Proximity to or familiarity with the area in which the project is located.
5. Cost - Price per acre for reclamation or seeding.

C. Evaluation Process

The evaluation process will follow the steps listed below:

1. All offeror proposals will be reviewed for compliance with the mandatory requirements stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
2. The Procurement Manager may contact the offeror for clarification of the response as specified in Section II, Paragraph B.3.
3. The Evaluation Committee may use other sources of information to perform the evaluation as specified in Section II, Paragraph C.18.
4. Responsive proposals will be evaluated on the factors in Section V that have been assigned a point value. The responsible offerors with the highest scores will be

selected as finalist offerors based upon the proposals submitted. Finalist offerors who are asked or choose to submit revised proposals for the purpose of obtaining best and final offers will have their points recalculated accordingly. Points awarded from the oral presentations will be added to the previously assigned points to attain final scores. The responsible offeror whose proposal is most advantageous to the Lea SWCD, taking into consideration the evaluation factors in Section V, will be recommended for contract award as specified in Section II, Paragraph B.5. Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

Acknowledgement of Receipt Form

REQUESTS FOR PROPOSALS

New Mexico Healthy Grasslands Initiative Reclamation of Oil and Gas Activities

ACKNOWLEDGEMENT OF RECEIPT FORM

In acknowledgment of receipt of this Request for Proposal the undersigned agrees that he/she has received a complete copy, beginning with the title page and table of contents, and ending with Appendix C.

The acknowledgment of receipt should be signed and returned to the Procurement Manager no later than close of business on July 1, 2017. Only potential offerors who elect to return this form completed with the indicated intention of submitting a proposal will receive copies of all offeror written questions and the Lea SWCD's written responses to those questions as well as RFP amendments, if any are issued.

FIRM: _____

REPRESENTED BY: _____

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 Proposal.

Firm does/does not (**circle one**) intend to respond to this Request for Proposals.

Shay Hager, District Manager
Lea Soil and Water Conservation District
401 Tatum Highway
Lovington, NM 88260
Ph 575-396-0707

www.leaswcd.net

Contract Terms and Conditions

CONTRACT NO. _____

LEA SOIL AND WATER CONSERVATION DISTRICT
PROFESSIONAL SERVICES CONTRACT
FOR
New Mexico Healthy Grasslands Initiative Reclamation of Oil and Gas Activities

THIS AGREEMENT is made and entered into by and between the Lea Soil and Water Conservation District, herein after referred to as the "Lea SWCD", and (insert contractor name) herein after referred to as the "Contractor."

IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

1. Definitions

- a. "Project Manager" means the individual assigned by the Lea SWCD to manage the project and administer this Agreement.
- b. "Project Plan" means a document approved by the Project Manager which includes a list of tasks to be performed and the time frame for the completion of each task. All work under this Agreement shall be performed in accordance with the approved Project Plan.

2. Scope of Work

Reclamation

Caliche removal

- Oil/gas pad, road, pit caliche removal will be around six inches average depth
- After removal, sites will also require shaping and smoothing to conform to surrounding native landscape
- Caliche will be removed from roads and barricaded prior to seeding

Caliche disposal

- Caliche to be disposed by any of the following:
 - On site burial
 - Hauled to new site construction
 - Used to repair existing road infrastructure
 - Other method(s) as deemed approved by Lea SWCD and/or BLM

Topsoil cover (seedbed preparation)

- Smoothing and shaping

Seeding

- Planting shall be done using a multi-hopper type range drill with seed buried in accordance with the recommended planting depth (BLM recommendations) for the species selected.
 - Seed mix shall be BLM Sand Country Mix unless otherwise stipulated.
3. Work Environment - Work for this project will occur primarily east of the Pecos River in Eddy, Lea, and Chaves counties.
4. Payment Provisions - All payments under this Agreement are subject to the following provisions.

a. Acceptance - In accordance with Section 13-1-158 NMSA 1978, the Lea SWCD shall determine if the services provided meet specifications. No payment shall be made for any service until the services and/or deliverables have been accepted in writing by the Project Manager. Unless otherwise agreed upon between the Lea SWCD and the Contractor, within fifteen (15) days from the date the Lea SWCD receives written notice from the Contractor that payment is requested for services, the Project Manager shall issue a written certification of complete or partial acceptance or rejection of the services or deliverables. Upon certification by the Project Manager that the services or deliverables have been received and accepted, payment shall be tendered to the Contractor within thirty (30) days after the date of certification. If the payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. After the thirtieth day from the date that written certification of acceptance is issued, late payment charges shall be paid on the unpaid balance due on the contract to the Contractor at the rate of 1.5 % per month.

b. Rates - The contractor agrees to perform billable work at the following rate(s) of per acre.

<u>Service Category</u>	<u>Rate Per Acre</u>
1. Reclamation	\$
2. Seeding	\$

- c. Invoices - Invoices shall be submitted to the Project Manager.
- d. Payment of Invoice - Payment shall be made upon the receipt and acceptance of a detailed, certified invoice that includes the number of acres and location of acres for each invoice. Payment will be made to the Contractor's designated mailing address.
- e. Payment of Taxes - The Contractor shall be reimbursed by the Lea SWCD for applicable New Mexico gross receipts for services rendered. Such taxes must be itemized separately on the invoice.

The payment of taxes for any money received under this Agreement shall be the Contractor's sole responsibility and should be reported under the Contractor's Federal

and State tax identification number(s).

5. Terms - THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE LEA SWCD. This Agreement shall begin on date approved by the Lea SWCD and be in effect for one year after approval date. This contract may be renewed for up to three additional years (pending available funding). This Agreement including all extensions and renewals shall not exceed four calendar years in duration.
6. Termination - This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least (14) days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. THE PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE OTHER LEGAL RIGHTS AND REMEDIES AFFORDED THE STATE IN SUCH CIRCUMSTANCES AS CONTRACTOR'S DEFAULT/BREACH OF CONTRACT.
7. Status of Contractor - The Contractor, and his agents and employees, are independent contractors performing professional services for the Lea SWCD and are not employees of the Lea SWCD. The Contractor, and his agents and employees, shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the Lea SWCD as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are personally reportable by it for income tax purposes as self-employment or business income and are reportable for self-employment tax.
8. 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 prior written approval of the Lea SWCD and the (insert governing authority name).
9. Subcontracting - The Contractor shall not subcontract any portion of the services to be performed under this Agreement without written approval from the Project Manager. The following subcontractor(s) have been approved to supply resources for this Agreement
_____.
10. Records of Audit - During the term of this Agreement and for three years thereafter, the Contractor shall maintain detailed records pertaining to the services rendered and products delivered. These records shall be subject to inspection by the Lea SWCD, the State Auditor and appropriate federal authorities. The Lea SWCD shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the Lea SWCD to recover excessive or illegal payments.
11. Appropriations - The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature,

this Agreement shall terminate upon written notice being given by the Lea SWCD to the Contractor. The Lea SWCD's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

12. Release - The Contractor, upon final payment of the amount due under this Agreement, releases the Lea SWCD, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement. The Contractor agrees not to purport to bind the Lea SWCD, unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.
13. Confidentiality - Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without prior written approval by the Project Manager.
14. Product of Service: Copyright - All materials developed or acquired by the Contractor under this Agreement shall become the property of the State of New Mexico and shall be delivered to Lea SWCD 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. The original and one copy of all materials, work papers, meeting notes, design documents, or other documents produced by the Contractor shall be indexed and placed in appropriately labeled binders and delivered to the Project Manager at conclusion of the Agreement.

The source code to any custom-developed software under this Agreement shall become the property of the State of New Mexico and shall be delivered to the Lea SWCD on media of the Lea SWCD's choice no later than the termination date of this Agreement.

15. Conflict of Interest - The Contractor warrants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Contractor shall comply with any applicable provisions of the New Mexico Governmental Conduct Act and the New Mexico Financial Disclosures Act.
16. Amendment - This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.
17. Approval of Contractor Personnel - Once work has started, no changes of personnel will be made by the contractor without the prior written consent of the Project Manager. Replacement of any contractor personnel, if approved, shall be with personnel of equal ability, experience and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall

not be unreasonably withheld.

The Lea SWCD shall retain the right to request the removal of any of the Contractor's personnel at any time.

18. Scope of Agreement - This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No prior agreement or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.
19. Notice - The Procurement Code, Sections 13-1-28 through 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.
20. Equal Opportunity Compliance - The Contractor agrees to abide by all Federal and State laws, rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws, rules, and regulations, and executive orders of the Governor of the State of New Mexico, the Contractor agrees to assure that no person in the United States shall on the grounds of race, color, religion, national origin, sex, sexual preference, age or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program or activity performed under this Agreement. If Contractor is found to be not in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.
21. Indemnification - The Contractor shall hold the Lea SWCD and its employees harmless and shall indemnify the Lea SWCD and its agencies and employees against any and all claims, suits, actions, liabilities and costs of any kind, including attorney's fees for personal injury or damage to property arising from the acts or omissions of the contractor, its agents, officers, employees or subcontractors. Contractor shall not be liable for any injury or damage as a result of any negligent act or omission committed by the Lea SWCD, its officers or employees.
22. Applicable Law - This Agreement shall be governed by the laws of the State of New Mexico.
23. Limitation of Liability - The Contractor's liability to the Lea SWCD for any cause whatsoever shall be limited to the purchase price paid to the Contractor for services that are the subject of the Lea SWCD's claim. The foregoing limitation does not apply to Paragraph 21 of this Agreement or to damages resulting from personal injury caused by the Contractor's negligence.

- 24. Incorporation by Reference and Precedence - This Agreement is derived from (1) the Request for Proposal, written clarifications to the Request for Proposals and Lea SWCD response to questions; (2) the Contractor's Best and Final Offer, and (3) the Contractor's response to the Request for Proposals.

In the event of a dispute under this Agreement, applicable documents will be referred to for the purpose of clarification or for additional detail in the following order of precedence: (1) Amendments to the Agreement in reverse chronological order; (2) the Agreement, including the Scope of Work; (3) the Contractor's Best and Final Offer: the Request for Proposals, including attachments thereto and written responses to questions and written clarifications and (5) the Contractors response to the Request for Proposals.

- 25. Warranties - The Contractor warrants that all services provided under this Agreement will be free from defects. The warranty period for services will be for a period of six (6) months after the acceptance of the deliverable. Warranty work will be performed at the Contractor's expense.
- 26. Project Reporting - The Contractor will provide periodic status reports to the Project Manager. Status reports will include as a minimum a discussion of project progress, problems encountered and recommended solutions, identification of policy or management questions, and requested project plan adjustments.
- 27. Workers' Compensation - The Contractor agrees to comply with state laws and rules applicable to workers' compensation benefits for its employees. If the Contractor fails to comply with the Workers' Compensation Act and applicable rules when required to do so, this agreement may be terminated by the Lea SWCD.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the (Date) by John Norris, Chairman and _____ (Contractor).

Lea Soil and Water Conservation District (Contractor)

BY: _____

BY: _____

TITLE: _____

TITLE: _____

FORMS

SUMMARY OF PROPOSED RATES

The Offeror listed below submits the following firm, fixed rate per acre excluding New Mexico gross receipts tax to complete the requirements as outlined in this RFP for the Lea SWCD.

SERVICE CLASSIFICATION	MAXIMUM RATE PER ACRE
1. Reclamation	_____
2. Seeding	_____

Offeror Name: _____

Lea Soil and Water Conservation District

401 Tatum Highway Lovington, NM 88260
Ph.: (575)-396-0707 Fax: (866)-645-1807



MAPS

