

REQUEST FOR PROPOSALS
FOR SPECIAL COUNSEL SERVICES
FOR THE
EDWARDS AQUIFER AUTHORITY
PROPOSAL NO. 171-19-ERA

The Edwards Aquifer Authority (EAA) invites qualified law firms or individual attorneys to submit sealed proposals for special counsel legal services associated with the administrative process to assess administrative penalties under Section 1.37 of the Edwards Aquifer Authority Act (Act of May 30, 1993, 73rd Leg., R.S., ch. 626, 1993 Tex. Gen. Laws 2350, as amended (EAA Act)) for the enforcement of the EAA Act, the EAA's Rules, and orders issued by the EAA Board of Directors (Board).

Proposal specifications will be available at 900 E. Quincy Street, San Antonio, TX 78215, on Monday, July 15, 2019

A pre-proposal meeting is scheduled for Tuesday, July 23, 2019 at 9:00 a.m. Central Time, at the EAA office.

The deadline for filing proposals is 3:00 p.m. Central Time, Wednesday, August 7, 2019.

For more information contact Ms. Latifah Jackson, Contract & Business Development Coordinator, at ljackson@edwardsaquifer.org or visit <http://www.edwardsaquifer.org/about/ea/doing-business-with-the-eaa>.



July 15, 2019

Dear Interested Law Firm:

The Edwards Aquifer Authority (EAA) is requesting proposals from qualified law firms or individual attorneys to serve as Special Counsel to the Board of Directors of the EAA (Board) for administrative penalty hearings requested by a respondent under Section 1.37 of the Edwards Aquifer Authority Act (Act of May 30, 1993, 73rd Leg., R.S., ch. 626, 1993 Tex. Gen. Laws 2350, as amended (EAA Act)) to be conducted before the Board. These services are sought because the EAA's General Counsel will serve as counsel to the EAA General Manager in such proceedings.

Attached is the proposal package. Please complete the attached sheets with one (1) bound original, two (2) copies and one (1) electronic copy of Proposal Summary (Attachment A1), Fees and Expenses Proposal Summary (Attachment A2), Additional Counsel Plan (Attachment A3) and Client Reference forms (Attachments B1-B3) and submit to:

Ms. Latifah Jackson
Contract & Business Development Coordinator
Edwards Aquifer Authority
900 E. Quincy Street
San Antonio, TX 78215

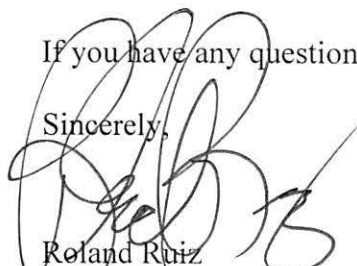
Proposals must be submitted only on the attached proposal summary forms and are to be sealed with "SPECIAL COUNSEL PROPOSAL" indicated on the top of the envelope. Proposals must be "date stamped" filed in the EAA offices no later than 3:00 p.m. Central Time, Wednesday, August 7, 2019, at which time the proposals will be opened. **PROPOSALS RECEIVED AFTER THE FILING DEADLINE WILL NOT BE ACCEPTED AND WILL BE RETURNED IMMEDIATELY UNOPENED.**

Proposals offering less than 90 calendar days for acceptance by the EAA from the filing deadline will be considered nonresponsive and will be rejected.

A pre-proposal meeting is scheduled for Tuesday, July 23, 2019 at 9:00 a.m. Central Time, at the EAA office.

If you have any questions, please contact Ms. Jackson.

Sincerely,



Roland Ruiz
General Manager

REQUEST FOR PROPOSALS
FOR SPECIAL COUNSEL SERVICES
FOR THE
EDWARDS AQUIFER AUTHORITY
PROPOSAL NO. 171-19-ERA

Issued by:
Edwards Aquifer Authority
900 E. Quincy Street
San Antonio, Texas 78215

Issue Date:	Monday, July 15, 2019
Pre-Submittal Meeting:	Tuesday, July 23, 2019 at 9 AM
Proposals Close:	Wednesday, August 7, 2019 3 PM

SECTION 1 INTRODUCTION AND BACKGROUND

1.1 PURPOSE OF REQUEST FOR PROPOSALS (RFP)

The Edwards Aquifer Authority (EAA), located in San Antonio, Texas, is soliciting proposals for Special Counsel to the Board of Directors of the EAA (Board) for certain administrative hearings to be conducted before the Board with an EAA option to renew for two (2) additional years.

1.2 DESCRIPTION OF PROPOSED LEGAL SERVICES

In accordance with Section 1.37 of the Edwards Aquifer Authority Act (Act of May 30, 1993, 73rd Leg., R.S., ch. 626, 1993 Tex. Gen. Laws 2350; as amended (EAA Act)), and Section 717.118 of the EAA's Rules, the EAA may assess administrative penalties against an individual who violates the EAA Act, the EAA's Rules, or an order of the Board. Respondent may request a hearing in such matters. The intent of this RFP is to obtain a qualified law firm or individual attorney to serve as Special Counsel to the Board in hearings requested by a respondent to be conducted before the Board in which the General Manager is seeking the assessment of an administrative penalty under Section 1.37.

1.3 PROCUREMENT SCHEDULE

The following is the tentative schedule for the selection and engagement of Special Counsel:

July 23, 2019	Pre-Submittal Meeting
August 7, 2019	Opening of proposals by EAA staff
August 23, 2019	Review and ranking of proposals by EAA staff
August 27, 2019	Meeting of the Finance/Administrative Committee to review, interview, and make recommendations to the Board
September 19, 2019	Meeting of the Board to interview and select Special Counsel and authorize the Deputy General Manager to develop an engagement contract and return to the Board for approval
October 8, 2019	Meeting of the Board to take action on the final engagement contract with Special Counsel

SECTION 2 INSTRUCTION TO OFFEROR LAW FIRMS

2.1 REQUESTS FOR INFORMATION

This RFP is being issued by the EAA, San Antonio, Texas, which is the sole point of contact for purposes of information concerning this RFP. The EAA reserves the right to issue addenda, if necessary. All questions and inquiries regarding this RFP must be submitted in writing to Ms. Latifah Jackson, Contract & Business Development Coordinator, by 3:00 p.m., Central Time, Thursday, August 1, 2019. No Phone Calls Please. Requests for information received prior to the above stated deadline will be

responded to in writing by the EAA in the form of a communication addressed to all RFP recipients.

Submission of a proposal shall be considered *prima facie* evidence that the law firm or individual attorney (Offeror) has become familiar with, and understands, the RFP, and the terms and general conditions, etc., under which the engagement is to be made, administered, and performed. The EAA will not be responsible for any interpretations or misinterpretations of any oral instructions.

2.2 SUBMISSION REQUIREMENTS

Offerors are required to submit their proposals on the attached Proposal Summary forms (see Attachment A1). Proposal envelopes are to be plainly marked, "EAA SPECIAL COUNSEL PROPOSAL."

Offerors are required to submit their proposals no later than 3:00 p.m., Central Time, on Wednesday, August 7, 2019 to:

Ms. Latifah Jackson
Contract & Business Development Coordinator
Edwards Aquifer Authority
900 E. Quincy Street
San Antonio, Texas 78215

NO FACSIMILE OR EMAIL PROPOSALS WILL BE ACCEPTED.

Upon receipt by the EAA, each proposal will be stamped with the date and time received and stored unopened in a secure place until the proposals are opened for initial review and ranking by EAA staff. All proposals become the property of the EAA, which will hold the contents of all proposals confidential until an engagement contract has been entered into and become effective with the selected Offeror after approval by the Board at a duly called meeting of the Board.

PROPOSALS RECEIVED AFTER THE FILING DEADLINE AUGUST 7, 2019 AT 3:00 P.M. CENTRAL TIME WILL BE DECLARED LATE AND NOT ELIGIBLE FOR OPENING AND CONSIDERATION. THE EAA IS NOT RESPONSIBLE FOR MAIL, COURIER OR OTHER DELIVERY METHODS, IN-TRANSIT TIME OR NON-DELIVERY. OFFEROR LAW FIRMS WILL BE PROMPTLY ADVISED BY MAIL AFTER THE FILING DEADLINE THAT ITS PROPOSAL WAS LATE, NOT ACCEPTED AND WILL NOT BE CONSIDERED. LATE DELIVERIES WILL BE HELD UNOPENED TO ALLOW THE OFFEROR LAW FIRM TO PICK UP ITS PROPOSAL PACKAGE OR FURNISH A "CALL TAG" AND HAVE THE PACKAGE PICKED UP BY A COURIER. IN THE EVENT THE OFFEROR LAW FIRM DOES NOT PICK UP ITS LATE PROPOSAL, THE EAA WILL RETAIN THE PROPOSAL UNOPENED UNTIL IT IS AUTHORIZED TO DESTROY THE PROPOSAL AS AUTHORIZED UNDER STATE LAW.

2.3 PROPOSAL FORMAT

The EAA requires that submitted proposals adhere to the following general format to simplify the review process. Failure to follow the required format or to respond to each specification may result in rejection of the proposal. All proposals must be submitted with the required forms in triplicate (one original and three copies), or photocopies of the forms and submitted electronically on CD or flash drive format. Failure to do so may result in rejection of the proposal.

2.3.1 General Requirements

Submit the names of three client references for whom the Offeror has performed similar or otherwise relevant legal services, including services to a board of directors or similar governing body within the past 10 year(s) on the form contained in Attachments B1-B3, Client Reference. Do not use the EAA as one of the three references. The description must provide the following minimum information:

- o Client name;
- o Client contact name;
- o Client contact address, telephone number(s), and email address(es);
- o Date the engagement began and ended; and
- o Description of the legal services performed.

The Offeror agrees EAA staff may contact the references given above.

2.3.2 Response to Commercial Questions and Statements

Please answer the questions indicated in Attachment A1, Proposal Summary, directly and specifically. All fees and expenses information is to be included in Attachment A2, Fees and Expenses Proposal Summary. Any exceptions to any of the requirements and specifications contained in this RFP must be noted in the allotted space in Attachment A1. Attachments A1 and A2 must be returned with the Offeror Law Firm's proposal.

2.3.3 Fees and Expenses Proposal

Please provide, in a separate sealed envelope, a proposed fees and expenses proposal, inclusive of all fees and expenses for the legal services sought by the EAA as identified in this RFP. The proposal may be in the form of: (1) hourly rates broken down by the names of the attorneys or paralegals who are proposed by the Offeror to perform the legal services; (2) a fixed fee arrangement broken down by specific scopes of work within a matter; or (3) a retainer (flat fee) arrangement for an individual docketed matter. Please use form Attachment A2, Fees and Expenses Proposal Summary, to state the proposed fees and expenses for conducting the legal services described in this RFP. The EAA is exempt from sales tax, but could be subject to other types of taxes. If any other type of tax is added, please specify.

2.4 MINORITY-OWNED AND WOMEN-OWNED BUSINESSES

The EAA strongly encourages minority- and women-owned businesses (M/WBEs) to submit proposals. It is the EAA's policy that M/WBEs have equal opportunity to

participate in the performance of EAA contracts and subcontracts. The EAA strongly encourages Offerors, in those instances when joint venturing, co-counseling, and/or subcontracting is appropriate, to form arrangements that provide participation opportunities to M/WBE law firms.

2.5 PROPOSALS BINDING

Proposals must set forth accurate and complete information as required by this RFP (including Attachments).

2.6 LATE PROPOSALS, MODIFICATIONS, OR WITHDRAWALS

2.6.1 Late Proposals. Proposals received after the filing deadline August 7, 2019 at 3:00 p.m. Central Time will be declared late and not eligible for opening, review, and consideration. The EAA is not responsible for mail, courier or other delivery methods, in-transit time or non-delivery. Offerors be promptly advised by mail after the filing deadline that its proposal was late, not accepted and will not be considered. Late deliveries will be held unopened to allow the Offeror to pick up its proposal package or furnish a “call tag” and have the package picked up by a courier. In the event the Offeror does not pick up its late proposal, the EAA will retain the proposal unopened until it is authorized to destroy the proposal as authorized under state law.

2.6.2 Modifications. Proposals may be modified in writing at any time prior to the filing deadline August 7, 2019 at 3:00 p.m. Central Time. Responses that are modified and resubmitted shall be sealed and resubmitted to the Contract & Business Development Coordinator prior to the filing deadline.

2.6.3 Withdrawals. Proposals may be withdrawn in writing at any time. Withdrawn proposals will be held unopened to allow the Offeror Law Firm to pick up its proposal package or furnish a “call tag” and have the package picked up by a courier. In the event the Offeror does not pick up its withdrawn proposal, the EAA will retain the proposal unopened until it is authorized to destroy the proposal as authorized under state law.

2.7 PROPOSAL PREPARATION COSTS

All costs for preparing the proposals are to be borne by the Offeror and may not be included in the fees and expenses proposal.

2.8 PROPOSAL SIGNATURE

The EAA will prepare a proposed contract for consideration by the Offeror selected by the Board using the name exactly as it appears on the proposal. Therefore, it is imperative the Offeror signs the proposal using correct and complete legal names and titles.

2.9 ENGAGEMENT OF SPECIAL COUNSEL

The EAA reserves the right to accept or reject any and all proposals. Unless all proposals are rejected or this RFP is cancelled, the engagement of Special Counsel will be made by the Board with the Offeror that, in its judgment and discretion, is best qualified and suited

to perform the legal services sought in this RFP for the EAA after consideration of the requirements and criteria set forth in these specifications. No proposal is to be considered binding upon the EAA until the contract engaging Special Counsel has been approved by the Board, is fully executed, and has become effective.

The engagement of Special Counsel is to be by final action of the Board approving the final engagement contract at a duly called meeting of the Board with the Offeror selected by the Board. The selected Offeror shall not begin any work under the approved engagement contract until such time as a Request for Legal Services has been issued by the Chairman of the Board for a particular specified hearing requested by a respondent under Section 1.37 of the EAA Act.

Please note, Section 2252.908(d), Texas Government Code, provides that *“a governmental entity [such as the EAA]... may not enter into a contract ... with a business entity unless the business entity ... submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity ...”*. This law applies to a contract of a governmental entity that either: (1) “requires an action or vote by the governing body of the entity ... before the contract may be signed or (2) has a value of at least \$1 million. Because the Board of the EAA will vote on the engagement contract for Special Counsel under this RFP, the selected Offeror will be required to submit Form 1295 to EAA in accordance with Section 2252.908(d), Texas Government Code.

More information can be obtained at the following link:
<https://www.ethics.state.tx.us/filinginfo/1295/>

2.10 CONTRACT

It is expressly understood by the Offeror that final action by the Board approving the final engagement contract with the selected Offeror at a duly called meeting of the Board will constitute acceptance of a proposal submitted hereunder.

2.11 LAW FIRM SELECTION

2.11.1 Selection Process

The selection process will include the following steps:

1. Receipt of proposals.
2. Review of proposals submitted by EAA staff.
3. Evaluation of proposals and ranking of Offerors - EAA staff will review and evaluate all information available from the RFP process and rank the Offerors.
4. Review of proposals and interviews with selected Offeror at a meeting of the EAA Finance/Administrative Committee
5. Vote by EAA Finance/Administrative Committee at a meeting of the Committee to make recommendations to the Board
6. Review of proposals and interviews with selected Offerors at a meeting of the EAA Board

7. Vote by EAA Board at a meeting of the Board to select Special Counsel and authorize the Deputy General Manager to develop an engagement contract for return to the Board for approval
8. Engagement of Special Counsel - The EAA Board will meet to approve the engagement of the selected Offeror Law Firm as Special Counsel by voting on the final engagement contract at a meeting

2.11.2 Evaluation Criteria

Evaluation of the Offerors will be based on the following criteria which are listed in order of importance:

1. Experience and qualifications with respect to serving as special counsel to the governing body of a conservation and reclamation district, regulatory agency, or similar governmental body during the conduct of an administrative hearing conducted before such body **(50 points)**
 - o Experience with the conduct of similar administrative hearings
 - o Experience with the regulation of the San Antonio Segment of the Edwards Aquifer (Balcones Fault Zone)
 - o Experience with groundwater regulation generally
 - o Experience with the Permitting Program and the Water Quality Program of the Edwards Aquifer Authority
 - o Experience with environmental regulation generally
 - o Experience of the individual attorneys and other staff that the Offeror proposes to perform the legal services sought under this proposal (if applicable, please include firm resume, and the resume of each attorney and staff person proposed)
2. Commercial Quality **(30 points)**
 - o Satisfactory response to terms and conditions of the RFP
 - o Proposal quality
 - o Client references and satisfaction of such clients
3. Cost Factors **(20 points)**
 - o Fees
 - o Expenses

2.12 CONFIDENTIAL MATERIAL

Proposals will remain confidential until the engagement contract has been entered into and become effective with the selected Offeror after approval of the final engagement contract by the Board at a duly called meeting of the Board. After that time, all information in an RFP proposal is public unless determined by the Texas Attorney General that the information is subject to an exception to disclosure under the Public Information Act, Chapter 552, Texas Government Code. In its proposal, Offeror must indicate if it intends to assert that any of the information provided in its proposal is subject to an exception to the Public Information Act. All information not labeled as subject to an exception will be treated by the EAA to be public information.

2.13 CONFLICTS

Section 4.07(e) of the EAA's bylaws provides as follows: "In accordance with Article 10.06 of the Bylaws, it is the policy of the Board not to engage the services of any attorney or firm, which may have a direct or indirect conflict of interest with the Authority. Legal consultants will further provide to the Authority an affidavit executed by a managing partner stating that no conflicts exist and that they will not accept new clients with conflicts of interest." Section 10.06 of the EAA's bylaws provides as follows: "It is the policy of the Board not to engage the services of any firm or individual consultant that may have a direct or indirect conflict of interest with the Authority. At all times, any firm or individual consultant must abide by all applicable rules of professional conduct regarding conflicts of interest – including any notice requirements contained therein. Examples of such rules include, but are not limited to: the Texas Disciplinary Rules of Professional Conduct (for legal consultants) Failure to adhere to such rules may result in immediate termination of the Authority's association with any individual or firm providing consulting services to the Authority, including any work in progress at the time notice is given by the Authority."

The affidavit referenced in Section 4.07(e) of the EAA's bylaws must be submitted to the EAA.

SECTION 3 SPECIFICATIONS

3.1 BACKGROUND INFORMATION

The EAA is a political subdivision of the State of Texas. Governed by an elected board of directors, the EAA is empowered to manage, enhance, and protect the Edwards Aquifer.

The purpose of this Request for Proposals (RFP) is to obtain a qualified law firm or an individual attorney to serve as Special Counsel to the EAA Board of Directors for administrative penalty hearings requested by a respondent under Section 1.37 of the Edwards Aquifer Authority Act (Act of May 30, 1993, 73rd Leg., R.S., ch. 626, 1993 Tex. Gen. Laws 2350, as amended (EAA Act)) to be conducted before the Board. These services are sought because the EAA's General Counsel will serve as counsel to the EAA General Manager in such proceedings.

3.2 MINIMUM SPECIFICATIONS

3.2.1 EAA Special Counsel to the Board

Upon request of the EAA Board Chairman, the Special Counsel will be expected to attend EAA Board meetings at which an administrative penalty hearing requested by a respondent under Section 1.37 of the EAA Act has been noticed to be conducted before the Board. Meetings are typically held the second Tuesday of each month, beginning at 3:00 p, m, until the meeting is adjourned. The Special Counsel must generally be available by phone, cell-phone, and email, and must fulfill the following services:

- When requested, provide legal advice, counsel, consultation, and opinions to the Board on specific administrative penalty hearings requested by a respondent under Section 1.37 of the EAA Act and Chapter 717.118 of the EAA's Rules.

- When requested, furnish legal representation at administrative hearings under Section 1.37 of the EAA Act, which may or may not be held in conjunction with regularly scheduled meetings of the Board. Such hearings are formal administrative hearings and will be conducted in accordance with Section 1.37 of the EAA Act, Section 717.118, Subchapter F of Chapter 707 of the EAA's Rules, and Subchapters C, D and F of Chapter 2001, Texas Government Code, as may be appropriate.
- Act as the Special Counsel to the Chairman of the Board who will act as the Presiding Officer of an administrative hearing requested by a respondent pursuant to Section 1.37 of the EAA Act.
- Prepare and/or review any orders or other necessary documents to be issued by the Board related to an administrative penalty hearing requested by a respondent under Section 1.37 of the EAA Act.
- Coordinate and participate with counsel for the EAA General Manager and respondent's counsel as necessary and appropriate to process the administrative penalty hearing to full completion and resolution.
- Develop, manage, and retain in good order a record copy of all information, documents, property, or materials by individual docketed matter developed in the course of performing any Special Counsel legal services. Upon request of the EAA, promptly deliver all such information, documents, property, or materials to the EAA.

3.2.2 Fees and Expenses Information

Offerors are required to submit itemized fees and expenses proposals for items, as described in this RFP, in a separately sealed envelope. The proposal may be in the form of: (1) hourly rates broken down by the names of the attorneys or paralegals who are proposed by the Offeror to perform the legal services; (2) a fixed fee arrangement broken down by specific scopes of work within a matter; or (3) a retainer (flat fee) arrangement for an individual complete matter. The form shown in Attachment A2 shall be used for all fees and expenses. All fees and expenses proposals shall be valid for at least 90 days from the filing deadline August 7, 2019 at 3:00 p.m. Central Time..

SECTION 4 TERMS AND CONDITIONS

4.1 STANDARD FORM OF CONTRACT

Attached is a copy of the EAA's draft Contract stating the proposed general terms and conditions of the engagement which will be contained in any contract resulting from this RFP (see Attachment C). Offerors, by virtue of submitting a proposal, acknowledge, understand, and agree to these terms and conditions, unless such is indicated on the Proposal Summary.

4.2 PROPOSAL ACCEPTANCE PERIOD

All fees and proposals and other conditions of the proposal shall remain in effect for 90 days after the filing deadline August 7, 2019 at 3:00 p.m. Central Time. Proposals offering less than ninety (90) calendar days for acceptance by the EAA from the filing deadline will be considered nonresponsive and will be rejected.

4.3 TIME OF COMPLETION

The selected Offeror shall take all necessary and appropriate actions to perform the legal services in accordance with any schedule as may be established by the Board for the processing of a particular administrative penalty hearing requested by a respondent under Section 1.37 of the EAA Act that may be pending before the Board.

ATTACHMENT A1
EDWARDS AQUIFER AUTHORITY
PROPOSAL SUMMARY
FOR SPECIAL COUNSEL FOR SECTION 1.37 HEARINGS BEFORE THE BOARD
OF DIRECTORS OF THE EDWARDS AQUIFER AUTHORITY
PROPOSAL No. 171-19-ERA

Law Firm or Individual Attorney Name: _____

Submit to: Ms. Latifah Jackson
Contract & Business Development Coordinator
Edwards Aquifer Authority
900 E. Quincy Street
San Antonio, TX 78215

Attach your proposal for Special Counsel services to this document.

The following exceptions to the Specifications are noted:

Response to Commercial Questions and Statements

How did you found out about this Request for Proposal?

(Newspaper, Bid-Net, State of Texas CMBL, Direct Notice,
EAA Website or Other (Please Specify)).

Please mark one of the following:

_____ The firm or individual attorney agrees with the terms and conditions of the attached draft contract form as contained in Attachment C to the proposal specifications.

_____ The firm or individual attorney does not agree with the terms and conditions of the attached draft contract form as contained in Attachment C to the proposal specifications.

The firm or individual attorney would like to take exception to the following contract provisions and is proposing alternative contract language as follows:

The undersigned certifies that the information contained in this proposal has been carefully checked and is submitted as correct and that he/she is authorized to submit this proposal on behalf of the Offeror named below.

Signed:

Name

Printed Name

Title

Law Firm

Address

Telephone No.

ATTACHMENT A2
EDWARDS AQUIFER AUTHORITY
FEES AND EXPENSES PROPOSAL SUMMARY
FOR SPECIAL COUNSEL SERVICES
RFP No. 171-19-ERA

Law Firm or Individual Attorney Name: _____

Submit to: Ms. Latifah Jackson
Contract & Business Development Coordinator
Edwards Aquifer Authority
900 E. Quincy Street
San Antonio, TX 78215

The undersigned proposes the attached as its fees and expenses proposal. It is understood that the proposal may be in the form of: (1) hourly rates broken down by the names of the attorneys or paralegals who are proposed by the Offeror Law Firm to perform the legal services; (2) a fixed fee arrangement broken down by specific scopes of work within a matter; or (3) a retainer (flat fee) arrangement for an individual complete matter. At a minimum, proposed expenses for copies, computerized research, and routine and non-routine travel should be included in the proposal.

It is expressly agreed that the EAA has the right to reject any or all proposals submitted if such action is deemed in its interest.

The undersigned certifies that the fees and expenses contained in the attached proposal have been carefully checked and are submitted as correct and that he/she is authorized to submit this proposal on behalf of the Offeror named below.

Proposals offering less than 90 calendar days for acceptance by the EAA from the filing deadline August 7, 2019 at 3:00 p.m. Central Time will be considered nonresponsive and will be rejected.

Signed: _____
Name

Printed Name

Title

Law Firm

Address

Telephone No.

ATTACHMENT A3
EDWARDS AQUIFER AUTHORITY
ADDITIONAL COUNSEL PLAN
FOR SPECIAL COUNSEL SERVICES
RFP No. 171-19-ERA

Attach your proposed additional counsel plan and any additional applicable documents.

The undersigned certifies that the information contained in this proposal has been carefully checked and is submitted as correct and that he/she is authorized to submit this proposal on behalf of the Offeror named below.

Signed:

Name

Printed Name

Title

Law Firm

Address

Telephone No.

ATTACHMENT B1

CLIENT REFERENCE

For each reference, complete the following information:

Client Name: _____

Client Contact Name: _____

Position: _____

Client Address: _____

Client Telephone Number(s): _____

Date Engagement Began and Ended:

Description of Legal Services Provided:

Fees and Expenses:

ATTACHMENT B2

CLIENT REFERENCE

For each reference, complete the following information:

Client Name: _____

Client Contact Name: _____

Position: _____

Client Address: _____

Client Telephone Number(s): _____

Date Engagement Began and Ended:

Description of Legal Services Provided:

Fees and Expenses:

ATTACHMENT B3

CLIENT REFERENCE

For each reference, complete the following information:

Client Name: _____

Client Contact Name: _____

Position: _____

Client Address: _____

Client Telephone Number(s): _____

Date Engagement Began and Ended:

Description of Legal Services Provided:

Fees and Expenses:

ATTACHMENT C
FOR INFORMATIONAL PURPOSES ONLY

**CONTRACT BETWEEN THE
EDWARDS AQUIFER AUTHORITY
AND
[insert name of Special Counsel]
FOR SPECIAL COUNSEL SERVICES RELATED TO SECTION 1.37
ADMINISTRATIVE PENALTY HEARINGS CONDUCTED BEFORE THE BOARD OF
DIRECTORS OF THE EDWARDS AQUIFER AUTHORITY**

This Contract is made and entered into by and between the **EDWARDS AQUIFER AUTHORITY (“EAA”)**, a political subdivision of the State of Texas, with its principal place of business being located at 900 E. Quincy, San Antonio, Texas 78215, and *[insert name of the law firm]* (“**Special Counsel**”) with its principal place of business being located at *[insert law firm’s address]*. The EAA and the Special Counsel are referred to collectively as “the Parties.”

RECITALS

WHEREAS, the EAA was created by the Edwards Aquifer Authority Act, Act of May 30, 1993, 73rd Leg., R.S., ch. 626, 1993 Tex. Gen. Laws 2350, as amended (“Act”); and

WHEREAS, under Section 1.02 of the Act, the EAA is a conservation and reclamation district created by virtue of Article XVI, Section 59, Texas Constitution, and is a governmental agency and body politic and corporate vested with the full authority to exercise the powers and to perform the functions specified in the Act, and other applicable law; and

WHEREAS, under Section 1.08(a) of the Act, the EAA has all the powers, rights and privileges necessary to manage, conserve, preserve, and protect the Edwards Aquifer (“Aquifer”) and to increase the recharge of, and prevent the waste or pollution of water in, the Aquifer; and

WHEREAS, under Section 1.11(d)(2) of the Act, and other applicable law, the EAA has the authority to enter into contracts; and

WHEREAS, the EAA Board of Directors (“Board”) approved this Contract on *[insert date]*, and authorized the Chairman to execute the Contract; and

WHEREAS, the legal services to be performed by the Law Firm under this Contract will be to represent the Board separately and solely as its Special Counsel in administrative penalty hearings requested by a respondent under Section 1.37 of the Act; and

WHEREAS, this action is made necessary by the fact that the EAA’s General Counsel will be representing the EAA’s General Manager in such proceedings; and

WHEREAS, it is in the public interest that the Board enter into this Contract.

NOW, THEREFORE, for and in consideration of the mutual promises and agreements set forth in this Contract, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. TERM

This Contract is effective and commences on *[insert month, date, year]* ("Effective Date"). Unless terminated earlier in accordance with Section 9, this Contract terminates on *[insert month, date, year]* ("Expiration Date").

2. DESCRIPTION OF ENGAGEMENT

Subject to the terms and conditions of this Contract, the Board hereby engages the Special Counsel to perform, for the benefit of the Board, the Legal Services set forth and described in this Contract and in the following documents: (1) Special Counsel Legal Services ("Legal Services") (Exhibit A); (2) Personnel Chart (Exhibit B); (3) Fee Schedule (Exhibit C); (4) Expense Schedule (Exhibit D); and (5) if applicable, Additional Counsel Utilization Report (Exhibit E), all of which are attached hereto and incorporated herein for all purposes. The Special Counsel accepts such engagement and agrees to devote its best efforts and abilities, and furnish all necessary labor, equipment, and transportation necessary, in furtherance thereof.

3. PERIOD OF ENGAGEMENT

3.1. Commencement of Legal Services. For an individual docket number for an administrative penalty hearing under Section 1.37 of the Act that is pending before the Board, the Special Counsel is authorized to commence performing Legal Services upon receipt of a written Request for Legal Services issued by the Chairman of the Board. All Legal Services will be performed for and delivered to the Board in accordance with the terms and conditions of the Request, and consistent with any scheduling orders, similar scheduling documents, or any other verbal or written request of the Board Chairman for the specific docket number for which Legal Services has been requested.

3.2. Completion of Legal Services. For an individual docket number for an administrative penalty hearing under Section 1.37 of the Act that is pending before the Board, the Special Counsel shall cease performing Legal Services upon receipt of a written Notice of Completion of Legal Services issued by the Chairman of the Board. All Legal Services will be promptly ceased in accordance with the terms and conditions of the Notice. It shall be the Law Firm's responsibility to ensure that the completion times for the Legal Services are met.

4. COMPENSATION

4.1 Fees. The EAA agrees to pay the Special Counsel for the Legal Services set out in Exhibit A as provided in accordance with the Fee Schedule in Exhibit C and as otherwise performed in accordance with the terms and conditions of this Contract. The EAA will not be held

accountable for any fees for unauthorized legal services or other work performed by the Special Counsel.

4.2 Expenses. The EAA agrees to pay the Special Counsel for the expenses incurred in performing the Legal Services set out in Exhibit A as provided in the Expense Schedule in Exhibit D and as otherwise performed in accordance with the terms and conditions of this Contract. The EAA will not be held accountable for any expenses for unauthorized legal services or other work performed by the Special Counsel, or for expenses of the Special Counsel that are not authorized under Exhibit D.

4.3 Payment. All invoices from the Special Counsel to the EAA for the Legal Services and expenses shall be sent monthly and shall provide the following detailed information for the invoice period: (1) the Special Counsel's name; (2) the month covered by the invoice; (3) the date on which the invoiced activity was performed; (4) a description of the invoiced activity that was performed; (5) the amount of time incurred for each invoiced activity; and (6) the expenses incurred. If the Fee Schedule in Exhibit B provides for a fixed fee or a retainer arrangement, then the amount of time incurred for each invoiced activity need not be included in the invoice. All invoices shall be submitted to the EAA no later than the 10th of each month in order to allow sufficient time for it to be presented to the Board's Finance/Administrative Committee before being presented to the Board the next month for approval and authorization of payment. The invoice shall include all Legal Services performed and expenses incurred during the prior month (e.g., an invoice for Legal Services performed and expenses incurred in June must be submitted no later than the 10th of July for submittal to the July Finance/Administrative Committee meeting.) If the invoice is not submitted on time, this may result in delay in the normal processing of the invoice. If the Law Firm is authorized to utilize a [insert as appropriate, "subcontractor" or "joint venture" or "co-counsel"], with each invoice submitted to the EAA for payment, the Law Firm shall also submit a separate invoice for any Legal Services performed by the [insert as appropriate, "subcontractor" or "joint venture" or "co-counsel"] that contains the same information stated above in addition to the Additional Counsel Utilization Report in Exhibit E. The terms of each invoice shall be net thirty (30) days upon approval of that invoice by the Board.

5. ADDITIONAL COUNSEL

In performing the Legal Services, unless specifically authorized by the Board, the Special Counsel may not engage additional counsel whether by subcontract, joint venture, co-counsel, or other arrangement, in the performance of the Legal Services. [insert as appropriate, "For purposes of this Contract, the Board has not approved the use of any other additional counsel." or "For purposes of this Contract, the Board authorizes the Law Firm to retain and utilize the following law firm as [insert as appropriate, "subcontractor" or "joint venture" or "co-counsel"] in performing the Legal Services: *[insert name of additional law firm]*. The Board, after consultation with the Special Counsel, shall have the right to terminate, limit, or alter, at any time, the participation of the [insert as appropriate, "subcontractor" or "joint venture" or "co-counsel"] utilized by the Special Counsel. The Special Counsel shall be responsible in all respects for the performance of any [insert as appropriate, "subcontractor" or "joint venture" or "co-counsel"] approved in the section.

6. POINTS OF CONTACT

6.1 For the Board. The primary point of contact for the Special Counsel for general communications with the Board is Ms. Luana Buckner, Chairman, and the secondary point of contact will be *[insert board officer]*.

6.2 For the EAA Staff. The primary points of contact for the Special Counsel with EAA staff are as follows: (1) invoicing – Mr. Brock Curry, Deputy General Manager; (2) general administrative matters, including the exchange of general information – Mr. Curry; and (3) agenda management and docket coordination – Ms. *[insert name]*, Docket Clerk.

6.3 For the Law Firm. The primary point of contact for the Law Firm is *[insert name and title]*.

6.4 Changes. The Parties may change these points of contact by giving to the other party prompt written notice.

6.5 Director Conferences with the Special Counsel. Directors may contact the Special Counsel directly for informational purposes to confer concerning a Section 1.37 hearing matter pending before the Board. However, in such an event, the Director and the Special Counsel shall promptly contact the Chairman and Vice Chairman and inform them of the conference. The Special Counsel understands and agrees that it may not invoice for such a Director conference unless approved by the Chairman.

6.6 Ex Parte Avoidance. The Law Firm agrees to implement all best management practices as are prudent and appropriate to ensure that ex parte communications with the EAA General Manager, Executive Director – Regulatory and External Affairs, General Counsel, and all other compliance and enforcement staff involved in Section 1.37 administrative penalty matters are avoided.

7. MANAGEMENT OF SPECIAL COUNSEL

The Chairman will manage all aspects of this Contract and shall oversee all daily activities of the Special Counsel. The Chairman may delegate these functions to another officer of the board, or if appropriate, to the EAA Deputy General Manager.

8. AMENDMENTS

No amendment, addition, or other modification to this Contract shall be binding on the Parties unless it is in writing, signed by the Parties, and agreed to in advance by the Parties.

9. TERMINATION

9.1 Termination by the Board. The Board may terminate this Contract at any time, including upon the expiration of each budget period, with or without cause, upon five (5) days prior written notice to the Special Counsel. Upon receipt of such termination notice, the Special

Counsel shall immediately stop all Legal Services in progress, including all work performed by its employees or [insert as appropriate, "subcontractor" or "joint venture" or "co-counsel"], if any. Insofar as possible, all Legal Services in progress will be brought to a logical termination point and all related files shall be forwarded to the EAA. The payment of any invoices that the Special Counsel submits to the EAA after termination for Legal Services performed prior to termination shall be made as provided in Section 5.3.

9.2 Termination by the Special Counsel. The Special Counsel may terminate this Contract only if done so consistent with the Texas Disciplinary Rules of Professional Conduct.

10. DOCUMENTS MANAGEMENT

10.1 In General. The Special Counsel shall keep in good order and retain a record copy of all information, documents, or materials produced, created, or supplied under this Contract by the Special Counsel, its employees or [insert as appropriate, "subcontractor" or "joint venture" or "co-counsel"], if any, and whether finished or unfinished or in draft or final form.

10.2 Delivery of Documents to the EAA. Upon expiration or termination of this Contract under Sections 1 and 9, respectively, upon request of the EAA, the Special Counsel will promptly deliver to the EAA all information, documents, or materials as identified in Section 10.1.

11. ENTIRE AGREEMENT

This Contract and the attached Exhibits constitute the entire agreement between the Parties. There are no representations, warranties, agreements, or commitments between the Parties except as set forth herein.

12. COUNTERPARTS

This Contract may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

13. BINDING EFFECT

This Contract shall be binding upon and inure to the benefit of the Parties. The Special Counsel may not assign any of its rights nor delegate any of its duties under this Contract without the prior written consent of the Board.

14. AUTHORITY TO CONTRACT

Each Party represents and warrants for the benefit of the other Party that: (1) it has the legal authority to enter into this Contract; (2) this Contract has been duly approved and executed; (3) no other authorizations or approvals are or will be necessary in order to approve this Contract and to enable that Party to enter into and comply with the terms and conditions of this Contract; (4) the person executing this Contract on behalf of each Party has the authority to bind that Party; and (5) the Party is empowered by law to execute any other agreement or documents and to give such

other approvals, in writing or otherwise, as are or may hereafter be required to implement and comply with this Contract.

15. OFFICERS OR AGENTS

No officer or agent of the Parties is authorized to waive or modify any provision of this Contract. No amendment to or rescission of this Contract may be made except by a written document signed by the Parties' authorized representatives.

16. WARRANTIES AND REPRESENTATIONS

16.1 Pursuant to Section 2270.002, Texas Government Code, the Special Counsel hereby warrants and represents to the EAA that the Special Counsel, including its parent, subsidiary and affiliated companies, (1) does not boycott Israel, and (2) will not boycott Israel during the term of this Contract. The term "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. Failure to comply with this certification shall be considered a breach of this Contract by the Special Counsel.

16.2 Pursuant to Section 2252.908(d), Texas Government Code, the Special Counsel warrants and represents to the EAA that it has filed with the EAA all appropriate and accurate disclosures of interested parties that may be required.

16.3 Pursuant to Section 176.006, Texas Local Government Code, the Special Counsel warrants and represents to the EAA that it has filed with the EAA all appropriate and accurate conflict of interest questionnaires by vendors of the EAA that may be required.

16.4 Pursuant to Section 4.07(e) of the EAA's bylaws, the Special Counsel warrants and represents to the EAA that it has filed with the EAA an appropriate and accurate affidavit executed by a managing partner of the Special Counsel stating that there are no direct or indirect conflicts of interest with the EAA and that the Special Counsel will not accept new clients that would create such a conflict of interest.

IN WITNESS WHEREOF, this Contract is executed and is effective as of the day and date first written above in Section 1.

EDWARDS AQUIFER AUTHORITY

SPECIAL COUNSEL

Luana Buckner
Chairman

[insert the signing person's name]
[insert the signing person's title]
[insert the Law Firm's name]

ATTEST

Enrique Valdivia
Secretary

APPROVED AS TO FORM:

Darcy Alan Frownfelter
General Counsel

EXHIBIT A SPECIAL COUNSEL LEGAL SERVICES

As may be requested by the Chairman of the Board, the Special Counsel shall represent the Board in administrative penalty hearings requested by a respondent under Section 1.37(h) (*see also* Section 717.118(e) of the EAA's Rules) that are pending before the Board. Such representation is limited to the following:

- Attend and participate in Board meetings at which an administrative penalty hearing requested by a respondent under Section 1.37 of the EAA Act has been noticed to be conducted before the Board, and any other conferences or meetings that may be necessary and appropriate to resolve the matter and bring it to an appropriate conclusion before the Board;
- Advise, counsel, consult, and provide opinions to the Board in understanding the docketed administrative penalty matter and the contents of all relevant documents and files;
- Advise the Board in understanding all filings made by the General Manager of the EAA, including proposed orders, settlements, or other recommended courses of action;
- Engage with representatives of the General Manager, the respondent, and other parties and their counsel or other representative, as may be appropriate, to resolve the matter and bring it to an appropriate conclusion before the Board, using best practices to avoid ex parte communications;
- Assist and advise the Chairman of the Board as the Presiding Officer of the hearing in all matters;
- Advise the Board as to all applicable legal requirements, legal options, and procedural requirements to ensure that the Board processes the matter in accordance with applicable law;
- Prepare and/or review all documents as may be appropriate and necessary to resolve the matter and bring it to an appropriate conclusion before the Board; and
- Develop, manage, and retain in good order a record copy of all information, documents, property, or materials by individual docket matter number developed in the course of performing any Special Counsel legal services. Upon request of the EAA, promptly deliver all such information, documents, property, or materials to the EAA.

EXHIBIT B
PERSONNEL CHART

EXHIBIT C
FEE SCHEDULE

EXHIBIT D
EXPENSE SCHEDULE

EXHIBIT E
ADDITIONAL COUNSEL PLAN