



**Request for Proposals  
For  
TITLE & ESCROW SERVICES**

**CITY OF PRESCOTT, ARIZONA  
PREPARED BY: Public Works Department**

**Due Date: October 16, 2014**

## **Request for Proposals TITLE & ESCROW SERVICES**

The City of Prescott, Arizona, requests Proposals from qualified firms to provide complete Title and Escrow Services in the acquisition and disposition of commercial and residential properties.

Proposals must be received prior to **2:00 pm on Thursday, October 16, 2014**, at the office of the City Clerk, City Of Prescott, 201 S. Cortez, Prescott AZ, 86303, at which time all proposals will be publicly opened. Any proposals received at or after 2:00 p.m. on the above-stated date will be returned unopened. The outside of the envelope shall indicate the name and address of the respondent, shall be addressed to the City Clerk, City of Prescott at the above address and shall be marked: Proposal: **TITLE & ESCROW SERVICES**

The City of Prescott reserves the right to reject any and all proposals and the City assumes no liability for the cost of preparing a response to this request. All documents are available on the City of Prescott's website at <http://www.cityofprescott.net/business/bids/>.

A handwritten signature in black ink, appearing to read "Erika Laster", is written over a horizontal line.

Erika Laster/Contract Specialist

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# **Request for Proposals**

## **TITLE & ESCROW SERVICES**

### **General Information**

The City of Prescott ("City") is soliciting Proposals from Title Insurance Companies authorized to provide title insurance in Arizona, and to provide associated escrow, closing and related services, in accordance with all the terms and conditions contained in the Scope of Work herein.

### **Contract Term**

The initial term of the contract shall be for a period of one (1) year. The contract may be extended for additional one (1) year periods up to a total of four (4) additional years, with the mutual consent of the City of Prescott and Contractor. Price changes for succeeding years shall be adjusted in accordance with the Consumer Price Index (CPI), not to exceed upwards or downwards of three (3) percent.

### **Qualifications**

All proposers responding to this request must demonstrate and meet the following minimum qualifications:

Proposer must be authorized under Arizona law to operate as a Title Insurance Company ("Title Company"). Any entity submitting a proposal on behalf of a Title Company must be licensed in Arizona to do business.

### **Scope of Work**

The City is soliciting proposals from qualified Title Companies for commercial and residential title services, to promptly furnish legal descriptions and title research for the acquisition of real property, sale of real property, acquisition of new right-of-way, easements and temporary construction easements for parcels, or a combination thereof, on various City projects. The time frame of the contract will be 12 months from the date of the fully executed contract. The contract may be extended for additional one (1) year periods up to a total of five (5) additional years, with the mutual consent of the City of Prescott and Contractor. While under contract, a firm may be assigned work on a project by project basis. It is the intent of the City to assign only one firm to a project at a time.

The successful Title Company(s), must be able to perform the following tasks:

1. Provide complete property descriptions on those properties as assigned by the City.
2. Provide title insurance, escrow services, existing easement research for commercial and residential properties as assigned by the City.
3. Provide 1 copy of all title reports, each including all Schedule A and Schedule B documents in either paper or .pdf format.

**Order Volume**

The City will place orders on an as-needed basis and makes no guarantees whatsoever for any specific order quantities or dollar-volumes. One or more providers of title services may be selected depending upon the requirements of the City.

**Submission**

Sealed Proposals will be received until **2:00 p.m. on October 16, 2014** at the City Clerk's Office, 201 South Cortez Street, Prescott Arizona 86303, at which time all Proposals will be publicly opened. Any submittals received after 2:00 p.m. on the above-stated date will be returned unopened.

Statements shall be submitted in five (5) copies, and must conform to the scope of work available from the office of the Public Works Director at (928) 777-1130. The City of Prescott reserves the right to reject any and all Proposals and the City assumes no liability for the cost of preparing a response to this request.

The outside of the statement envelope shall indicate the name and address of the respondent, shall be addressed to the City Clerk, City of Prescott at the above address and shall be marked: Proposal: **TITLE & ESCROW SERVICES**

**Examination of Proposals**

Proposers should carefully examine the entire Request for Proposals, any addenda thereto, and all related materials and data referenced in the Request for Proposals. Proposers should become fully aware of the nature of the work and the conditions likely to be encountered in performing the work.

**Proprietary Material**

A Proposer shall clearly mark any proprietary information contained in its proposal with the words "proprietary information." Proposer shall not mark any Solicitation Form (materials contained within the Priced Bid Package) as proprietary.

Proposers should be aware that the City is required by law to make its records available for public inspection. The Proposer, by submission of materials marked proprietary, acknowledges and agrees that the City will have no obligation to advocate for non-disclosure in any forum or any liability to the Proposer in the event that the City must legally disclose these materials.

**Guidelines for Proposal Preparation**

Essential elements to be addressed in the proposal shall include the following:

1. The Title Company's name, address, phone and contact person with authority to bind the Proposer. Basic Proposer information, including the year the Proposer or its personnel became qualified as a Title Company in Arizona.
2. The firm's project team, its credentials, and the locations(s) of its team members.
3. Describe similar or recent projects for which the title company was responsible that demonstrate the Title Company's capability to meet schedule deadlines without delays, cost escalations or overruns.

4. Describe background and capabilities in dealing with the various local, state, and federal agencies that may be involved in a project.
5. The Title Company's proposed methodology and approach to the required project services.
6. Submit a fee schedule for providing title insurance, escrow, and closing services, and identify any additional charges for any services. Schedule should include a statement of whether updates to a title insurance commitment result in additional charges and the amount thereof. The fee for each service listed on the fee schedule shall be for a complete service inclusive of all administrative, clerical, supervisory, research, consumables and all other costs necessary to provide such services.
7. The Proposal shall be limited to no more than 5 pages not including the fee schedule or coversheet.

### **Signature Requirements**

All proposals and bid submittals must be signed. An officer or other agent of a corporate firm, if authorized to sign Contracts on its behalf; a member of a partnership; the owner of a privately-owned firm; or other agent if properly authorized by a Power of Attorney or equivalent document may sign the proposal. The name and title of the individual(s) signing the proposal must be clearly shown immediately below the signature.

### **News Releases**

News releases pertaining to the award resulting from request for statements of qualifications shall not be made without prior written approval of the Public Works Director.

### **Disposition of Proposals**

All materials submitted in response to this request for statement of qualification become the property of the City of Prescott. One copy shall be retained for the official files of Public Works and will become public record after award of the Contract.

### **Modification/Withdrawal of Proposals**

A respondent may withdraw a response to this invitation at any time prior to the final submission date by sending written notification of its withdrawal, signed by an agent authorized to represent the agency. The respondent may thereafter submit a new or modified statement of qualification prior to the final submission date. Modifications offered in any other manner, oral or written, will not be considered. A final Un-priced Technical Proposal or Priced Bid cannot be changed or withdrawn after the time designated for receipt, except for modifications requested by Public Works after the date of receipt.

### **Oral Change/Interpretation**

No oral change or interpretation of any provision contained in this request for proposals is valid, whether issued at a pre-proposal conference or otherwise. Written addenda will be issued when changes, clarifications, or amendments to proposal documents are deemed necessary by Public Works.

## **Late Submissions**

**PROPOSALS RECEIVED AFTER THE DEADLINE WILL NOT BE CONSIDERED AND WILL BE RETURNED UNOPENED.**

## **Rejection of Proposals**

The City reserves the right to reject any or all Proposals if determined to be in the best interest of the City.

## **Incorporation of Solicitation and Response in Agreement**

This solicitation, including all attachments and addenda, and all promises, warranties, commitments, and representations in the successful proposal shall be binding and shall become obligations of the agreement.

## **Criteria for Selection**

The City intends to select one or more Title Companies based on qualifications, experience, and ability to meet the project schedule, from those firms submitting proposals.

Upon receipt of the written proposals, a City Selection Committee will review all proposals. The City will rank three or more of those Title Companies and create a short-list of those best suited to provide the required services. The short-listed firms may be required to interview with the Selection Committee. Short list and final selections(s) will be based upon the following criteria:

1. The firm's background and experience related to similar project assignments.
2. The qualifications and experience of key personnel who will be assigned to the projects.
3. The Agent's commitment to meeting project schedules.
4. The firm's proposed fee schedule.

The City reserves the right to proceed to Final Ranking based on the Statements of Qualifications and Fee Schedule without conducting Interviews.

Upon completion of the above-described tasks, the City will enter into negotiations with selected firms for the purpose of reaching an amenable agreement on contract terms and prices. If negotiation efforts are successful, a contract will be executed with this firm for the provision of the required services. If negotiations are unsuccessful, the City will terminate negotiation efforts and will open negotiations with the next ranked firm. This process will continue until negotiation efforts are successful.

City Council approval is required for the award of any individual contract in the amount of \$10,000 or more.



## GENERAL SERVICES CONTRACT

### Title & Escrow Services

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_,  
by and between \_\_\_\_\_ of the  
City of \_\_\_\_\_, County of \_\_\_\_\_,  
State of \_\_\_\_\_, hereinafter designated "Contractor", and the City of  
Prescott, a municipal corporation, organized and existing under and by virtue of the laws of the  
State of Arizona, hereinafter designated "City".

WITNESSETH: That the said Contractor, for and in consideration of the sum to be paid him by  
the said City, and of the other covenants and agreements herein contained, and under the  
penalties expressed in the bonds provided, hereby agrees, for himself, his heir, executors,  
administrators, successors and assigns as follows:

**ARTICLE I - SCOPE OF WORK:** The Contractor shall furnish any and all labor, materials,  
equipment, transportation, utilities, services and facilities, required to perform all work for the  
construction of the project described as City of Prescott: Title & Escrow Services, in a good and  
workmanlike and substantial manner and to the satisfaction of the City through its Contractors  
and under the direction and supervision of the Public Works Director, or his properly authorized  
agents and strictly pursuant to and in conformity with the Plans and Specifications prepared by  
the Contractors for the City, and with such written modifications of the same and other  
documents that may be made by the City through the Public Works Director or his properly  
authorized agents, as provided herein.

**ARTICLE II - CONTRACT DOCUMENTS:** The Notice Inviting Bids, Plans, Standards  
Specifications and Details, Special Conditions, Addenda, if any, and Proposal as accepted by the  
Mayor and Council per Council Minutes of \_\_\_\_\_, Performance Bond,  
Payment Bond, Bid Bond, Certificate of Insurance and Contract Amendments, if any, are by this  
reference made a part of this Contract to the same extent as if set forth herein in full.

**ARTICLE III - TIME OF COMPLETION:** The initial term of the contract shall be for a period of 1 year. The contract may be extended for additional one year periods up to a total of four additional years, with the mutual consent of the City of Prescott and Contractor. Price changes for succeeding years shall be adjusted in accordance with the Consumer Price Index (CPI), not to exceed upwards or downwards of three (3) percent.

**ARTICLE IV - COMPENSATION:** Contractor shall be paid, pursuant to the provisions as set forth in the Contract documents, the total sum of \_\_\_\_\_ dollars and no cents (\$ 000.00) plus any approved contract amendments, for the full and satisfactory completion of all work as set forth in the Project Specifications and Contract Documents. Retention shall be in accordance with Arizona Revised Statutes Section 34-221.

**ARTICLE V - CONFLICT OF INTEREST:** Pursuant to ARS Section 38-511, the City of Prescott may cancel this contract, without penalty or further obligation, if any person significantly involved in initiating, negotiation, securing, drafting or creating the contract on behalf of the City of Prescott is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract. In the event of the foregoing, the City of Prescott further elects to recoup any fee or commission paid or due to any person significantly involved in initiating, negotiation, securing, drafting or creating this contract on behalf of the City of Prescott from any other party to the contract, arising as a result of this contract.

**ARTICLE VI - AMBIGUITY:** This Agreement is the result of negotiations by and between the parties. Although it has been drafted by the Prescott City Attorney, it is the result of the negotiations between the parties. Therefore, any ambiguity in this Agreement is not to be construed against either party.

**ARTICLE VII - NONDISCRIMINATION:** The Contractor, with regard to the work performed by it after award and during its performance of this contract, will not discriminate on the grounds of race, color, national origin, religion, sex, disability or familial status in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Contractor will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, the Americans With Disability Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, and Arizona Governor Executive Orders 99-4, 2000-4 and 2009-09 as amended.

**ARTICLE VIII - INDEPENDENT CONTRACTOR STATUS:** It is expressly agreed and understood by and between the parties that the Contractor is being retained by the City as an independent contractor, and as such the Contractor shall not become a City employee, and is not entitled to payment or compensation from the City or to any fringe benefits to which other City employees are entitled other than that compensation as set forth in Article IV - Compensation above. As an independent contractor, the Contractor further acknowledges that he is solely responsible for payment of any and all income taxes, FICA, withholding, unemployment insurance, or other taxes due and owing any governmental entity whatsoever as a result of this

Agreement. As an independent contractor, the Contractor further agrees that he will conduct himself in a manner consistent with such status, and that he will neither hold himself out nor claim to be an officer or employee of the City by reason thereof, and that he will not make any claim, demand or application to or for any right or privilege applicable to any officer or employee of the City, including but not limited to workmen's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit.

**ARTICLE IX - CITY FEES:** Prior to final payment to the Contractor, the City shall deduct there from any and all unpaid privilege, license and other taxes, fees and any and all other unpaid moneys due the City from the Contractor, and shall apply to those moneys to the appropriate account. Contractor shall provide to the City any information necessary to determine the total amount(s) due.

**ARTICLE X- OTHER WORK IN PROJECT AREA:** The City of Prescott, any other contractors, whether under contract with the City, a third party, and/or utilities, may be working within the project area while this Contract is in progress. The Contractor herein acknowledges that delays and disruptions may, and in all likelihood, will occur due to other work. The Contractor's bid shall be deemed to have recognized and included costs arising from and associated with other work in the project area disclosed by the Contract Documents or which would be apparent to an experienced contractor exercising due diligence during inspection of the project documents, the question and answer session in the pre-bid process or during site inspection. No payment will be made for any delays or disruptions in the work schedule that are wholly the fault of the contractor, its agents, employees or any of the contractor's subcontractors. In the event that the contractor encounters delay or disruption in the project schedule due to factors not wholly the fault of the contractor or within the contractors control then the Contract may be adjusted pursuant to the Delay's and Extension of Time provisions of this Contract and a timely request submitted for Contract Amendment. Failure to submit a timely request for Contract Amendment shall be deemed a waiver of any entitlement to additional compensation.

#### **ARTICLE XI – BONDS**

- A. On or before the execution of the contract, the Contractor shall obtain in an amount equal to the full contract price a performance bond pursuant to ARS Section 34-222, conditioned upon the faithful performance of this contract in accordance with the plans, specifications and conditions herein. Such bond shall be solely for the protection of the City of Prescott. A copy of this bond shall be filed with the Prescott City Clerk.
- B. Contractor shall also obtain a payment bond, pursuant to the provisions of ARS Section 34-222, in an amount equal to this full contract price herein, said bond to be solely for the protection of claimants supplying labor or materials to the Contractor or his subcontractors in the prosecution of the work provided for in this contract. A copy of this bond shall be filed with the Prescott City Clerk.
- C. All bonds must be written by an insurance company authorized to do business in the State of Arizona, to be evidenced by a Certificate of Authority as defined in ARS Section 20-217, a copy of which certificate is to be attached to the applicable bid bond, payment bond and performance bond. In addition, depending upon the nature of the contract and amount



of the Contractor, its employees, agents, or any tier of subcontractors in the performance of this Contract, Contractor's duty to defend, hold harmless and indemnify the City, its agents, representatives, officers, directors, officials and employees that arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting therefrom, caused by any acts, errors, mistakes, omissions, work or services in the performance of this Agreement including any employee of the Contractor or any tier of subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services the Contractor may be legally liable.

- I. No oral order, objection, claim or notice by any party to the other shall affect or modify any of the terms or obligations contained in this Agreement, and none of the provisions of this Agreement shall be held to be waived or modified by reason of any act whatsoever, other than by a definitely agreed waiver or modification thereof in writing. No evidence of modification or waiver other than evidence of any such written notice, waiver or modification shall be introduced in any proceeding.
- J. **INSURANCE:** Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract.

The City in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, his agents, representatives, employees, or subcontractors. Contractor is free to purchase such additional insurance as may be determined necessary.

**Additional Insurance Requirements:** The policies shall include, or be endorsed to include, the following provisions:

1. On insurance policies where the City of Prescott is named as an additional insured, the City of Prescott shall be an additional insured to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Contract.
2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

**Notice of Cancellation:** With the exception of a ten (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this contract in the insurance policies above shall require a thirty (30) day written notice.

**Acceptability of Insurers:** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VII, unless otherwise approved by the City of Prescott Risk Management Division. .

Verification of Coverage: Contractor shall furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the City before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the contract. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract shall be sent directly to the Public Works Department at 433 N. Virginia St, Prescott, AZ 86301. The City contract number and project description shall be noted on the certificate of insurance. The City reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

Insurance Requirements - Contractor shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a following form basis.

Commercial General Liability – Occurrence Form:

Policy shall include bodily injury, property damage, personal injury, broad form contractual liability coverage.

- General Aggregate \$ 2,000,000
- Products – Completed Operations Aggregate \$ 1,000,000
- Personal and Advertising Injury \$ 1,000,000
- Each Occurrence \$ 1,000,000
- Fire Legal Liability (Damage to Rented Premises) \$ 100,000

The policy shall be endorsed to include the following additional insured language:

"The City of Prescott shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of, the Contractor".

Business Automobile Liability: Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

The policy shall be endorsed to include the following additional insured language:

"The City of Prescott shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor".

Worker's Compensation and Employer's Liability:

Workers' Compensation	Statutory
Employer's Liability	
Each Accident -	\$1,000,000
Disease – each employee -	\$1,000,000

Disease – policy limit -

\$1,000,000

Policy shall contain a waiver of subrogation against the City of Prescott for losses arising from work performed by or on behalf of the Contractor.

All insurance required pursuant to this Agreement must be written by an insurance company authorized to do business in the State of Arizona, to be evidenced by a Certificate of Authority as defined in ARS Section 20-217, a copy of which certificate is to be attached to each applicable bond or binder.

Prior to commencing work under this Agreement, the Contractor shall provide City with evidence that it is either a “self-insured employer” or a “carrier insured employer” for Workers’ Compensation as required by ARS 23-901 et seq., or that it employs no persons subject to the requirement for such coverage.

#### K. Contractor Immigration Warranty

Contractor understands and acknowledges the applicability to it of the American with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989. The following is only applicable to construction contracts: The Contractor must also comply with A.R.S. § 34-301, “Employment of Aliens on Public Works Prohibited”, and A.R.S. § 34-302, as amended, “Residence Requirements for Employees”.

Under the provisions of A.R.S. § 41-4401, Contractor hereby warrants to the City that the Contractor and each of its subcontractors (“Subcontractors”) will comply with, and are contractually obligated to comply with all Federal Immigration laws and regulations that relate to their employees and A.R.S. § 23-214(A) (hereinafter “Contractor Immigration Warranty”).

A breach of the Contractor Immigration Warranty shall constitute a material breach of this Contract and shall subject the Contractor to penalties up to and including termination of this Contract at the sole discretion of the City.

The City retains the legal right to inspect the papers of any Contractor or Subcontractors employee who works on this Contract to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty. Contractor agrees to assist the City in regard to any such inspections.

The City may, at its sole discretion, conduct random verification of the employment records of the Contractor and any of subcontractors to ensure compliance with Contractor’s Immigration Warranty. Contractor agrees to assist the City in regard to any random verification performed.

Neither the Contractor nor any Subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if the Contractor or Subcontractor establishes that it has complied with employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. § 23-214, Subsection A.

The provisions of this Article must be included in any contract the Contractor enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. “Services” are defined as furnishing labor, time or effort in the State of Arizona by a Contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

- L. In the event of a discrepancy between this Agreement and other documents incorporated into this Agreement this Agreement shall control over such other incorporated documents.
- M. Non-Availability of Funds: Fulfillment of the obligation of the City under this Agreement is conditioned upon the availability of funds appropriated or allocated for the performance of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the City at the end of the period for which the funds are available. No liability shall accrue to the City in the event this provision is exercised, and the City shall not be obligated or liable for any future payments as a result of termination under this paragraph.

IN WITNESS WHEREOF, three (3) identical counterparts of this Contract, each of which shall for all purposes be deemed an original thereof, have been duly executed by the parties herein above named, on the date and year first above written.

ATTEST:

\_\_\_\_\_  
 Witness, if Contractor is an Individual

\_\_\_\_\_  
 Contractor

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

Title: \_\_\_\_\_

City of Prescott, a municipal corporation

\_\_\_\_\_  
 Marlin D. Kuykendall, Mayor

Attest:

Approved as to Form:

\_\_\_\_\_  
 Dana R. DeLong, City Clerk

\_\_\_\_\_  
 Jon M. Paladini, City Attorney