



Request for Proposal

For

Title & Escrow Services

MAYOR AND COUNCIL:

Phil R. Goode, Mayor
Connie Cantelme, Council Member
Lois Fruhwirth, Council Member
Ted Gambogi, Council Member
Brandon Montoya, Council Member
Eric Moore, Council Member
Cathey Rusing, Council Member

CITY CLERK:

Sarah M. Siep

PUBLIC WORKS DIRECTOR:

Gwen Rowitsch

Request for Proposals (RFP)

Title & Escrow Services

DESCRIPTION: 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.

BID OPENING: Thursday, September 5, 2024, at 2:00p.m. City Council Chambers 201 N. Montezuma Street, 3rd floor, Prescott, Arizona 86301

In accordance with local and State law, sealed bids will be received by the **Office of the City Clerk at 201 N. Montezuma Street, Suite 302, Prescott, Arizona 86301**, until 2:00p.m. on the date specified above, for the services specified herein. Bids will be opened and read aloud at the above noted date, time, and location. Any bid received at or after 2:00p.m. on the referenced date will be returned unopened.

The City of Prescott reserves the right to accept or reject any or all bids, and/or some or all of the alternates bid, and waive any informality deemed in the best interest of the City and to reject the bids of any persons who have been delinquent or unfaithful in any contract with the City.

This solicitation, full submittal information and any addenda are available free of charge on the City's website at <https://prescott-az.gov/budget-and-finance/purchasing/>.

PUBLISH: August 18 and 25, 2024

**Request for Proposals
Title & Escrow Services**

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D. REQUESTS FOR INFORMATION

Firms who desire clarification of the procurement terms, selection criteria or submittal requirements shall restrict their inquiries to written communications only. All communications (other than delivery of the proposal as defined below) shall be addressed to the City project representative at the following:

Jaimie Sventek
Contracts Coordinator
contracts@prescott-az.gov

Requests for information must be received by the project representative **prior to 5:00p.m. on Tuesday, August 27, 2024**. Responses, or addenda as required, will be issued no later than 12:00p.m. (noon) on Monday, September 3, 2024. Receipt of addenda must be acknowledged on the required form in the firm's submission. It is the submitter's sole responsibility to check the City's website for periodic updates or addenda.

II. SUBMITTAL REQUIREMENTS

Firms shall possess the qualifications and Arizona licenses as required by law. Responses to this Request must be in the form of a proposal, as outlined in this document. The City assumes no liability for the cost of preparing a response to this Request.

Any deviations from the provisions of this Request which are desired by the Offeror shall be specifically noted in the proposal submitted.

A. PROPOSAL REQUIREMENTS

Proposals shall be submitted as **one (1) original with one (1) flash drive** and must conform to this Request. The proposal shall include the following:

- Form A – Solicitation Response Cover Sheet
- Form B – Price Sheet
- Form C – Bid Certification
- Form D – Non-Collusion Certificate
- Form E – Certificate of Ownership

B. INSTRUCTIONS FOR SUBMITTAL FORMS

- **Form A – Solicitation Response Cover Sheet**
Bidder shall complete, sign, and submit Form A as the first page of the bid package.
- **Form B – Price Sheet**
The bidder shall certify that its bid will be valid for 90 days after submission. Bidders may be asked to extend this certification. Bidder shall complete, sign, and submit Form B.

- **Form C – Bid Certification**

Bidder shall complete, sign, and submit Form C.

- **Form D – Non-Collusion Certificate**

Bidder shall complete, sign, and submit Form D.

- **Form E – Certificate of Ownership**

Bidder shall complete, sign, and submit Form E completely and accurately stating the names and addresses of all persons, firms, corporations, partnerships, or other associations having any direct or indirect financial interest in the Bidder's business and the nature and extent of each such interest.

C. DISCLOSURE

Identify any public or private disciplinary actions against your firm or individuals within your firm that occurred within the past five (5) years and would be relevant to this contract. This includes action by professional organizations or oversight committees.

Report any significant material litigation information that would be relevant to this contract.

Disclose any investigation (involving your firm or individuals) conducted in the past five (5) years of any federal or state regulatory agency that might have an impact on this contract.

D. PROPRIETARY INFORMATION

All materials submitted in response to the solicitation, including samples, shall become the property of the City and are therefore subject to public release, upon request, after the Contract award. Firms shall clearly mark any proprietary information contained in its submittal with the words "Proprietary Information". Firms shall not mark any Solicitation Form as proprietary. Marking all or nearly all of a submittal as proprietary may result in rejection of the submittal.

Firms should be aware that the City is required by law to make its records available for public inspection. All firms, by submission of materials marked proprietary, acknowledge, and agree that the City will have no obligation to advocate for non-disclosure in any form nor will the City assume any liability to the firms in the event that the City must legally disclose these materials.

E. DELIVERY OF SUBMITTALS

Sealed proposals will be received **before 2:00p.m. on Thursday, September 5, 2024**, at the **City Clerk's Office, 201 N. Montezuma Street, Suite 302, Prescott, Arizona 86301**, at which time all submittals will be publicly opened.

Any submittals received at or after 2:00p.m. on the above-stated date will be returned unopened. Firms are solely responsible for the delivery of their submittals to the above location by the time and date specified. The City is not responsible for lateness of mail, carrier, etc. The city will not accept delivery of the bid to any other city locations. The time and date stamp in the City Clerk's Office shall be the official time of receipt. Electronic or facsimile submittals will not be considered. Modifications to submittals will not be considered after the 2:00p.m. deadline.

The outside of the submittal 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 clearly marked:

**Request for Proposals:
Title & Escrow Services
Due before 2:00p.m. on September 5, 2024**

III. EVALUATION CRITERIA

The sole purpose of the proposal evaluation process is to determine which solution best meets the City of Prescott's needs. The evaluation process is not meant to imply that one proposer is superior to any other, but rather that the selected proposer can provide the best solution for Prescott's current and future needs based on the information available and Prescott's best efforts of determination.

The proposal evaluation criteria should be viewed as standards that measure how well a proposer's approach meets the desired requirements and needs of the City of Prescott. While the City intends to evaluate the proposals against all of the following criteria, the City reserves the right to determine the suitability of proposals on the basis of any or all of these criteria or other criteria not included in the list below.

The following selection criteria will be used to evaluate the proposer responses to the RFP. A percentage is assigned to each criterion thereby providing a weight to the importance of the criteria in the overall selection.

Evaluation Criteria	Weight Percentage
The firm's background and experience related to similar project assignments.	25
The qualifications and experience of key personnel who will be assigned to the projects.	25
The Agent's commitment to meeting project schedules.	25
The firm's proposed fee schedule.	25
Total (not to exceed 100%)	100%

IV. CONTRACT NEGOTIATION AND AWARD

To qualify the proposal must be submitted on time and materially satisfy all requirements identified in this Request. If, in the judgment of the City, a proposal does not conform to the format specified herein, or if any section is absent or significantly incomplete, the City reserves the right to reject the submittal.

A. OVERVIEW

Approval of the City Council will be required for the award of a contract for performance of the services described herein.

The City reserves the right to cancel this Request, reject in whole or in part any and all submittals, waive or decline to waive irregularities in any submittals, or determine not to enter into contract as specified if determined by the City to be in the City's best interests.

B. AWARD OF CONTRACT

The selected company/firm will be required to execute and meet the terms of the City's standard General Services Agreement, including insurance requirements, in a form acceptable to the City Attorney. Approval of the City Council will be required for award of a contract for performance of the services described herein and as may additionally be developed during negotiations. Any contract award submitted to the City Council for consideration is not binding on the City until after approval by the City Council and full execution of the contract documents by both parties.

C. BASIC INSURANCE REQUIREMENTS

Vendor / Contractor and/or 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 Vendor / 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 Vendor / Contractor, his agents, representatives, employees, or subcontractors. Vendor / 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.

**Additional Insured:
City of Prescott
201 N. Montezuma Street
Prescott AZ 86301**

2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

All certificates required by this Contract shall be emailed directly to coi@prescott-az.gov. 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. Any Renewal of insurance certificates with endorsements will need to be emailed to the above emails at least two weeks prior to expiration.

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

Insurance Limit 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 (if applicable)
- Personal and Advertising Injury \$ 1,000,000 (if applicable)
- Each Occurrence \$ 1,000,000
- Fire Legal Liability (Damage to Rented Premises) \$ 100,000 (if applicable)

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 |

The policy shall contain a waiver of subrogation against the City of Prescott for losses arising from work performed by or on behalf of the Vendor / 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 Vendor / 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.

V. TERM OF CONTRACT

The initial term of the contract shall be for a period of one (1) year, starting October 22, 2024. The contract may be extended for an additional one (1) year period up to a total of four (4) additional years, with the mutual consent of the City of Prescott and Contractor. With the renewal of the contract, the price of goods under this contract shall not increase in subsequent years by more than the Consumer Price Index (CPI) for the prior year. Notice of intent to renew with evidence of pricing increase shall be provided by the vendor at least two (2) months prior to normal contract expiration. If renewal results in changes of the terms or conditions, such changes shall be in writing as an amendment to the contract and such amendment shall not become effective until fully executed by both parties.

VI. TERMINATION OF CONTRACT

The City reserves the right to terminate any part of or the entirety of any contract that may result from this proposal, without cause and at any time with thirty (30) calendar days’ written notice. In such a case, the consultant shall be paid for services rendered through the date of the termination notice, and the results of all such work through that date shall become the property of the City.

VII. PROTEST POLICY

Any protest against the solicitation or award must be filed with the City Clerk’s Office by 4:00p.m. up to ten (10) days after award. All such protests shall be in writing and contain the following: 1) Name, address, email address and telephone number of the interested party; 2) Signature of the interested party or its representative; 3) Identification of the purchasing department and Project name; 4) Detailed statement of the legal and factual grounds for protest including copies of relevant documents; and 5) Form of relief requested. Protesting parties must demonstrate as part of their protest that they made every reasonable effort within the schedule and procedures of this solicitation to resolve the basis or bases of their protest during the solicitation process, including asking questions, seeking clarifications, requesting addenda, and otherwise alerting the City to perceived problems so that corrective action could be taken prior to the selection of the successful firms. The

City will not consider any protest based on items which could have been or should have been raised prior to the deadline for submitting questions or requesting addenda. The filing of a protest shall not prevent the City from executing an agreement with any other proposer.

VIII. STANDARD INFORMATION

- A.** In case of default by the bidder, the City of Prescott may procure the items or service from other sources and may deduct from any monies due or that may thereafter become due to the bidder the difference between the price named in the contract or purchase order and the actual cost thereof to the City of Prescott. Prices paid by the City shall be considered the prevailing market price at the time such purchase is made. Periods of performance may be extended if the facts as to the cause of delay justify such extension in the opinion of the Purchasing Division.
- B.** The parties hereto expressly covenant and agree that in the event of a dispute arising from this Agreement, each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties hereby agree to submit to a trial before the Court. Neither party shall be entitled to an award of attorneys' fees, either pursuant to the Contract or any other state or federal statute.
- C.** Brand names are only used for reference to indicate character or quality desired unless otherwise indicated.
- D.** The parties hereto expressly covenant and agree that in the event of a dispute arising from this Agreement, each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties hereby agree to submit to a trial before the Court. The Contractor further agrees that this provision shall be contained in all subcontracts related to the project, which is the subject of this Agreement.
- E.** The parties hereto expressly covenant and agree that in the event of litigation arising from this Agreement, neither party shall be entitled to an award of attorney fees, either pursuant to the Contract, pursuant to ARS Section 12-341.01 (A) and (B), or pursuant to any other state or federal statute, court rule, case law or common law. The Contractor further agrees that this provision shall be contained in all subcontracts related to the project that is the subject of this Agreement.
- F.** In the event of default, neither party shall be liable for incidental, special, or consequential damages.
- G.** This Agreement is non-assignable by the Contractor unless by subcontract, as approved in advance by the City.
- H.** This Agreement shall be construed under the laws of the State of Arizona.

- I.** This Agreement represents the entire and integrated Agreement between the City and the Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the City and the Contractor. Written and signed amendments shall automatically become part of the Agreement, and shall supersede any inconsistent provision therein; provided, however, that any apparent inconsistency shall be resolved, if possible, by construing the provisions as mutually complementary and supplementary.
- J.** In the event any provision of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term, condition, or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.
- K. INDEMNIFICATION:** To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the City, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services 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.
- L.** 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.
- M. Contractor Immigration Warranty (if applicable)**
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. The 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. The 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.

N. Israel: Vendor certifies that it is not currently engaged in and agrees for the duration of this Agreement that it will not engage in a “boycott,” as that term is defined in Ariz. Rev. Stat. § 35-393, of Israel.

O. Force Labor of Ethnic Uyghurs Certification: Pursuant to A.R.S. § 35- 394, Contractor / Supplier certifies that the firm does not currently, and agrees for the duration of the contract that it will not, use:

1. The forced labor of ethnic Uyghurs in the People's Republic of China
2. Any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; and

3. Any Contractor / Supplier subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.

If the Contractor / Supplier becomes aware during the term of the Contract that the company is not in compliance with the written certification, the Firm shall notify the City of Prescott within five business days after becoming aware of the noncompliance. If the Contractor / Supplier does not provide City of Prescott with a written certification that the Company has remedied the noncompliance within 180 days after notifying the City of Prescott of the noncompliance, this Contract terminates, except that if the Contract termination date occurs before the end of the remedy period, the Contract terminates on the Contract termination date.

P. Contracting with small and minority firms, women's business enterprise and labor surplus area firms:

1. The Company will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.
2. Affirmative steps shall include:
 - a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists.
 - b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.
 - c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises.
 - d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises.
 - e. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

Q. 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.

R. 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.



GENERAL SERVICES CONTRACT

Title & Escrow Services

Contract No: ****-***

THIS AGREEMENT made and entered into this ** day of ****, 20**, by and between ** of the City of ** (Company City), County of ** (Company County), State of ** (Company State), hereinafter designated “Vendor/Supplier”, 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 Vendor/Supplier, for and in consideration of the sum to be paid by the City, and of the other covenants and agreements herein contained, and under the penalties expressed in the bonds provided, hereby agrees, for itself, its heirs, executors, administrators, successors and assigns as follows:

ARTICLE I – SCOPE OF WORK: The Vendor/Supplier shall furnish any and all labor, materials, equipment, transportation, utilities, services and facilities, required to perform all work for the project described as City of Prescott: ***Project Name*** in a good workmanlike and substantial manner and to the satisfaction of the City through its Vendors/Suppliers and under the direction and supervision of the Department Director, or his/her properly authorized agents and strictly pursuant to and in conformity with the Plans and Specifications prepared by the Vendor/Suppliers for the City, and with such written modifications of the same and other documents that may be made by the City through the Department Director or his properly authorized agents, as provided herein.

ARTICLE II – CONTRACT DOCUMENTS: The Request for Proposal, Standard Specifications, Addenda, if any, and Proposal as accepted by the Mayor and Council per Council Minutes of ** (Date of Council Meeting approved), 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.

ARTICLE III – TERM of CONTRACT: The initial term of the contract shall be for a period of ** (**) year. The contract may be extended for an additional ** (**) year period up to a total of ** (**) additional years, with the mutual consent of the City of Prescott and Vendor/Supplier. With the renewal of the contract, the price of goods under this contract shall not increase in subsequent years by more than the Consumer Price Index (CPI) for the prior year. Notice of intent to renew with evidence of pricing increase shall be provided by the vendor at least one (1) month prior to normal contract expiration. If renewal results in changes of the terms or conditions, such changes shall be in writing as an amendment to the contract and such amendment shall not become effective until fully executed by both parties.

ARTICLE IV – COMPENSATION: Vendor/Supplier shall be paid, pursuant to the provisions as set forth in the Contract documents, the total sum of ** (Written amount) dollars and no cents (** \$0.00) plus any approved contract amendments, for the full and satisfactory completion of all work as set forth in the Project Specifications and Contract Documents.

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 Vendor/Supplier, 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 Vendor/Supplier 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 VENDOR/SUPPLIER STATUS: It is expressly agreed and understood by and between the parties that the Vendor/Supplier is being retained by the City as an independent contractor, and as such the Vendor/Supplier 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 Vendor/Supplier, the Vendor/Supplier 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 Vendor/Supplier, the Vendor/Supplier 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 Vendor/Supplier, 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 Vendor/Supplier and shall apply to those moneys to the appropriate

account. Vendor/Supplier shall provide to the City any information necessary to determine the total amount(s) due.

ARTICLE X – RIGHT TO ASSURANCE: If the City in good faith has reason to believe that the Vendor/Supplier does not intend to or is unable to perform or continue performing under this Contract, the Public Works Director may demand in writing that the Vendor/Supplier give a written assurance of intent to perform. Failure by the Vendor/Supplier to provide written assurance within the number of Days specified in the demand may, at the City’s option, be the basis for terminating the Contract.

ARTICLE XI – TERMINATION FOR CONVENIENCE: The City reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the City without penalty or recourse. Upon receipt of the written notice, the Vendor/Supplier shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination, and minimize all further costs to the City. In the event of termination under this paragraph, all documents, data, and reports prepared by the Vendor/Supplier under the Contract shall become the property of and be delivered to the City upon demand. The Vendor/Supplier shall be entitled to receive just and equitable compensation for work completed, and materials accepted before the effective date of the termination.

ARTICLE XII – MISCELLANEOUS

- A. The parties hereto expressly covenant and agree that in the event of a dispute arising from this Agreement, each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties hereby agree to submit to a trial before the Court. The Vendor/Supplier further agrees that this provision shall be contained in all subcontracts related to the project, which is the subject of this Agreement.
- B. The parties hereto expressly covenant and agree that in the event of litigation arising from this Agreement, neither party shall be entitled to an award of attorney fees, either pursuant to the Contract, pursuant to ARS Section 12-341.01 (A) and (B), or pursuant to any other state or federal statute, court rule, case law or common law. The Vendor/Supplier further agrees that this provision shall be contained in all subcontracts related to the project that is the subject of this Agreement.
- C. In the event of default, neither party shall be liable for incidental, special, or consequential damages.
- D. Any notices to be given by either party to the other must be in writing, and personally delivered or mailed by prepaid postage, at the following addresses:

City of Prescott	**
201 N Montezuma Street	**
Prescott, AZ 86301	**
contracts@prescott-az.gov	**
- E. This Agreement is non-assignable by the Vendor/Supplier unless by subcontract, as approved in advance by the City.
- F. All invoices shall be emailed to **** **enter in where invoice to be sent.**
- G. This Agreement shall be construed under the laws of the State of Arizona.

- H.** This Agreement represents the entire and integrated Agreement between the City and the Vendor/Supplier and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the City and the Vendor/Supplier. Written and signed amendments shall automatically become part of the Agreement, and shall supersede any inconsistent provision therein; provided, however, that any apparent inconsistency shall be resolved, if possible, by construing the provisions as mutually complementary and supplementary.
- I.** In the event any provision of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term, condition, or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.
- J. INDEMNIFICATION:** To the fullest extent permitted by law, the Vendor/Supplier shall defend, indemnify and hold harmless the City, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of the Vendor/Supplier, its employees, agents, or any tier of subcontractors in the performance of this Contract, Vendor/Supplier'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 Vendor/Supplier or any tier of subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services the Vendor/Supplier may be legally liable.
- K.** 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.
- L. INSURANCE:** Vendor/Supplier and/or 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 Vendor/Supplier, 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 Vendor/Supplier from liabilities that might arise out of the performance of the work under this Contract by the Vendor/Supplier, his agents, representatives, employees, or subcontractors. Vendor/Supplier 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 Vendor/Supplier even if those limits of liability are in excess of those required by this Contract.

**Additional Insured:
City of Prescott
201 N. Montezuma Street
Prescott AZ 86301**

2. The Vendor/Supplier's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

All certificates required by this Contract shall be emailed directly to coi@prescott-az.gov. 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. Any Renewal of insurance certificates with endorsements will need to be emailed to the above emails at least two weeks prior to expiration.

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

Insurance Limit Requirements - Vendor/Supplier 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 (if applicable)
- Personal and Advertising Injury \$ 1,000,000 (if applicable)
- Each Occurrence \$ 1,000,000
- Fire Legal Liability (Damage to Rented Premises) \$ 100,000 (if applicable)

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 Vendor/Supplier".

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 Vendor/Supplier".

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 |

The policy shall contain a waiver of subrogation against the City of Prescott for losses arising from work performed by or on behalf of the Vendor/Supplier.

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 Vendor/Supplier 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.

M. 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. The 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. The 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.

- N. Israel: Vendor certifies that it is not currently engaged in and agrees for the duration of this Agreement that it will not engage in a “boycott,” as that term is defined in Ariz. Rev. Stat. § 35-393, of Israel.
- O. Force Labor of Ethnic Uyghurs Certification: Pursuant to A.R.S. § 35- 394, Vendor/Supplier/ Firm certifies that the firm does not currently, and agrees for the duration of the contract that it will not, use:
 - 1. The forced labor of ethnic Uyghurs in the People's Republic of China
 - 2. Any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; and
 - 3. Any Vendor/Supplier/ Firm, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.

If the Vendor/Supplier/ Firm becomes aware during the term of the Contract that the company is not in compliance with the written certification, the Firm shall notify the City of Prescott within five business days after becoming aware of the noncompliance. If the Vendor/Supplier/ Firm does not provide City of Prescott with a written certification that the Company has remedied the noncompliance within 180 days after notifying the City of Prescott of the noncompliance, this Contract terminates, except that if the Contract

termination date occurs before the end of the remedy period, the Contract terminates on the Contract termination date.

P. Contracting with small and minority firms, women's business enterprise and labor surplus area firms:

3. The Company will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.
4. Affirmative steps shall include:
 - a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists
 - b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.
 - c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises.
 - d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises.
 - e. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

Q. 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.

R. 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.

DATED: _____ day of _____, 20**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement through their duly authorized representatives and bind their respective entities as of the Contract Execution date above.

**Company

City of Prescott, a municipal corporation

(Authorized Signature)

Philip R. Goode, Mayor

By: _____
(Printed Name)

Title: _____

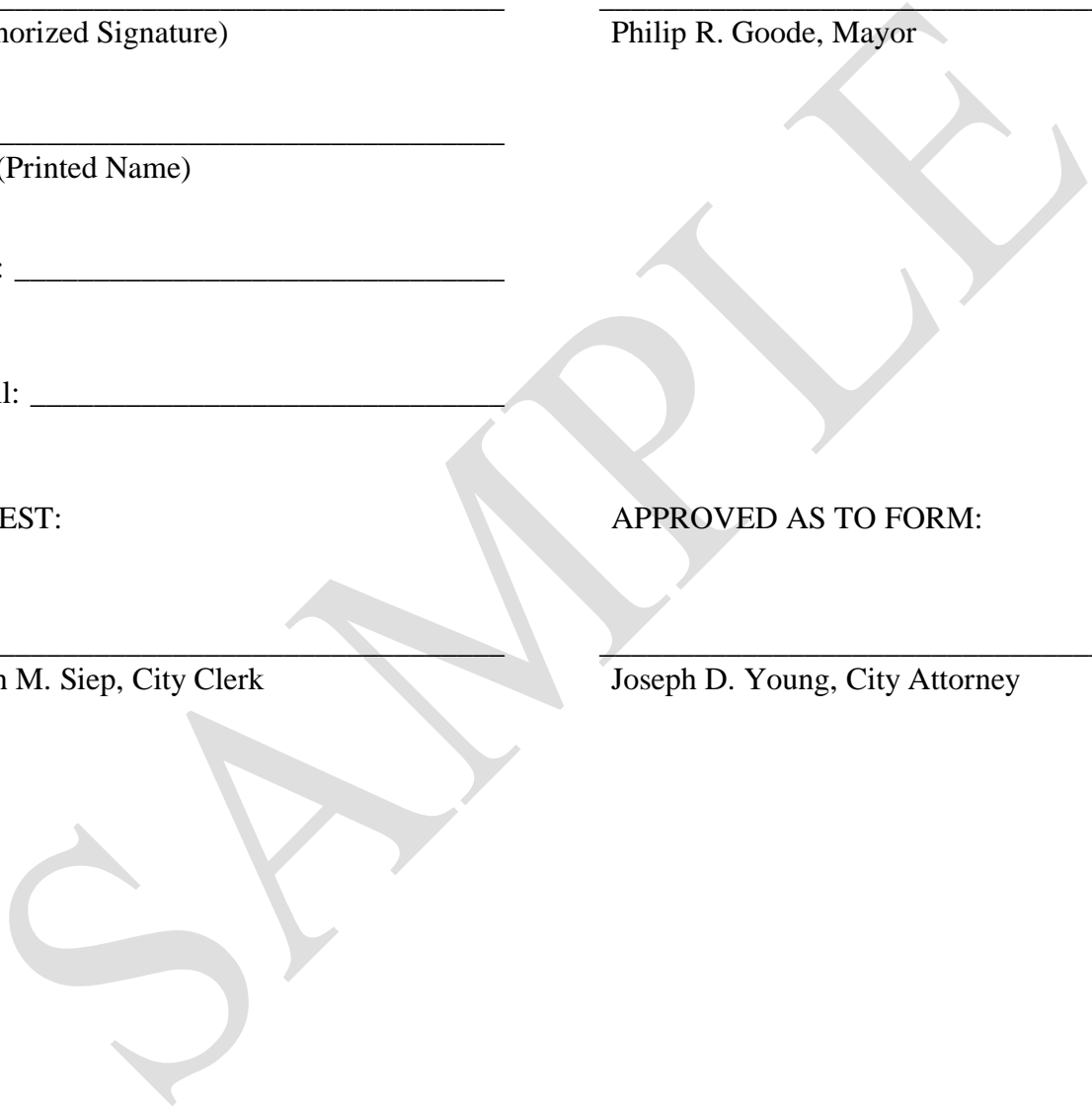
Email: _____

ATTEST:

APPROVED AS TO FORM:

Sarah M. Siep, City Clerk

Joseph D. Young, City Attorney



FORM A - SOLICITATION RESPONSE COVER SHEET



Solicitation Response

Title & Escrow Services

Please note all that apply:

- Addenda Number(s) Received (if any)
- Original Forms A through E
- Flash Drive

Business Name: _____

Business Address: _____

Business Phone: (____) _____

Business Contact: _____

Contact Email: _____

Contractor/Company Comments: _____



Item #	Description	Hourly Rate	Flat Rate
Labor Rates			
1	Preliminary Title Reports "Title Report"		
2	Updated Title Report		
3	Escrow Services - Attach current Escrow table		
4	Original Recorded Documents		
5	Title Insurance Policy		
6	Ownership Report		
7	Additional Research & Analysis for Title Search		
8	Use of Contractor Title Plant		
9	Foreclosure Service		
Attach any additional clarifying pages as needed			

Price Certification

Signature of Company Official

Title

Company Name

Company Address

Email Address

Phone Number

Date

FORM C – BID CERTIFICATION



Title & Escrow Services

Company Name: _____

The undersigned Bidder hereby certifies as follows:

C1 That he/she has read The City of Prescott’s solicitation documents, its appendices and attachments, and the following Addenda, and to the best of his/her knowledge, has complied with the mandatory requirements stated therein.

Addendum

Issue Date

C2 That he/she has had opportunity to ask questions regarding the solicitation, and that such questions having been asked, have been answered by the City.

C3 That the Bidder’s bid consists of the following:

- 1. Form A – Solicitation Response Cover Sheet
- 2. Form B - Price Sheet
- 3. Form C – Bid Certification
- 4. Form D – Non-Collusion Certificate
- 5. Form E – Certificate of Ownership

C4 That the Bidder’s bid is valid for 90 days.

Dated this _____ day of _____ 2024.

Signature

Phone Number

Written Name

Email Address

FORM D – NON-COLLUSION CERTIFICATE



Title & Escrow Services

Company Name: _____

The undersigned Bidder hereby certifies as follows:

To the best of his/her knowledge, the person, firm, association, partnership, or corporation herein, has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive pricing in the preparation and submission of a bid to The City of Prescott for consideration in the award of this solicitation.

Dated this _____ day of _____ 2024.

Signature

Phone Number

Written Name

Email Address

FORM E – CERTIFICATE OF OWNERSHIP



Title & Escrow Services

Company Name: _____

The undersigned Bidder hereby certifies as follows:

To the best of his/her knowledge, the person, firm, association, partnership, or corporation herein, are the only person, firms, corporations, partnerships, or other associations having any direct or indirect financial interest in the Bidder's business as legal or equitable owner, creditor (except current bills for operating expenses), or holder of any security or other evidence of indebtedness.

Dated this _____ day of _____ 2024.

Signature

Phone Number

Written Name

Email Address