



CITY OF FAIRBORN
Neighborhood Betterment Division
44 W. Hebble Avenue
Fairborn, Ohio 45324
937-754-3060 x 2223

***REQUEST FOR PROPOSAL/QUALIFICATIONS
TO CONDUCT
RESIDENTIAL AND COMMERCIAL PROPERTY TITLE SEARCHES***

The City of Fairborn intends to contract with an Real Estate Title Agency for a two (2) year term beginning in Fiscal Year 2019 to assist in ensuring proper title is verified when completing rehabilitations, acquisitions, demolitions utilizing Community Development Block Grant Program, Community Housing Impact and Preservation Program, City funds and any other grants/funds.

Scope of Work:

The agency shall be well versed in the following areas:

- Thorough knowledge of Chapter 3953 of the Ohio Revised Code – Title Insurance; Chapter 3905 of the Ohio Revised Code - Insurance Producers Licensing Act
- Title insurance agents shall be licensed in the manner provided for agents of insurance companies in Chapter 3905 of the Revised Code
- Responding to comments received as a result of said title search

Procurement

Proposals shall meet and address all Federal, Ohio and local procurement laws, regulations, policies and procedures.

This is the Procurement by Competitive Request for Proposal/Qualifications.

The availability for the RFP/RFQ shall be publicized as follows:

- Notice shall be published once a week for not less than two consecutive weeks preceding the day of the opening of bids in a newspaper of general circulation within the city
- Notice shall be posted by all electronic means, including posting on the City's website
- Notice will be sent to all entities who have requested to be notified
- Sent to any agency who has had a prior relationship with the City

Proposals shall be submitted in sealed envelopes, properly identified with the proposer's name, proposal opening date, and a statement that it is a sealed proposal covering the material or services for which the proposal is submitted.

Proposals shall be submitted by May 3, 2019 @ 2:00 p.m. to:

City of Fairborn
Development Services Department
44 W. Hebble Drive
Fairborn, Ohio 45324
937-754-3060 x 2223
missy.frost@fairbornoh.gov
www.fairbornoh.gov

City of Fairborn reserves the right to require any proposer to make an oral presentation of their proposals. Proposer shall be prepared to conduct an interview before firm selection has been made to assist the City in determining the most qualified candidate for the contract.

The City reserves the right to contact and/or visit any or all references or clients or the main or secondary offices of the proposer as listed in the proposal.

The original proposal must be submitted in hard copy and faxed or emailed copies shall not suffice.

The cover letter shall also state the amount of time required from notification to proceed (contract signing) to start-up.

These activities will be funded with federal funds from the Housing and Urban Development Agency - Community Development Block Grant Program, State of Ohio Community Housing and Impact and Preservation Program and any other funding source secured by the City.

Each bidder must insure that all employees and applicants for employment are not discriminated against because of race, color, religion, handicap, age, familial status, sex or national origin.

Proposals shall be accompanied by a cover letter on letterhead, signed by an officer of the proposing entity, which shall state that the information within the proposal is accurate and complete.

Proposals shall include rates for Full Coverage and Limited coverage searches.

Proposals shall include timeline for completion of each area of knowledge and performance specified above.

Proposals shall demonstrate that their entity is financially stable and well managed, and fiscally and technically capable of providing the services required by City. Proposers shall provide a brief history and description of the entity an annual report if one is available, and identify the legal status of their entity.

Proposals shall state if the entity has ever defaulted on a contract, if the entity has ever had a contract prematurely terminated, or if there are any legal actions currently against them or anticipated to be against them. The proposal shall describe the reasons for such actions.

Proposals shall state if the proposer has initiated any legal actions against a past, current or potential entity with whom it has, does or intended to do provided service. The proposer shall describe the reasons for such actions.

Proposals shall describe the qualifications of their entity, including the proposed project staffing, experience with similar projects, reference contacts, and all clients for the last one (1) year.

Proposals shall provide a resume/work history of key personnel to be assigned to this project.

Proposals shall include all applicable copies of certifications and licensures applicable to perform required projects listed in the Scope of Work.

Proposals should include proof of Liability Insurance coverage of \$1,000,000 for any single occurrence and \$3,000,000 in the aggregate.

The contents of the RFP/RFQ shall not be altered or embellished by the proposer. The City of Fairborn may amend and correct the RFP/RFQ before proposals are due.

The City may consider proposed exceptions to the RFP/RFQ, in order to obtain better proposals and services. Any proposed exceptions shall be accompanied by a plan and schedule showing why the proposer requests those exceptions and how the proposer will accomplish the desired service. All specifications of the RFP/RFQ must be addressed and cost out. However, a proposer may also propose an alternative approach to the topic.

No proposal shall be corrected or modified by the Proposer after it has been submitted to the City of Fairborn. The City, in its review of proposals submitted, may elect to make corrections for non-judgmental mistakes made by the proposer that the City identifies in the proposals submitted. All such corrections shall be communicated to the proposer and the City of Fairborn will provide the opportunity for the proposer to ratify the non-judgmental mistakes that are corrected by the City. A proposer may withdraw their proposal any time prior to the award of a contract.

The City reserves the right to reject any proposal in which the offeror takes exception to the terms and conditions of the request for proposals; fails to meet the terms and conditions of the request for proposals, including but not limited to, the standards, specifications, and requirements specified in the request for proposals; or submits prices that the contracting authority considers to be excessive, compared to existing market conditions, or determines exceed the available funds of the contracting authority.

The City reserves the right to reject, in whole or in part, any proposal that the City of Fairborn has determined, using the factors and criteria indicated would not be in the best interest of the city.

All proposals submitted shall be held by the City of Fairborn in the strictest confidence during the pendency of the bid award process and any and all proposals shall not be considered public record pursuant to Ohio Revised Code §149.43 [R.C. §307.862 (B) (10)(b)(c)].

The City of Fairborn shall evaluate and score all proposals that meet the specifications of the RFP/RFQ. Employees responsible for activities within the City shall evaluate each proposal independently of each other. After each employee has scored the proposals, they shall meet to review each other's evaluations. They shall then rank the proposals from highest to lowest score.

The City of Fairborn may award a contract to the proposer whose proposal is determined to be the lowest and best, taking into consideration the evaluation factors and criteria outlined above and set forth in the RFP/RFQ. The contracting authority may award a contract in whole or in part to one or more proposers. The City of Fairborn shall include a written statement in the contract file stating the basis on which the award is made.

The contract document to be executed by the successful proposer shall constitute an offer by the successful proposer to contract with the City of Fairborn to provide services outlined in the RFP/RFQ. Such a contract document shall neither be accepted nor binding until the City of Fairborn has approved and signed said contract.

Questions concerning this RFP/RFQ may be addressed to Missy Frost, Development Services Assistant Director, at 937-754-3060 x 2223 or missy.frost@fairbornoh.gov Monday-Friday 8:00-5:00 p.m.

Evaluation

The City of Fairborn shall score and evaluate the proposals using the following criteria and maximum points not to exceed 95. The evaluation form is included for your review as well.

A. Individual Qualifications – 30 points

- Number of years the agency has been in business
- Educational background of key personnel
- Public sector experience of key personnel

B. Performance – 45 points

- Positive references from past employers
- Projects completed in timely manner and within budget

C. Past Performance for the Public Authority – 10 points

- An analysis of past services performed for the public authority

D. Affirmative Action – 10 points

Affirmative action points may be awarded to small businesses and businesses owned or controlled by socially and/or economically disadvantaged groups

Generally, a small business is considered to be any business with less than 100 employees with an annual volume of less than \$1M.

A minority owned business is any business where at least one or more disadvantaged groups hold 51% of the ownership.

A minority-controlled business is any business where at least one or more disadvantaged group hold 51% of the stock ownership.

The traditional minority groups are

- *Black Americans*
- *Hispanic Americans*
- *Native Americans – including American Indians and Eskimos Aleuts*
- *Asian-Pacific Americans – including U.S. Citizens whose origins are from Japan, China, Philippines, Vietnam, Korea, Samoa, Guam, U.S. Trust Territories of Pacific, Northern Mariana's, Laos, Cambodia and Taiwan*

A female owned business is any business where at least females hold 51% of the ownership.

A female controlled business is any business where at least 51% of the stock ownership is held by females.

In order to claim the affirmative action points, the proposer must explain the basis of their eligibility.

These definitions are not necessarily all-inclusive.

The City of Fairborn reserves the right to reject any or all proposals in which the offeror takes exception to the terms and conditions of the request for proposals; fails to meet the terms and conditions of the request for proposal, including but not limited to, the standards, specifications, and requirements specified in the request for proposals; or submits prices that the contracting authority considers to be excessive, compared to existing market conditions, or determines exceed the available funds of the contracting authority.

The City of Fairborn also reserves the right to waive minor irregularities or other items in any bidder's proposal that are not fully compliant so long as the waiver applies to all proposals or bids received, or is an irregularity or other instance of non-compliance the waiver of which would not work an undue hardship on any other proposer nor would constitute an unfair advantage to the bidder who is seeking the waiver.

The contract to be awarded to the successful proposer shall be a firm fixed price contract, based on the assumptions in the RFP/RFQ. The contract shall not be considered a cost-plus contract or any other type of reimbursement.

Contract Language, Certifications and Assurances

The proposer agrees to adhere to the following federal and state requirements in order for the proposal to be complete, responsive and qualified.

- 1) *Scope of Work* – The successful proposer shall perform the work described in Scope of Work, attached hereto and incorporated herein, during the term of this contract and any extension thereto. The successful proposer shall conform to all the other terms of the RFP/RFQ. The contract resulting from the RFP/RFQ, as amended, and the proposal submitted, as amended, shall constitute the entire agreement between the City of Fairborn and the successful proposer, except outlines below in “Other Agreements”. There shall be no verbal agreements or understandings.
- 2) *Other Agreements* – The parties hereto have entered into no other agreements (hereinafter referred to as “Other Agreements”) at this time.
- 3) *Order of Precedence* – In the event of a conflict between portions of the contract resulting from the RFP/RFQ, the following order of precedence shall be used:
 - a. Amendments to the contract
 - b. The Other Agreements
 - c. The Contract
 - d. The RFP/RFQ
 - e. The Proposal

The proposal submitted shall be included by reference as part of the resulting contract. Any part of the proposal that conflicts with the resulting contract shall be superseded by the resulting contract.

- 4) *Term* – The term of this contract shall be for the period specified in the RFP/RFQ.
- 5) *Termination* - This Agreement may be terminated by the unilateral action of the Board by providing thirty (30) days' written notice to proposer of election to terminate, or if the City of Fairborn, or any other state or federal entity whose monies are necessary to fund the work contemplated under this Agreement, including those of the Intended Third Party Beneficiary fails to appropriate funds for any part of the work contemplated under this Agreement.

Under these circumstances for termination due to lack of funding, Proposer, upon receipt of such notice from the City, will immediately cease any and all work pursuant to this Agreement or the

Scope of Work. Proposer will be eligible to collect for any and all work already completed or provided prior to receipt of such notice to terminate, under a theory of quantum meruit. Proposer may terminate this Agreement with thirty (30) day notice to the City. Either party may terminate this Agreement immediately if either party believes they are being requested to perform any act(s) or any failure to act(s) that is in violation of Office of Community Development (OCD), Housing & Urban Development (HUD) regulations, or local governmental laws, rules and/or regulations.

If either party fails to perform any of the requirements of this Agreement, or is in violation of a specific provision of this Agreement, then the non-breaching party may suspend or terminate this Agreement if the breaching party fails to cure such non-performance or violation within ten (10) business days following delivery of written notice of any such breach.

- 6) *Subcontracting, Subletting or Assignment of Contract* – The successful proposer may not subcontract with other entities to deliver the services in the RFP/RFQ, however, the successful proposer may subcontract out with firms to deliver such services as specialized copying, bookkeeping, etc. that are not directly related to the conceptual study. The choice of a subcontractor(s) will have to be approved in writing by the City of Fairborn prior to subcontracting and shall meet all Federal and State requirements. All such subcontracts shall be in the same form as the contract and subject to the same terms, conditions, and covenants contained therein. No such subcontracts shall in any case release the successful proposer of its liability under this contract. The successful proposer shall be responsible for making direct payment for such services. There shall be no assignment of the contract without the written approval of the City of Fairborn.
- 7) *Independent Contractor* – The proposer declares that they are engaged as an independent business and has complied, and will continue to comply during the terms of this Agreement with all federal, state and local laws regarding business permits and licenses of any kind, including but not limited to, any insurance coverage that is required in the normal course of business, as well as any specialized insurance that is specified herein, and that may be required to carry out its business and perform under the terms of this Agreement.

Proposer declares that they are engaged in the same or similar activities for other clients or customers, or that he is free to do so, and that the Board is not his sole, only, and/or exclusive client or customer.

- 8) *Conflict of Interest* - No personnel of proposer or member of the governing body of the City, the Intended Third Party Beneficiary or any locality or other public official, elected official, or employee of any such entity in which, or relating to which, the work under this Agreement is being carried out, and who exercises any functions or responsibilities in connection with the review or approval of the understanding or carrying out of any such work, shall, prior to the completion of said work, voluntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of said work.

Any such person who acquires an incompatible or conflicting personal interest, on or after the effective date of this Agreement, or who involuntarily acquires any such incompatible or conflicting personal interest, shall immediately disclose his or her interest to the City in writing. Thereafter, he or she shall not participate in any action affecting the work under this Agreement, unless the City shall determine that, in light of the personal interest disclosed, his or her participation in any such action not be contrary to the public interest, or in contravention of any provision of the Ohio Revised Code dealing with public contracts or general ethical prohibitions.

- 9) *Insurance* - Proposer shall provide The City with proof of general liability insurance in coverage amounts not less than One Million (\$1,000,000.00) Dollars per occurrence and Three Million (\$3,000,000.00) Dollars in the aggregate. Such general liability insurance shall provide coverage for services to be performed under the terms of this Agreement. Proposer shall immediately notify the Board of any changes in coverage during the term of this Agreement, including name of provider, amounts, essential terms affecting the services to be performed under this Agreement, and of any lapses in such coverage. Proposer's Certificate of General Liability Insurance shall be attached to final contract.

If operation of an automobile occurs in commencement of services by the performance of this Agreement, then automobile liability insurance shall be mandatory in the amount of \$1,000,000.00 per occurrence and \$3,000,000.00 in the aggregate.

During the performance of this Agreement, Proposer shall keep in full force Workers' Compensation Insurance. A copy of the documentation evidencing said coverage shall be furnished to the City upon request.

The City shall be named as an additional insured and proposer shall provide The City with insurance certificates providing a minimum of \$1,000,000.00 coverage per incident and a minimum of \$3,000,000.00 in the aggregate.

Proposer shall furnish to the City a Certificate of Insurance certifying the above types and minimum amounts of insurance. Said certificate shall include a Notice of Cancellation clause with notification being sent 30 days prior to cancellation to the City office. Cancellation of insurance will constitute a default, which if not remedied within the 30 days notification period shall cause immediate termination of the Agreement.

- 10) *Responsibility for Claims* - Proposer agrees to indemnify and shall hold the City and the Intended Third Party Beneficiary harmless from any and all claims for personal injury or property damage resulting from the fault or negligence of proposer and from claim for wages or overtime compensation due itself or its employees in rendering services pursuant to this Agreement, including payment of all costs in defense of any claim under the Fair Labor Standards Act, as amended, or any other federal or state law. When applicable, proposer shall reimburse the Board or the Intended Third Beneficiaries for any judgments for infringement of patent or copyright rights and agrees to defend against any such claims or legal actions if called upon by the City or the Intended Third Party Beneficiary to do so.

Proposer shall, at his own cost and expense, procure, provide and maintain proof of insurance during the term of this Agreement protecting himself, the City, the Intended Third Party Beneficiary, and all of its officers, agents, and employees against any loss, liability, or other expense whatsoever for personal injury, death, property damages, or any other cause of action whatsoever resulting from the performance of proposer's duties under the terms of this Agreement.

- 11) *Recordkeeping* – Proposer shall keep all financial records in a manner consistent with generally accepted accounting principles. Documentation to support each action shall be filed in a manner allowing it to be readily located.

Proposer shall keep separate business records for this project, including records of disbursements

made and obligations incurred in the performance of this Agreement which records shall be supported by the contracts, invoices, vouchers and other data as appropriate.

- 12) *Reserved Rights, and rights in data, copyrights, discovery and invention/patent rights* - The parties further agree that it is their respective and collective intent in the formation of this Agreement to confer no rights or privileges upon any third parties except the Intended Third Party Beneficiary named herein, whether labeled intended or unintended third party beneficiaries, assignees of rights, or delegates of duties, including without limitation, any individual, corporation, other unincorporated business association, or political subdivision, or agency, City, board, commission, system, or service of the State of Ohio or of the United States.

The sole exception to this exclusion of the creation of rights in any third party beneficiary, assignees of rights or delegates of duties may involve non-parties to this Agreement who constitute a City, division, agency, board, commission, or political subdivision of Greene County, Ohio.

If applicable, Proposer shall deliver, assign, transfer and convey to the City or its authorized representatives, specifically to include employees of the City of Fairborn (hereinafter “Intended Third Party Beneficiary”), all rights, title to, and interest in all documents, data, materials, information, processes, studies, reports, surveys, proposals, plans, codes, scientific information, regulations, maps, equipment, charts, schedules, photographs, exhibits, software, software source code, documentation and other materials and property prepared or developed or created or discovered under or in connection with this Agreement (the “Deliverables”).

- 13) *Compliance with applicable laws, regulations, etc.* - Proposer agrees to comply with all applicable federal, state and local laws in the conduct of the work hereunder. Proposer and its employees are not employees of the City or employees of the Intended Third Party Beneficiary with regard to the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code and for state revenue and tax laws, state workers’ compensation laws and state unemployment insurance laws. Proposer accepts full responsibility for payment of all taxes including without limitation, unemployment compensation insurance premiums, all income tax deductions, social security deductions, and any and all other taxes or payroll deductions required for all employees engaged by Proposer in the performance of the work authorized by this Agreement. The City and the Intended Third Party Beneficiary shall not be liable for any taxes under this Agreement.

In no event shall the City or the Intended Third Party beneficiary be liable for any indirect or consequential damages, including loss of profits, even if the Board had been advised, or knew or should have known of the possibility of such damages.

Notwithstanding any language to the contrary, Proposer shall be liable for any personal injury or damages to real property or tangible personal property, caused by its fault or negligence.

- 14) *Conflict of Interest* - No personnel of proposer or member of the governing body of the City, the Intended Third Party Beneficiary or any locality or other public official, elected official, or employee of any such entity in which, or relating to which, the work under this Agreement is being carried out, and who exercises any functions or responsibilities in connection with the review or approval of the understanding or carrying out of any such work, shall, prior to the completion of said work, voluntarily acquire any personal interest, direct or indirect, which is incompatible or in

conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of said work.

Any such person who acquires an incompatible or conflicting personal interest, on or after the effective date of this Agreement, or who involuntarily acquires any such incompatible or conflicting personal interest, shall immediately disclose his or her interest to the City in writing. Thereafter, he or she shall not participate in any action affecting the work under this Agreement, unless the City shall determine that, in light of the personal interest disclosed, his or her participation in any such action not be contrary to the public interest, or in contravention of any provision of the Ohio Revised Code dealing with public contracts or general ethical prohibitions.

- 15) *Equal Employment Opportunity* - In carrying out this Agreement, proposer shall not discriminate against any employee or applicant for employment because of and shall ensure that applicants are hired and that employees are treated during employment without regard to race, religion, color, sex, national origin, disability, age, or Vietnam-era veteran status subject to Executive Order 11246, Section 202 Equal Opportunity Clause. Such action shall include, but not limited to the following: Employment, Upgrading, Demotion or Transfer; Recruitment or Recruitment Advertising; Layoff or Termination; Rates of Pay or other forms of compensation; and Selection for Training including Apprenticeship.

Proposer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause and shall, in all solicitations or advertisements for employees placed by or on its behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin, disability, age or Vietnam-era veteran status. Proposer shall incorporate the foregoing requirements of this paragraph in all of its agreements for any of the work prescribed herein and will require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work.

- 16) *Accessibility of program for handicapped individuals* - The successful proposer shall agree to comply with Section 504 of the Rehabilitation Act of 1973, as amended (20 USC 794), and the Americans with Disabilities Act, and all requirements imposed by the interpretations issued pursuant thereto. The successful proposer shall ensure that no person, by sole reason of his/her disability, may be denied participation in, or benefits of, the successful proposer's services financed wholly or in part, by federal funds.
- 17) *Title VI of the Civil Rights Act of 1964* – In accordance with the Title VI of the Civil Rights Act, as amended, Section 202 of the American's with Disabilities Act of 1990, the successful proposer shall agree that it will not discriminate against any employee or applicant for employment because of race, color, national origin, familial status, religion, or disability.

The successful proposer shall ensure that neither it nor any other units planned for participation in the activities to be funded hereunder, are listed on the debarred list due to violations of Title VI or VII of the Civil Rights Act of 1964, nor are any proposed parties to this contract, or any subcontract resulting therefrom, aware of any pending action which might result in such debarment. The successful proposer shall ensure no person, on the grounds of race, color, nations origin or sex be excluded from participation in, or denied the benefits of, or be subject to discrimination under any project, program or activity funded in whole or in part by the City of Fairborn.

- 18) *Employment Provision* – The successful proposer shall comply with any regulations dealing with: minimum wage and maximum hour provisions for the Fair Labor Standards Act, Contract Work Hours and Safety Standards Act, labor provisions of non-construction contracts, Davis-Bacon Act, and the Immigration Reform and Control Act of 1986.
- 19) *Environmental Consideration* – The successful proposer shall comply with all applicable Federal, State and local environmental regulations (including those dealing with water pollution, air quality, noise, fish and wildlife, historic/prehistoric socioeconomic, wetland, biological, flood plain, parks, traffic, energy conservation and other) dealing with capital and operating projects.
- 20) *Delinquent Taxes and Finding for Recovery* – The successful proposer shall certify that it is not charged with delinquent personal property taxes on the general tax list of personal property of Greene County or any other location that it does or has done business. In addition, the successful proposer shall certify that it is not subject to any unresolved findings for recovery issued by the Auditor of the State of Ohio.
- 21) *Force Majeure* – The successful proposer shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by a cause beyond its control, including, but not limited to: any incidence of fire, flood, or strike; acts of God; acts of the Government; war or civil disorder; violence or the threat thereof; severe weather; commandeering of material products, plants, or facilities by the federal, state or local government or fuel shortage.
- 22) *Choice of Law and Choice of Forum* – The proposer agrees that any and all disputes under the terms of this contract will be governed by the laws of the State of Ohio, notwithstanding any other applicable choice of law provisions that may apply. The proposer further agrees that any litigation initiated by the proposer under the terms of this contract shall be filed exclusively within the state courts of City of Fairborn, Ohio or alternatively, in the United States District Court for the Southern District of Ohio, Western Division at Dayton, Ohio.