

**Scope of Work for  
Title Search and Closing Services for NRCS's Easement Programs**

**I. OBJECTIVE**

The objective of this blanket purchase arrangement (BPA) is to obtain [Identify area to be covered by the BPA] title search, preliminary title commitment, final title policy, and closing services for acquisitions of program easements on behalf of the United States of America, acting by and through the Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture (USDA).

**II. BACKGROUND**

The Agricultural Conservation Easement Program Wetland Reserve Easement component (ACEP-WRE), the Wetlands Reserve Program (WRP), Emergency Watershed Protection Program - Floodplain Easements (EWPP-FPE), and the Healthy Forest Reserve Program (HFRP) authorize the acquisition of conservation easements from willing landowners for the purpose of restoring and protecting wetlands, floodplains, grasslands, or forest lands. NRCS is the lead USDA agency that is charged with administering these programs.

**III. SCOPE**

The contractor must coordinate and facilitate the following services:

1. Obtaining and updating chain of title, including copies of all instruments that created rights, interests, or encumbrances on the property.
2. Providing easement boundary and ingress and egress descriptions.
3. Providing preliminary title commitments and issuing final title insurance policies.
4. Obtaining signatures on warranty easement deeds provided by NRCS.
5. Obtaining signatures on subordination agreements and limited lien waivers.
6. Working with landowners to clear exceptions on title to the property.
7. Other services, as necessary, to finalize the easement transaction.

The contractor will perform the same services as in a commercial transaction, including obtaining and recording deeds, and any necessary curative instruments to ensure merchantable, insurable title to the easement area in the name of the United States of America.

**IV. STANDARDS AND RESPONSIBILITIES**

The contractor must acknowledge that it will comply with all of the requirements set forth in Exhibit A hereto, "Closing Agent Requirements."

The contractor is responsible for having up-to-date knowledge of the requirements of the State's laws on title searches, closing real estate transactions, and title clearance. The title insurance company and its issuing agents must be on the U.S. attorney general's list of approved companies and must comply with the State's laws, including title insurance reserves requirements. The contractor must be licensed to do title insurance business in [Name of State or States]. The title insurance company must be approved by the State's insurance commissioner.

The contractor will provide evidence of at least \$1 million in liability insurance coverage for errors and omissions or provide an indemnification agreement from the title insurance for which the contractor will close the transaction or transactions, satisfactory to the NRCS, providing for reimbursement to NRCS for any loss caused by fraud or dishonesty, or for failure by the attorneys, agents, or employees of the contractor to comply with NRCS's written closing instructions. The American Land Title Association (ALTA) closing protection letter, revised on April 2, 2014, is satisfactory to meet this condition of responsibility. Evidence of liability must be provided prior to award.

## **V. DESCRIPTION OF SERVICES**

The contractor must obtain the following:

1. Copies of all instruments that created rights, interests, or encumbrances on the proposed easement property
2. A chain of title, including all deeds referenced in the chain of title
3. Preliminary title commitment, which must cover both the easement area and access for ingress and egress, and must commit to issuing the final title policy to the "United States of America" on the ALTA U.S. Policy Form 9-28-91 (Revised 12/3/2012).

The title search will be for a sufficient period of time for the title company to insure the title without objectionable exceptions and will determine all owners of record, outstanding mortgages, liens, judgments or pending suits, outstanding tax claims, easements, or rights-of-way of any type, including oil, gas, and mineral interests that have been severed, and any other exceptions that may cloud the title of the easement to be purchased. Title search services must be provided within 15 business days of receiving the request from NRCS. The contractor will be provided with the name and address of the landowner, a copy of the deed, a location map of proposed easement area, and access.

Upon NRCS's receipt of the preliminary title commitment, NRCS will review the documents and consult with the contractor regarding title issues that must be cleared. If NRCS makes an offer of enrollment to the landowner and the landowner signs the NRCS Agreement to enter into the applicable NRCS easement program, NRCS will then obtain a legal boundary survey of the proposed easement area and access route. Once the survey plat has been completed, it will be provided to the contractor for his or her use in

developing the final legal easement boundary description and access description to be attached as exhibits to the warranty easement deed.

The contractor will be required to obtain the execution of such items as releases, full or partial satisfactions of mortgages, subordinations, lien waivers, affidavits of material men's liens, child support, and various types of releases of encumbrances on the property. Upon completion, the contractor will forward the following documents to the NRCS State office:

1. Chain of title, including copies of all deeds referred to in the title chain
2. Subordination agreements, limited lien waivers, or other documentation, as applicable
3. Title commitment (original plus one copy)
4. Warranty easement deed (ready for execution)

Upon receipt of those documents, NRCS will forward the preliminary title commitment and other related documentation to its Office of General Counsel (OGC) for a preliminary title opinion (PTO). If any outstanding issues remain, NRCS will work with OGC to determine which exceptions are acceptable and which must be cured. NRCS will provide the NRCS closing instructions and a copy of the OGC PTO identifying the requirements that must be met before the easement can be closed. **The contractor will not close any transaction or record deeds or other instruments prior to receiving the OGC PTO and NRCS closing instructions letter.**

The contractor is required to close within 30 calendar days of receipt of the Federal funds from the U.S Treasury by electronic funds transfer. The closing services will be performed in the town office of the town in which the easement is located, unless the contractor and landowner agree to a different location. The contractor must record the warranty easement deed within 5 business days of closing.

The contractor will close the transaction, record the deeds and other instruments as necessary, and ensure that the following have occurred:

1. No new encumbrances have been recorded against the subject property since the date of the title commitment. If any new encumbrances have been recorded against the subject property since the date of the title commitment, the contractor will immediately notify the NRCS Assistant State Conservationist for Programs and will not proceed until further instructions are received.
2. Receipt, execution, and recordation of the warranty easement deed signed by the landowner.
3. All exceptions required to be removed, released, subordinated, waived, or otherwise handled, as set forth in the OGC's PTO, have been completed and the applicable clearance documents recorded. All other requirements in the PTO and closing instructions have been met.

4. All taxes, assessments, etc., are paid to the date that the warranty easement deed is recorded.
5. The contractor must ensure compliance with any listed title commitment or binder requirements.

The contractor will return the following package to NRCS within 5 business days of receipt of recorded documents from the town clerk's office:

1. The invoice covering the agreed-upon costs incurred for services provided, for which the contractor will be paid a flat fee for services rendered, including all travel expenses, copy costs, telephone charges, and the like. The contractor will provide documentation for reimbursable expenses, such as title insurance fees and recording costs.
2. Policy of title insurance (original and one copy): ALTA U.S. Policy Form 9-28-91 (Revised 12/3/2012) must be used, naming the United States of America, as insured for the purchase price as of the date and time of the warranty easement deed's recording to the United States of America. The policy of title insurance will be free and clear of any and all encumbrances (exceptions) to the title, except those shown as acceptable in the OGC's PTO.
3. The original, recorded copy and one copy of the warranty easement deed to the United States of America.
4. Certified copies of any title clearance documents showing the recordation date.

Upon receipt of the final documents, NRCS will obtain a final title opinion (FTO) from the OGC. If the FTO identifies issues that were not resolved by the contractor in accordance with the OGC PTO and NRCS closing instructions, NRCS will notify the contractor of required remedies. Upon receipt of an OGC FTO indicating that all OGC PTO and NRCS closing instruction requirements have been met, NRCS will process the contractor's payment for closing services.

## **VI. CONFLICT OF INTEREST**

The contractor will not close on an easement purchase for a spouse, children, partners, or business associates, and must not have a financial interest in the real estate covered by the proposed easement.

## **VII. AUTHORITY**

Only the NRCS contracting officers may place orders under this BPA. Any modifications or questions may be directed to the originating contracting officer.

### **VIII. NONDISCLOSURE**

Work performance required by this scope of work will involve access to potentially sensitive information about governmental and landowner issues. All contractor personnel must comply with the terms of AGAR 452.224-70, "Confidentiality of Information," as well as provisions of the Privacy Act of 1974, 5 U.S.C. Section 552a. Additionally, the contractor personnel must comply with the NRCS guidelines and requirements regarding the disclosure of personal information protected under section 1244 of the Food Security Act of 1985, as amended (16 U.S.C. Section 3844), and information protected under section 1619 of the Food, Conservation, and Energy Act of 2008 (Public Law 110-246), 7 U.S.C. Section 8791.

### **IX. CIVIL RIGHTS AND PROGRAM DELIVERY**

By signing this agreement, the contractor assures the Department of Agriculture that the program or activities provided for under this agreement will be conducted in compliance with all applicable Federal civil rights laws, rules, regulations, and policies.

### **EXHIBIT A**

ATTACH: NRCS CLOSING AGENT REQUIREMENTS