

## **REQUEST FOR PROPOSAL**

Proposals will be received by the City of Topeka, Kansas at the Contracts & Procurement Office until **2:00 PM**, local time, **August 13, 2010**, for the purpose of furnishing

### **HOUSING AND NEIGHBORHOOD DEVELOPMENT**

#### **PHASE II ARCHEOLOGICAL SURVEY**

#### **OF THE PROPERTY LOCATED AT**

#### **2303 SE PENNSYLVANIA AVENUE**

#### **TOPEKA, KS**

Those wishing to submit proposals may obtain them by contacting the Contracts & Procurement Division, 215 SE 7th Street, Basement, Room 60, Topeka, KS 66603-3983, phone 785.368.3749, fax 785.368.4499 or on the internet at [www.topeka.org](http://www.topeka.org) - For Business - Bid Opportunities - Formal/Informal Bid Requests.

### **Read This Request Carefully**

Failure to abide by all of the conditions of this request may result in the rejection of a proposal. Inquiries about this request should indicate the RFP number and be directed to the Buyer. Return in a sealed envelope or other container only the signature page and bid forms no later than the closing date indicated above. Retain the remaining documents for your reference.

RFP #HND-100-10-P

**SIGNATURE SHEET**

**Item:** PHASE II ARCHEOLOGICAL SURVEY OF THE PROPERTY LOCATED AT 2303 SE PENNSYLVANIA AVENUE, TOPEKA, KS

We submit a proposal to furnish requirements during the contract period in accordance with the specifications and Schedule of Supplies. **I hereby certify that I (we) do not have any substantial conflict of interest sufficient to influence the bidding process on this bid. A conflict of substantial interest is one which a reasonable person would think would compromise the open competitive bid process.**

Addenda: The undersigned acknowledges receipt of the following addenda:

#1 (\_\_\_\_) #2 (\_\_\_\_) #3 (\_\_\_\_) None (\_\_\_\_)

Legal Name of Person, Firm or Corporation \_\_\_\_\_

Telephone (800) \_\_\_\_\_ Local (\_\_\_\_) \_\_\_\_\_ Fax (\_\_\_\_) \_\_\_\_\_

E-Mail \_\_\_\_\_

Address \_\_\_\_\_

City & State \_\_\_\_\_ Zip Code \_\_\_\_\_

Social Security Number (SSN) or Federal Employee Identification Number (FEIN) \_\_\_\_\_

Business Status: Disadvantaged Business Enterprise [DBE] (\_\_\_\_) Other (\_\_\_\_)

Signature \_\_\_\_\_ Date \_\_\_\_\_

Typed Name of Signature \_\_\_\_\_ Title \_\_\_\_\_

If awarded a contract and purchase orders are to be directed to an address other than above, indicate mailing address and telephone number below:

Address \_\_\_\_\_

City & State \_\_\_\_\_ Zip Code \_\_\_\_\_

Telephone (800) \_\_\_\_\_ Local (\_\_\_\_) \_\_\_\_\_ Fax (\_\_\_\_) \_\_\_\_\_

E-Mail \_\_\_\_\_

**SECTION I  
CONDITIONS TO BIDDING**

- 1.1 **Proposal Reference Number:** The above-number has been assigned to this Request and **MUST** be shown on all correspondence or other documents associated with this Request and **MUST** be referred to in all verbal communications. **The single point of contact for all inquiries, written or verbal requests, shall be directed to:**

City of Topeka  
Contracts and Procurement Division  
ATTN: Jay Oyler  
215 SE 7<sup>th</sup> Street, Basement, Room 60  
Topeka, KS 66603-3983  
Phone 785.368.3749 [Joyler@topeka.org](mailto:Joyler@topeka.org)

**No communication is to be had with any other City employee regarding this Request except:**

Designated city participants in attendance **ONLY DURING:**

Negotiations  
Contract Signing  
as otherwise specified in this Request.

Violations of this provision may result in the rejection of a vendor's proposal.

- 1.2 **Negotiated Procurement:** The City reserves the right to negotiate this proposal. Final evaluation and award is made by the Negotiation Committee or their designees, which consists of the following:

Head of Department of Administrative & Financial Services;  
Director of Contracts and Procurement  
Head of Using Department

- 1.3 **Appearance Before Committee:** Any, all or no vendors may be required to appear before the Committee to explain the vendor's understanding and approach to the project and/or respond to questions from the Committee concerning the proposal; or, the Committee may award to the low bidder without conducting negotiations. The Committee reserves the right to request information from vendors as needed.

Vendors selected to participate in negotiations will be given an opportunity to submit a best and final offer to the Committee. Prior to a specified cut-off time for best and final offers, vendors may submit revisions to their technical and cost proposals. Meetings before the Committee are not subject to the Open Meetings Act. Vendors are prohibited from electronically recording these meetings. All information received prior to the cut-off time will be considered part of the vendor's best and final offer.

No additional revisions shall be made after the specified cut-off time unless requested by the Committee.

- 1.4 **Questions/Addenda** - Questions requesting clarification of the Request for Proposal must be submitted in writing to the Buyer prior to the close of business on **August 6, 2010:**

Contracts and Procurement Division  
215 SE 7<sup>th</sup> Street, Basement, Room 60  
Topeka, Kansas 66603-3983

or  
FAX No. 785.368.4499

Failure to notify the Buyer of any conflicts or ambiguities in this Request for Proposal may result in items being resolved in the best interest of the City. Any modification to this Request shall be made in writing by addendum and mailed to all vendors who received the original request. Only written communications are binding.

- 1.5 **Cost of Preparing Proposal:** The cost of developing and submitting the proposal is entirely the responsibility of the vendor. This includes costs to determine the nature of the engagement, preparation of the proposal, submitting the proposal, negotiating for the contract and other costs associated with this Request. All responses will become the property of the City of Topeka and will be a matter of public record subsequent to signing of the contract or rejection of all bids.
- 1.6 **Evaluation of Bids:** Award shall be made in the best interest of the City as determined by the Negotiating Committee or their designees. Consideration will focus toward but is not limited to:
- 1.6.1 response format as required by this Request. All pages must be numbered, centered at the bottom of each page
  - 1.6.2 adequacy and completeness of proposal
  - 1.6.3 vendor's understanding of the project
  - 1.6.4 compliance with the terms and conditions of the Request
  - 1.6.5 experience in providing like services
  - 1.6.6 qualified staff
  - 1.6.7 methodology to accomplish tasks and
  - 1.6.8 cost. Vendors are not to inflate prices in the initial proposal as cost is a factor in determining who may receive an award or be invited to formal negotiations.
- 1.7 **Acceptance or Rejection:** The Committee reserves the right to accept or reject any or all proposals or part of a proposal; to waive any informalities or technicalities; clarify any ambiguities in proposals; modify any criteria in this Request; and unless otherwise specified, to accept any item in a proposal.
- 1.8 **Contract:** The successful vendor will be required to enter into a written contract with the City. The vendor agrees to accept the Contractual Provisions Attachment, which is incorporated into all contracts with the City and is attached to this Request.
- 1.9 **Contract Documents:** This Request and any amendments and the response and any amendments of the successful vendor shall be incorporated along with the Contractual Provision Attachment into the written contract which shall compose the complete understanding of the parties.
- In the event of a conflict in terms of language among the documents, the following order of precedence shall govern:
- 1.9.1 Contractual Provision Attachment
  - 1.9.2 written modifications to the executed contract
  - 1.9.3 written contract signed by the parties
  - 1.9.4 this Request including any and all addenda and
  - 1.9.5 contractor's written proposal submitted in response to this Request as finalized.
- 1.10 **Contract Formation:** No contract shall be considered to have been entered into by the City until all statutorily required signatures and certifications have been rendered; and a written contract has been signed by the successful vendor.
- 1.11 **Open Records Act:** All proposals become the property of the City of Topeka. Kansas law requires all information contained in proposals to become open for public review once a contract is signed or all proposals are rejected.
- 1.12 **Federal, State and Local Taxes-Governmental Entity:** Unless otherwise specified, the proposal price shall include all applicable federal, state and local taxes. The successful vendor shall pay all taxes lawfully imposed on it with respect to any product or service delivered in accordance with this Request. Except for certain purchases for the Water Division, **the City of Topeka is exempt from state sales or use taxes and federal excise taxes. These taxes shall not be included in the vendor's price quotations.**
- 1.13 **Suspension from Bidding:** Any vendor who defaults on delivery as defined in this Request may, at the discretion of the Procurement Director, be barred from bidding on any subsequent Request for a period to be determined by the Director.
- 1.14 **Insurance:** The City shall not be required to purchase any insurance against loss or damage to any personal property nor shall the City establish a "self-insurance" fund to protect against any loss or damage. Subject to the provisions of the Kansas Tort Claims Act, the vendor shall bear the risk of any loss or damage to any personal property.
- 1.15 **Cash Basis and Budget Laws:** All contracts entered into by the City of Topeka are subject to the State of Kansas Cash Basis and Budget laws. Any obligation incurred as a result of the issuance of the specifications binds the City only to the extent that cash is available at the time payment is required. Furthermore, any contract that extends beyond the City's current fiscal year does not create an indebtedness or obligation for the subsequent fiscal year, and the City reserves the right to cancel any contract until the first date of the subsequent fiscal year.

## SECTION II PROPOSAL INSTRUCTIONS

- 2.1 **Preparation of Proposal:** Prices are to be entered in spaces provided on the proposal cost form if one is supplied. Computations and totals shall be indicated where required. The Committee has the right to rely on any price quotes provided by vendors. The vendor shall be responsible for any mathematical error in price quotes. The Committee reserves the right to reject proposals that contain errors. Cost proposals shall be submitted in separate sealed envelopes or containers from the technical proposal. **The outside shall be identified clearly as "Cost Proposal" with the Request number and closing date.**

A proposal shall not be considered for award if the price in the proposal was not arrived at independently and without collusion, consultation, communication or agreement as to any matter related to price with any other vendor, competitor or public officer/employee.

Technical proposals shall contain a concise description of vendor's capabilities to satisfy the requirements of this Request for Proposal with emphasis on completeness and clarity of content. Repetition of terms and conditions of the Request for Proposal without additional clarification shall not be considered responsive.

- 2.2 **Submission of Proposals: One (1) original and three (3) copies of the vendor's technical proposal and one (1) Original and three(3)copies of the cost proposal, sealed securely in an envelope or other container, shall be received promptly at 2:00 PM, Central Standard or Daylight Savings Time, whichever is in effect, on August 13, 2010, addressed as follows:**

City of Topeka  
Contracts and Procurement Division  
**Proposal # HND-100-10-P, Closing Date August 13, 2010**  
**215 SE 7<sup>th</sup> Street, Basement, Room 60**  
**Topeka, KS 66603-3983**

**Faxed or telephoned proposals are not acceptable unless otherwise specified.**

Proposals received prior to the closing date shall be kept secured and sealed until closing. The City shall not be responsible for the premature opening of a proposal or for the rejection of a proposal that was not received prior to the closing date because it was not properly identified on the outside of the envelope or container. Late Technical and/or Cost proposals will be retained unopened in the file and not receive consideration.

- 2.3 **Signature of Proposals:** Each proposal shall give the complete mailing address of the vendor and be signed by an authorized representative by original signature with his or her name and legal title typed below the signature line. Each proposal shall include the vendor's social security number or Federal Employer's Identification Number.
- 2.4 **Acknowledgment of Addenda:** All vendors shall acknowledge receipt of any addenda to this Request. Failure to acknowledge receipt of any addenda may render the proposal to be non-responsive. Changes to this Request shall be issued only by the Contracts and Procurement Division in writing.
- 2.5 **Modification of Proposals:** A vendor may modify a proposal by letter or by FAX transmission at any time prior to the closing date for receipt of proposals and the Director of Procurement is satisfied that a written confirmation of the modification, signed by the vendor, was mailed prior to the closing date as evidenced by the postmark on the envelope or container.
- 2.6 **Withdrawal of Proposals:** A proposal may be withdrawn on written request from the vendor to the Buyer at the Contracts and Procurement Division prior to the closing date.
- 2.7 **Proposal Disclosures:** At the time of closing, only the names of those who submitted proposals shall be made public information. No price information will be released. Interested vendors or their representatives may be present at the announcement at the following location:

City of Topeka  
Contracts and Procurement Division  
215 SE 7<sup>th</sup> Street, Basement, Room 60  
Topeka, KS 66603-3983

Copies of individual proposals may be obtained under the Kansas Open Records Act by calling 785.368.3749 to request an estimate of the cost to reproduce the documents and remitting that amount with a written request to the above address, or a vendor may make an appointment by calling the above number to view the proposal file. Upon receipt of the funds, the documents will be mailed. Information in proposal files shall not be released until a contract has been executed or all proposals have been rejected.

- 2.8 **Notice of Award:** An award is made on execution of the written contract by all parties. Only the City is authorized to issue news releases relating to this Request, its evaluation, award and/or performance of the contract.

**SECTION III  
GENERAL PROVISIONS**

- 3.1 **Term of Contract:** The term of this contract is from date of execution through February 28, 2011. Survey must be complete prior to this date.
- 3.2 **Inspection:** The City reserves the right to reject, on arrival at destination, any items that do not conform to specification of this Request.
- 3.3 **Termination for Cause:** The Procurement Director may terminate this contract, or any part of this contract, for cause under any one of the following circumstances:
- 3.3.1 the Contractor fails to make delivery of goods or services as specified in this contract; or
- 3.3.2 the Contractor fails to perform any of the provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms.

The Procurement Director shall provide Contractor with written notice of the conditions endangering performance. If the Contractor fails to remedy the conditions within ten (10) days from the receipt of the notice (or such longer period as City may authorize in writing), the Procurement Director shall issue the Contractor an order to stop work immediately. Receipt of the notice shall be presumed to have occurred within three (3) days of the date of the notice.

- 3.4 **Termination for Convenience:** The Procurement Director may terminate performance of work under this contract in whole or in part whenever, for any reason, the Director of Contracts and Procurement shall determine that the termination is in the best interest of the City of Topeka. In the event that the Procurement Director elects to terminate this contract pursuant to this provision, it shall provide the Contractor written notice at least thirty (30) days prior to the termination date. The termination shall be effective as of the date specified in the notice. The Contractor shall continue to perform any part of the work that may have not been terminated by the notice.
- 3.5 **Notices:** All notices, demands, requests, approvals, reports, instructions, consents or other communications (collectively "notices") which may be required or desired to be given by either party to the other shall be in writing and shall be made by personal delivery or sent by United States certified mail, postage prepaid, return receipt requested or by overnight delivery, prepaid, addressed as follows:

**Jay Oyler**  
**Contracts and Procurement Division**  
**215 SE 7<sup>th</sup> Street**  
**Basement, Room 60**  
**Topeka, Kansas 66603-3983**

**or to any other persons or addresses as may be designated by notice from one party to the other.**

- 3.6 **Rights and Remedies:** If this contract is terminated, the City, in addition to any other rights provided for in this contract, may require the Contractor to transfer title and deliver to the City in the manner and to the extent directed, any completed materials. The City shall be obligated only for those services and materials rendered and accepted prior to the date of termination.

Subject to proof of market price, the measure of damages for non-delivery or repudiation by the Contractor shall be the difference between the market price at the time when the City learned of the breach and contract price together with any incidental and consequential damages less expenses saved in consequence of the Contractor's breach. Market price shall be determined as of the place for tender or, in cases of rejection after arrival or revocation of acceptance, as of the place of arrival.

If it is determined, after notice of termination for cause, that Contractor's failure was due to causes beyond the control of or negligence of the Contractor, the termination shall be a termination in the best interest of the City. In the event of termination, the Contractor shall receive payment pro rated for that portion of the contract period services were provided to and/or goods were accepted by City subject to any offset by City for actual damages including loss of matching funds.

The rights and remedies of the City provided for in this contract shall not be exclusive and are in addition to any other rights and remedies provided by law.

- 3.7 **Force Majeure:** The Contractor shall not be liable if the failure to perform this contract arises out of causes beyond the control of the Contractor. Causes may include, but are not limited to, Acts of Terrorism as defined under 6 CFR Pat 25, freight embargoes, acts of nature, fires, quarantine and strikes other than by the contractor's employees.
- 3.8 **Waiver:** Waiver of any breach of any provision in this contract shall not be a waiver of any prior or subsequent breach. Any waiver shall be in writing and any forbearance or indulgence in any other form or manner by City shall not constitute a waiver.
- 3.9 **Ownership:** All data, forms, procedures, software, manuals, system descriptions and work flows developed or accumulated by the Contractor under this contract shall be owned by the using department. The Contractor may not release any materials without the written approval of the using department.
- 3.10 **Independent Contractor:** Both parties, in the performance of this contract, shall be acting in their individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be construed to be the employees or agents of the other party for any purpose whatsoever.
- The Contractor accepts full responsibility for payment of unemployment insurance, workers compensation and social security as well as all income tax deductions and any other taxes or payroll deductions required by law for its employees engaged in work authorized by this contract.
- 3.11 **Staff Qualifications:** The Contractor shall warrant that all persons assigned by it to the performance of this contract shall be employees of the Contractor (or specified Subcontractor) and shall be fully qualified to perform the work required. The Contractor shall include a similar provision in any contract with any Subcontractor selected to perform work under this contract.
- Failure of the Contractor to provide qualified staffing at the level required by the proposal specifications may result in termination of this contract and/or damages
- 3.12 **Conflict of Interest:** The Contractor shall not knowingly employ, during the period of this contract or any extensions to it, any professional personnel who are also in the employ of the City and who are providing services involving this contract or services similar in nature to the scope of this contract to the City. Furthermore, the Contractor shall not knowingly employ, during the period of this contract or any extensions to it, any City employee who has participated in the making of this contract until at least one year after his/her termination of employment with the City.
- 3.13 **Confidentiality:** The Contractor may have access to private or confidential data maintained by City to the extent necessary to carry out its responsibilities under this contract. Contractor must comply with all the requirements of the Kansas Open Records Act in providing services under this contract. Contractor shall accept full responsibility for providing adequate supervision and training to its agents and employees to ensure compliance with the Act. No private or confidential data collected, maintained or used in the course of performance of this contract shall be disseminated by either party except as authorized by statute, either during the period of the contract or thereafter. Contractor must agree to return any or all data furnished by the City promptly at the request of City in whatever form, it is maintained by the contractor. On the termination or expiration of this contract, contractor will not use any of such data or any material derived from the data for any purpose and, where so instructed by City, will destroy or render it unreadable.
- 3.14 **Reviews and Hearings:** The Contractor agrees to advise the Procurement Director of all complaints of recipients made known to the Contractor and refer all appeals or fair hearing requests to the Procurement Director. The City has the discretion to require the Contractor to participate in any review, appeal, fair hearing or litigation involving issues related to this contract.
- 3.15 **Nondiscrimination and Workplace Safety:** The Contractor agrees to abide by all federal, state and local laws, rules and regulations prohibiting discrimination in employment and controlling workplace safety. Any violations of applicable laws, rules and regulations may result in termination of this contract.
- 3.16 **Environmental Protection:** The Contractor shall abide by all federal, state and local laws, rules and regulations regarding the protection of the environment. The Contractor shall report any violations to the applicable governmental agency. A violation of applicable laws, rule or regulations may result in termination of this contract.

- 3.17 **Hold Harmless:** The Contractor shall indemnify the City against any and all claims for injury to or death of any persons; for loss or damage to any property; and for infringement of any copyright or patent occurring in connection with or in any way incidental to or arising out of the occupancy, use, service, operations or performance of work under this contract.

The City shall not be precluded from receiving the benefits of any insurance the Contractor may carry which provides for indemnification for any loss or damage to property in the Contractor's custody and control, where such loss or destruction is to state property. The Contractor shall do nothing to prejudice the City's right to recover against third parties for any loss, destruction or damage to City property.

- 3.18 **Care of City Property:** The Contractor shall be responsible for the proper care and custody of any city-owned personal tangible property and real property furnished for Contractor's use in connection with the performance of this contract, and Contractor will reimburse City for such property's loss or damage caused by Contractor, normal wear and tear excepted.

- 3.19 **Prohibition of Gratuities:** Neither the Contractor nor any person, firm or corporation employed by the Contractor in the performance of this contract shall offer or give any gift, money or anything of value or any promise for future reward or compensation to any City employee at any time.

- 3.20 **Retention of Records:** Unless the City specifies in writing a shorter period of time, the Contractor agrees to preserve and make available all of its books, documents, papers, records and other evidence involving transactions related to this contract for a period of five (5) years from the date of the expiration or termination of this contract.

Matters involving litigation shall be kept for one (1) year following the termination of litigation, including all appeals, if the litigation exceeds five (5) years.

The Contractor agrees that authorized federal and state representatives, including but not limited to, personnel of the using department; independent auditors acting on behalf of City and/or federal agencies shall have access to and the right to examine records during the contract period and during the five (5) year post-contract period. Delivery of and access to the records shall be at no cost to the City.

- 3.21 **Federal, State and Local Taxes Contractor:** The City makes no representation as to the exemption from liability of any tax imposed by any governmental entity on the Contractor.

- 3.22 **Antitrust:** The Contractor assigns to the City all of its rights to and interests in any causes of action it has or may acquire under the antitrust laws of the United States and the State of Kansas relating to the particular product or services purchased or acquired by the City pursuant to this contract.

- 3.23 **Modification:** This contract shall be modified only by the written agreement of the parties with the approval of this Committee. No alternation or variation of the terms and conditions of the contract shall be valid unless made in writing and signed by the parties. Every amendment shall specify the date on which its provisions shall be effective.

- 3.24 **Assignment:** The Contractor shall not assign, convey, encumber, or otherwise transfer its rights or duties under this contract without the prior written consent of the City which consent will not be unreasonably withheld or delayed.

This contract shall immediately terminate in the event of its assignment, conveyance, encumbrance or other transfer by the Contractor without the prior written consent of the City.

- 3.25 **Third Party Beneficiaries:** This contract shall not be construed as providing an enforceable right to any third party.

- 3.26 **Captions:** The captions or headings in this contract are for reference only and do not define, describe, extend, or limit the scope or intent of this contract.

- 3.27 **Severability:** If any provision of this contract is determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this contract shall not be affected and each provision of this contract shall be enforced to the fullest extent permitted by law.

- 3.28 **Governing Law:** This contract shall be governed by the laws of the State of Kansas and shall be deemed executed at Topeka, Shawnee County, Kansas.

- 3.29 **Jurisdiction:** The parties shall bring any and all legal proceedings arising hereunder in the State of Kansas, District Court of Shawnee County. The United States District Court for the State of Kansas sitting in Topeka, Shawnee County, Kansas, shall be the venue for any federal action or proceeding arising hereunder in which the City is a party.

- 3.30 **Mandatory Provisions:** The provisions found in Contractual Provisions Attachment, which is attached, are incorporated by reference and made a part of this contract.
- 3.31 **Integration:** This contract, in its final composite form, shall represent the entire agreement between the parties and shall supersede all prior negotiations, representations or agreements, either written or oral, between the parties relating to the subject matter hereof. This contract between the parties shall be independent of and have no effect on any other contracts of either party.
- 3.32 **Quarterly Reports:** The vendor is required to submit quarterly, to the Contracts and Procurement Division all acquisitions made by the City from this contract. This report should include as a minimum the department name, quantity, description and amount.
- 3.33 **Vendor Registration:** All vendors applying for registration must complete a Bidders Application form. To receive an application, fax a request to 785.368.4499 or mail a request to the City of Topeka, Contracts and Procurement Division, 215 SE 7<sup>th</sup> Street, Basement, Room 60, Topeka, KS 66603-3983. All vendor registrations will expire under the three-(3) strike rule. Vendors who do not respond on three consecutive requests will be removed from the lists. A response with a "No Bid" is acceptable. No renewal notices will be sent to vendors.

If additional information is required, call 785.368.3749

## SECTION IV SPECIAL PROVISIONS

- 4.1 **Proposal Format:** The following information shall be part of the technical proposal: **Vendors are instructed to prepare their Technical Proposal following the same sequence as this section of the Request for Proposal.**
- (1) Transmittal letter which includes the following statements:
    - (a) That the vendor is the prime contractor and identifying all subcontractors
    - (b) That the vendor is a corporation or other legal entity
    - (c) That no attempt has been made or will be made to induce any other person or firm to submit or not to submit a proposal
    - (d) That the vendor does not discriminate in employment practices with regard to race, color, religion, age (except as provided by law), sex, marital status, political affiliation, national origin or disability
    - (e) That no cost or pricing information has been included in the transmittal letter or the Technical Proposal
    - (f) That the vendor presently has no interest, direct or indirect, which would conflict with the performance of services under this contract and shall not employ, in the performance of this contract, any person having a conflict
    - (g) That the person signing the proposal is authorized to make decisions as to pricing quoted and has not participated, and will not participate, in any action contrary to the above-statements;
    - (h) Whether there is a reasonable probability that the vendor is or will be associated with any parent, affiliate or subsidiary organization, either formally or informally, in supplying any service or furnishing any supplies or equipment to the vendor which would relate to the performance of this contract. If the statement is in the affirmative, the vendor is required to submit with the proposal, written certification and authorization from the parent, affiliate or subsidiary organization granting the City and/or the federal government the right to examine any directly pertinent books, documents, papers and records involving such transactions related to the contract. Further, if at any time after a proposal is submitted, such an association arises, the vendor will obtain a similar certification and authorization and failure to do so will constitute grounds for termination of the contract at the option of the City
    - (i) Vendor agrees that any lost or reduced federal matching money resulting from unacceptable performance in a contractor task or responsibility defined in the Request, contract or modification shall be accompanied by reductions in City payments to contractor and
    - (j) That the vendor has not been retained, nor has it retained a person to solicit or secure a City contract on an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the vendor for the purpose of securing business. For breach of this provision, the Committee shall have the right to reject the proposal, terminate the contract and/or deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee or other benefit.
- 4.2 **Vendor's Qualifications:** The vendor must include a discussion of the vendor's corporation and each subcontractor if any. The discussion shall include the following:
- (a) Date established
  - (b) Ownership (public, partnership, subsidiary, etc.)
  - (c) Number of personnel, full and part-time, assigned to this project by function and job title
  - (d) Data processing resources and the extent they are dedicated to other matters
  - (e) Location of the project within the vendor's organization
  - (f) Relationship of the project and other lines of business and
  - (g) Organizational chart
- 4.3 The contractor shall be the sole source of contact for the contract. The City will not subcontract any work under the contract to any other firm and will not deal with any subcontractors. The Contractor is totally responsible for all actions and work performed by its subcontractors. All terms, conditions and requirements of the contract shall apply without qualification to any services performed or goods provided by any subcontractor.
- 4.4 A description of the vendor's qualifications and experience providing the requested or similar service including resumes of personnel assigned to the project stating their education and work experience. The vendor must be an established firm recognized for its capacity to perform. The vendor must be capable of mobilizing sufficient personnel to meet the deadlines specified in the Request.
- 4.5 A timeline for implementing services.
- 4.6 **Payment:** To be negotiated.

**SECTION V  
STATEMENT OF WORK****5. Background and Scope:**

Conduct archival research, design and conduct a Phase II Archeological Surface Survey with Report of the property located at 2303 SE Pennsylvania Avenue, Topeka Kansas. The site may have been used as a stop in the 1850 by John Brown as a stop on the Underground Railroad as indicated in numerous newspaper and magazine articles. Shovel testing to determine if intact subsurface cultural features from the Underground Railroad period may be required based upon surface visibility results. Cost for such testing is to be included in the project cost. The report must provide a general impression of the area's archeological potential and record any sites located in the survey area.

Respondents must meet the Minimum Professional Qualifications of the Kansas Historical Society as outline in the State Historic Preservation Officer's Guide for Archeological Survey, Assessment and Reports (SHPO's Guide) which can be found at [http://www.kshs.org/resource/SHPO'S\\_Guide.pdf](http://www.kshs.org/resource/SHPO'S_Guide.pdf). The Phase II Archeological Survey and Report shall be conducted and written to the standards established in the SHPO Guide and comply with all local, State and Federal laws and regulations.

**5.2 Services to be provided:**

Conducting archival research, designing and conducting a Phase II Archeological Surface Survey and Report.

**5.3 Deliverable:**

The Phase II Archeological Survey and Report shall be conducted and written to the standards established in the SHPO Guide and comply with all local, State and Federal laws and regulations.

**5.4 City Resources to be Provided:**

City of Topeka  
Financial Services Department  
Purchasing Division (Rev. 03-10)

**CONTRACTUAL PROVISIONS ATTACHMENT**

1. TERMS HEREIN CONTROLLING PROVISIONS  
It is expressly agreed that the terms of each and every provision in this Attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated.
2. AGREEMENT WITH KANSAS LAW  
All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.
3. TERMINATION DUE TO LACK OF FUNDING  
If, in the judgment of the City Manager, sufficient funds will not be available to continue the functions performed in this agreement and for the payment of the charges hereunder, City may terminate this agreement at the end of its current and any succeeding fiscal year. City agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided City under the contract. City will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by City, title to any such equipment shall revert to contractor at the end of City's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the City or the contractor.
4. DISCLAIMER OF LIABILITY  
Neither the City of Topeka nor any departments or divisions thereof shall hold harmless or indemnify any Contractor.
5. ANTI-DISCRIMINATION CLAUSE  
The contractor agrees: (a) to comply with all federal, state, and local laws and ordinances prohibiting unlawful discrimination and to not unlawfully discriminate against any person because of race, religion, creed, color, age, gender, sexual orientation, disability, nationality, familial status or any other status protected by law, in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer;" and (c) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor. The contractor understands and agrees that the failure to comply with the requirements of this paragraph may constitute a breach of contract, and the contract may be cancelled, terminated or suspended, in whole or in part by the City of Topeka.
6. ACCEPTANCE OF CONTRACT  
This contract shall not be considered accepted, approved or otherwise effective until the legally required approvals and certifications have been given.
7. ARBITRATION, DAMAGES, WARRANTIES  
Notwithstanding any language to the contrary, no interpretation shall be allowed to find the City or any department or division thereof subject to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the City of Topeka shall not be subject to attorney fees or late payment charges, and no provision will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.

8. REPRESENTATIVE'S AUTHORITY TO CONTRACT

By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.

9. RESPONSIBILITY FOR TAXES

The City of Topeka shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.

10. INSURANCE

The City of Topeka shall not be required to purchase any insurance against loss or damage to any personal property to which this contract relates. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), and the claims provisions of the Code of the City of Topeka (Section 2-476 et seq.), the contractor shall bear the risk of any loss or damage to any personal property in which the contractor holds title.

CONTRACTOR: \_\_\_\_\_

AUTHORIZED SIGNATURE: \_\_\_\_\_

**Submit with your proposal.**

**Contractor's Statement of Agreement**

The City of Topeka, Kansas requires that all contracts of the City and its agencies include specific provisions to ensure equal employment opportunity and that all contractors provide evidence of the adoption of an affirmative action program. To comply with these requirements, all persons wishing to enter into a contract with the City shall complete and sign this agreement.

The contractor agrees to:

1. Comply with K.S.A. 44-1030 requiring that:
  - (A) The contractor shall observe the provisions of the Kansas act against discrimination and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability unrelated to such person's ability to engage in the particular work, national origin or ancestry;
  - (B) In all solicitations or advertisements for employees, the contractor shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Contracts and Procurement Division;
  - (C) If the contractor fails to comply with the manner in which the contractor reports to the Contracts and Procurement Division in accordance with the provisions of K.S.A. 44-1031, the contractor shall be deemed to have breached the present contract and it may be cancelled, terminated or suspended, in whole or in part, by the contracting agency;
  - (D) If the contractor is found guilty of a violation of the Kansas act against discrimination under a decision or order of the Contracts and Procurement Division which has become final, the contractor shall be deemed to have breached the present contract and it may be cancelled, terminated or suspended, in whole or in part, by the contracting agency; and
  - (E) The contractor shall include the provisions of paragraphs (A) through (D) in every sub-contract or purchase order so that such provisions will be binding upon such sub-contractor or vendor.
2. Guarantee that during the performance of any City contractor agreement the contractor, sub-contractor, vendor, or supplier of the City shall comply with all provisions of the Civil Rights Act of 1866 as amended, Civil Rights Act of 1964 as amended, Equal Employment Opportunity Act of 1972 as amended, Executive Order 11246, Age Discrimination in Employment Act of 1967 as amended, Americans with Disabilities Act of 1990 and Rehabilitation Act of 1973 as amended, Equal Pay Act of 1963 and City of Topeka Ordinance No. 16889 and any regulations or amendments thereto.
3. Submit to the Contracts and Procurement Division a written affirmative action program, a certificate of compliance or such other certificate as is acceptable to the Contracts and Procurement Division which is evidence of the adoption of an affirmative action program.

The contractor agrees to maintain a current and accurate plan on file with the Contracts and Procurement Division and shall update the plan as needed.

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Company Address

\_\_\_\_\_  
Signature and Title

\_\_\_\_\_  
Date

Revised 01-10-01

**Submit With Your Proposal.**