



Tim Lentz, Mayor
Ken Krug, Commissioner
Paul Luscombe, Commissioner
Roger Madere, Commissioner
Steve Davies, Commissioner

Commission Memorandum

TO: Honorable Members, Horton City Commission

FR: Levi Henry, City Administrator

RE: Recommendations of Selection Committee for Performance Mission Lake Preliminary Engineering.

DATE: May 4, 2007

Administrative Offices
Levi Henry, City Administrator
Candy Schmitt, City Clerk
Carol Stirton, Deputy Clerk
Lisa Merz, Utilities Clerk

I. Executive Summary. Recommendation to begin negotiations for (a) a specific statement of work and (b) price for the performance of the statement of work/specific scope of services with Black & Veatch for the performance of a preliminary engineering with price for performance not to exceed \$180,000.00. Final contracting contingent upon finalization of contract for partial reimbursement from Kansas State Conservation Commission.

II. Review of Mission Lake Request for Qualifications for Preliminary Engineering & Evaluatory Criteria Used in Determination of Recommendation.

A. Review of Mission Lake RFQ. On Friday, March 19, 2007, the City of Horton released its Request for Qualifications ("RFQ") to over 200 state & nationally recognized engineering entities. The City of Horton, in the RFQ calendar, gave interested parties until Friday, April 6, 2007. On Thursday, March 23, 2007, the City of Horton ("City or "Horton") and Kansas State Conservation Commission ("SCC") hosted a *Pre-Submittal Conference* (RFQ §3.9 at 6), which gave interested respondents to the RFQ an opportunity to be present at the City of Horton, ask questions regarding the project, and then be given an opportunity to tour the entire perimeter of Mission Lake, including the dam, perimeter shoreline, and northern wetlands.

The RFQ issued by the City contained a new addition – an anti-communications clause – which is recommended by the ABA Model Public Procurement Code on large projects and prevents any potential candidate firm for the preliminary engineering from discussing the project with any City or State official during the RFQ period (March 19 to April 6, 2007). The purpose of this clause is to ensure that both the Selection Committee and the Governing Body that the responsive documents received in regards to the RFQ have not been influenced by any statements not contained in the Scope of Services ("SOS") and, therefore, to ensure that each of the bodies are comparing 'apples-to-apples'.

B. Evaluatory Criteria Used in Determination & Recommendation. In the March 19th RFQ, there were five original evaluatory criteria equaling 100-points used in evaluating the

respondent firms. However, after release of the RFQ, Mr. Saadi and the City Administrator reviewed the criteria regarding the proposed cost of performance of the project. Because, in the guidelines of both the Department of Administration's regulations and the MPSPSLP regulations, Qualifications-Based Selection ("QBS") was to be used in all procurements, this evaluatory criterion was inappropriate. Under QBS procurement, the public sector agencies procuring professional engineering services are to evaluate each candidate based on capacity, past records of performance, and references. Cost does not become an issue until the best firm for the performance of the SOS has been selected. In this case, cost should not have been used as an evaluatory criterion and was, therefore, removed by amendment on April 23, 2007.

Therefore, the following criteria – totaling 75-points – were used in the evaluation of the firms.

The first evaluatory criterion was "the specialized experience or technical expertise in large dredge and excavation operations and projects performed by the firm or entity and its personnel." The Selection Committee internally used the following four (4) sub-categories of criteria to evaluate "the specialized experience" of firms that submitted SOQs. Those internal sub-categories were (a) the previous dredge experience of the firm; (b) the objectives of previous experience, e.g., to restore a public water supply or to restore for the purposes of fisheries ecosystem; (c) previous watershed management planning experience; and (d) the proposed project team.

The second evaluatory criterion was the "past record of performance on contracts with the City of Horton, if any, and other clients, including quality of work, timeliness, and cost control." The Selection Committee internally used the following five (5) sub-categories to evaluate the firms' "past record of performance" of firms that submitted SOQs. Those internal sub-categories were (a) performance history with Horton and/or other public agencies; (b) the quality of work of past projects; (c) the timeliness of performance of past projects; (d) the mechanisms used to control cost, such as evaluating alternative project delivery mechanisms, e.g., recommending a combination of mechanical and hydraulic dredging in order to reduce the overall cost of the project; and (e) past experience with large dredge operations, e.g., dredge operations equaling or surpassing 1 MM cubic yards.

The third evaluatory criterion was the "capacity of the firm to perform the work within time limitation in executed contract for performance, with delivery of PER on or before June 27, 2007." The Selection Committee internally used the following two (2) sub-categories to evaluate the firms' "capacity." The two internal sub-categories were (a) overall capacity of the firm to meet the tasks contained within the SOS; and (b) the firms' capacity to perform the scope of services defined by the March 19 RFQ.

The final evaluatory criterion was the "references from previous clients of related work, especially large dredge and/or excavation projects by the firm within the past five years." There were no special sub-categories in regards to references, but specific questions asked of references were questions regarding the firms' comprehensive, holistic approach to lake restoration – not just dredging, but also watershed management, sedimentation mitigation, environmental and other permitting experience, and large dredge experience. The purpose

of evaluating firms on the basis of these criteria is so that the City and SCC procure professional engineering services that will make recommendations not only regarding the dredging of Mission Lake, but also to make recommendations that will protect the long-term viability and investment of Mission Lake.

III. Respondent's to March 19 Request for Qualifications.

A. **Shortlisted Engineering Entities Invited to Present to Selection Committee.** There were five SOQs received in response to the RFQ issued by the City. On April 23, 2007, Commissioner Krug, MPSSL Program Manager Hakim Saadi, and City Administrator – acting as the Selection Committee defined by the RFQ – met for a teleconference for the purpose of *shortlisting* the best three firms. Then Mayor-Elect Tim Lentz also participated in the teleconference. The consensus of the group was that *BHC Rhodes-Burns & McDonnell* and *The Aquatic Group* be eliminated from the list for shortlisting interviews.

The following is a brief statement of reasoning and evaluation for the shortlisting or non-shortlisting of each of the respondent's to the RFQ for performance of a Preliminary Engineering Report ("PER").

1. **Black & Veatch, Kansas City, Missouri.** Black & Veatch ("B&V") scored, roughly, the highest by the Selection Committee for shortlisting purposes. B&V, roughly, scored the highest with the Selection Committee, because B&V (a) was the only firm to previously perform a large dredge operation (the Carraizo project – 6MM C.Y. removed, with design accomplished in six (6) months); (b) focused its SOQ on the main objective of the project – the restoration of Mission Lake as a public water supply ("PWS"); (c) has illustrated its experience with total lake ecosystem restoration (the South Park project); (d) has a strong environmental permitting & remediation division that will be necessary if dredge spoils have prohibitive organic and inorganic chemical traits (the Lake Charles project); and (e) association with local Mission Lake Watershed experts, including Drs. Hargrove and Devlin, both of whom were responsible for the implementation of the atrazine mitigation and best management practices ("BMPs") in order to develop a watershed management & sedimentation mitigation plans.

2. **Olsson Associates, Overland Park, Kansas.** Olsson Associates ("OA") performed the first large-scale, high-profile restoration project that was demonstrated in Nebraska – the Holmes Park Lake Restoration. The Multipurpose Small Lakes Program (MPSLP) was modeled after this version of the Nebraska project. The project included all aspects – from preliminary engineering, Phase I (watershed development) and Phase II (dredging). While the dredging was on smaller-to-medium scope (330K C.Y.), the firms understanding of the MPSLP will be more in tune than other firms due to their experience in this regard. It is important to note, however, that Holmes Lake's primary purpose is flood control/recreational, and the overall objective of that lake was significantly different from the City and SCC's objective: to restore Mission Lake to a PWS.

The strong point for OA is that the firm and its team members are very qualified in regards to watershed management and sedimentation mitigation. The firm has conducted several watershed plans and has drafted one comprehensive WRAPS plan for the City of

Spring Hill. This comprehensive experience in this particular area, from plan development to implementation, is an important aspect of the OA team and weighs heavily in the favor of OA (Holmes Lake; Cunningham Lake; Hillsdale Lake; Leigh Dam; Shawnee Mission Lake Restorations).

An additional strong point for OA is the firm's strong, multi-disciplined internal resources. The firm boasts 600 professional engineers from a variety of engineering disciplines, which leaves little worries regarding the firm's capacity to perform the PER in the time required by the RFQ (June 27, 2007).

Of particular concern is the criterion in regards to past performance by the firm for the City of Horton in the last five (5) years. The City has contracted with OA's Energy Division in Lincoln, NE, for the design engineering on the EMD No. 4 generator, which was installed in late-2003 and early-2004. The engineering inspection on this project was not performed to design specifications and the City later in early-2006 had to recall OA's Energy Division to correct overheating problems associated with the generator. Over a period of one-to-two months, City personnel and Ken Fairchild of OA worked to correct the overheating problem and to place the booster pump recommended by the design specifications into performance, which it had not been previously used. While OA did eventually correct the problem, the City also received a \$4,500.00 bill associated with OA's work on the generator. After three-months of receiving the first invoice, however, OA did eventually forgive the invoice and agreed that the previous contract covered the work required to keep the EMD cooled during use.

3. **The Flatwater Group, Lincoln, Nebraska.** The Flatwater Group ("TFG") is, as they will readily advertise, a small, family firm from Lincoln, NE, that has been highly involved with Nebraska Department of Environmental Quality (DEQ) and Nebraska Games & Parks Commission ("NGPC") restoration projects for the past seven (7) years. Because the purposes of water impoundment in Nebraska and Kansas are dramatically different, TFG, while having some dredge and excavation experience, has been fundamentally geared toward restoration projects of irrigation supply (Sherman Reservoir Project) or recreation (Sherman & Bowling Lake)—not towards PWS restoration, which is one factor that negatively impacts TFG as a candidate.

TFG has been involved with the following *medium dredge* operations: (1) Sherman Reservoir Aquatic Habitat Restoration with 230K C.Y. removed; (2) Bowling Lake Restoration Project with 185K C.Y. removed; (3) Yankee Hill Reservoir Restoration with 430K C.Y. removed; and (4) the Schilling WMA Backwater Habitat Project with 525K C.Y. While these are not classified as large dredge operations and according to representatives of both NDEQ & NGPC indicated that in each of the aforementioned projects, TFG had been successful in keeping pricing at a minimum.

Negatively impacting TFG, however is that these projects were not conducted in order to restore a PWS, but rather to restore irrigation storage reservoirs, recreation and endangered species habitat restoration & protection. This aspect reflects negatively in evaluation because of the unique aspects associated with restoring Mission Lake as a public water supply.

Finally, another concern regarding TFG is a possible lack of resources in completing the PER in the time required by the RFQ. While TFG has contracted with HWS, a large engineering firm located in Nebraska, there is little-to-no statements of performance regarding HWS in the SOQ.

B. Non-Shortlisted Engineering Entities.

1. **BHC Rhodes/Burns & McDonnell, Overland Park, Kansas.** The only particular dredge excavation at all listed by key personnel identified within this applicant team is the Wyandotte County Lake Dredging. When the Unified Government of Wyandotte County (“UG”) was called to discuss this matter with Michael Conner, the individual identified, it was found that Mr. Connor was no longer employed with the UGWYCOCK and there was nobody particularly familiar with the project.

The project description (SOQ at 11), however, is somewhat informative on the type of work conducted in regards to the project—specifically, that WQS sampling & analysis, federal permitting, and dredge engineering were involved in the project scope. However, because the project description fails to state the size of the project in quantifiable numbers, a limiting weighting must be made for failure to verify and quantify the project.

It appears that most of the projects that BHC Rhodes/Burns & McDonnell (“BHC-BM”) has been involved with have been directly related to lake habitat improvement, aesthetics, and long-term ecological maintenance plans for primarily newer, urban lakes in the metropolitan setting. However, the Supplemental Information on aeration is a progressive, inexpensive, and a long-term possible solution to maintaining the overall health of Mission Lake in the post-dredge phase of the project. This information, while useful, does not, however, overcome the fact that the past projects in which BHC-BM has been involved are materially different from the Mission Lake project—BHC-BM has not participated in the restoration of any public water supplies and the majority of the firms projects have been conducted for urban lakes used for recreation.

While key personnel are included in the SOQ, there is very little information on who personnel are and what their fields of experience are in regards to this project. Specific project performance in projects similar to that outline by the RFQ Scope of Services is absent from the list of key personnel. And while there are notables within the list of key personnel, such as Dr. Howick and Mr. Haag, neither of the individuals are with BHC and the organizational relationship is very concerning—in other words, who will be the chief company in charge and who will be the chief company to be sued if litigation should ever be necessary. The relationship among the companies is somewhat ambiguous and, therefore, BHC-BM was eliminated from the shortlisting.

2. **The Aquatic Group, Lawrence, Kansas.** The Aquatic Group (“TAG”) was not invited to participate in shortlisting interviews, because the SOQ was largely unconfirming, unorganized, and overly broad and generalized, it was difficult to evaluate. Additionally, the SOQ focused almost exclusively on the dredging side of the project and made little discussion regarding holistic, comprehensive watershed changes in order to protect the City and State’s investment in Mission Lake. These considerations ultimately led to a lower score

than would have been expected, given the amount of work that the organization has already performed in regards to the project.

Also, TAG appears to have relatively short amount of time in regards to performing preliminary engineering on dredge projects specific to the type of project jointly proposed by the City of Horton, Kansas, and the State Conservation Commission. The first specific project cited within the SOQ is 2003. While the SOQ does make a general statement that TAG/TMD have over 30-years of dredge experience (SOQ at 41), it appears from its history that prior to 2003, TAG was involved primarily with the shredding of aquatic plant life—not dredge operations requiring sedimentation spoils.

The 2003 project performed by TAG was the Lake of the Forest project, which does appear to have been a project that is very similar to the project jointly envisioned by the City of Horton and the SCC. The size of the project and scope of services conducted for the Lake of the Forest—a privately owned lake—was left absent from the SOQ and the reference call to the identified reference could not give specifics on the size and scope of the project.

TAG proposes a three-phase approach to the completion of the PER (SOQ at 39-40). Under this approach, TAG is proposing a four-week work methodology, being capable of delivering the PER by early-June, nearly three weeks ahead of the June 27, 2007 date. TAG believes that, because of the amount of work already put into this project—up to \$96,000.00 in preliminary testing. The Selection Committee, however, was somewhat concerned regarding the use of previously collected data that could be as old as three-years old, making that data stale for use in the development of the Mission Lake Restoration.

Finally, TAG stated in the SOQ that Mr. David Penny—the owner of TAG—has procured land that he feels is the best possible location for the location of sedimentation. The Selection Committee gave no bearing in this evaluation on these preliminary actions by TAG and Mr. Penny. The City will purchase the land that is required at fair market value by free market negotiation or otherwise if necessary. Moreover, the work already pursued by Mr. Penny through TAG has been done at his own cost and in some instances has actually worked to prove counterproductive to expediting the performance of the Mission Lake project. Therefore, again, no weight was given to TAG in the evaluation of the SOQs.

IV. Selection Committee Recommendations. On Wednesday, April 18, 2007, the Selection Committee interviewed the selected shortlisted firms. Because neither Commissioner Krug nor Mayor-Elect Lentz were able to attend the shortlisting interviews, Mrs. Schmitt stood in as lieu for both Krug & Lentz. The rankings of the Selection Committee were:

	Black & Veatch	Olsson Associates	Flatwater Group
Hakim Saadi	1	2	3
Levi Henry	1	2	3
Candy Schmitt	1	2	3

Based on these rankings, City Administration is recommending to the Commission to follow the recommendations of the Selection Committee and allow the City Administrator to

begin negotiations for a specific scope of services (Statement of Work) and price for those services.

The budget for the performance of the preliminary engineering report is between \$140,000.00 to \$180,000.00. These budget figures were arrived at by using an equation recommended by the SCC.

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